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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

.....

REPORT ON THE THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

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LIST OF ABBREVIATIONS AND ACRONYMS

ABDP	-	Aquaculture Business Development Programme
ADZs	-	Aquaculture Development Zones
BMUs	-	Beach Management Units
CANCO	-	Community Action for Nature Conservation
CITES	-	Convention on International Trade in Endangered Species
COG	-	Council of Governors
DG	-	Director General
EAC	-	East Africa Community
EEZ	-	Exclusive Economic Zone
FAO	-	Food and Agriculture Organization
FMA	-	Fish Marketing Authority
FLTF	-	Fish Levy Trust Fund
FMDB	-	Fisheries Management and Development Bill
FMDA	-	Fisheries Management and Development Act
FRDF	-	Fisheries Research and Development Fund
IUU	-	Illegal Unreported and Unregulated
KEBS	-	Kenya Bureau of Standards
KeFDA	-	Kenya Fish Development Authority
KFMA	-	Kenya Fish Marketing Authority
KeFS	-	Kenya Fisheries Service
KMFRI	-	Kenya Marine & Fisheries Research Institute
KEMFSED	-	Kenya Marine Fisheries & Socio-Economic Development
KFIC	-	Kenya Fish Industry Cooperation
LANABLA	-	Lake Naivasha Basin Landscape Association
LVAA	-	Lake Victoria Aquaculture Association
LVFO	-	Lake Victoria Fisheries Organization

M&E	-	Monitoring and Evaluation
MCS	-	Monitoring Control and Surveillance
MDAs	-	Ministries, Departments and Agencies
PPP	-	Public-Private Partnerships
PSMA	-	Ports State Measures Agreement
PWDs	-	People with Disabilities
R&D	-	Research and Development
SDGs	-	Sustainable Development Goals
SMEs	-	Small and Medium-sized Enterprises
STCW-F	-	Standards of Training, Certification and Watch-keeping for Fishing
ToC	-	Table of Content
TVET	-	Technical and Vocational Education and Training

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ix. Submissions from Lamu County Fisherfolk and BMUs

x. Submissions from Kilifi County (Shella, Kilifi BMU)

xi. Submissions from Kwale County (Kwale Youth Assembly)

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xiii. Submissions from Community action for Nature Conservation (CANCO)

CHAIRPERSON'S FOREWORD

This Report contains the proceedings of the Departmental Committee on Blue Economy, Water and Irrigation on its consideration of the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023), which was published on 16th June, 2023. The Bill was read a First Time on 6th July 2023 and, pursuant to Standing Order 127(1), was thereafter committed to the Departmental Committee on Blue Economy, Water and Irrigation for consideration.

Following consensus of the Senate and the National Assembly House Leadership it was resolved and agreed that the Bill originates from the Senate. However, Senate did not consider the Bill and thus through consultations between the Chairpersons of the Departmental Committee on Blue Economy, Water and Irrigation and the House Business Committee at the beginning of the Fourth Session, February 2025, it was resolved that the Departmental Committee on Blue Economy, Water and Irrigation processes the Bill.

The Bill comprises two hundred and eleven (211) clauses and seeks to provide a comprehensive legislative framework for the development, governance and investments of the oceans and fisheries resources, in line with the national development policy objectives envisaged in the Vision 2030. It is aligned to international and regional instruments governing global fisheries and the relevant national laws. The Bill further seeks to align the governance of the fisheries sector to the Constitution of Kenya, 2010 which call for sustainable use of our natural resources for the benefit of the people of Kenya and governance at the county and national levels.

In compliance with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee invited public and stakeholder views on the Bill through advertisements placed in the print media on Friday, 21st February, 2025 running up to 7th March, 2025. The Committee received memoranda from the Council of Governors, State Department for Blue Economy and Fisheries, Lake Victoria Aquaculture (LVA), Lake Naivasha Basin Landscape Association (LANABLA).

The Committee held consultative meetings with the State Department for Blue Economy and Fisheries on 25th March 2025, 3rd April 2025 and 20th February, 2026. The Committee further met with the Council of Governors on 31st July, 2025 and on 20th February, 2026 to consider their submissions.

Stakeholder engagement meetings were held across the country in Counties with fisheries resources, including the Nyanza Region (Kisumu, Siaya, Homabay and Migori Counties) and the Coastal Region (Mombasa, Kwale, Kilifi and Lamu Counties). The Committee further undertook rounds of public participation in Turkana, Nakuru (Naivasha) and Baringo Counties in November, 2025.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support extended during its sittings. Appreciation is also extended to the Honourable Members of the Committee and the Committee Secretariat for their valuable contributions to the consideration of the Bill and the preparation of this Report.

On behalf of the Departmental Committee on Blue Economy, Water and Irrigation, and pursuant to Standing Order 199(6), it is my honour and privilege to present to the House the Report of

the Committee on its consideration of the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023).

The Committee has considered the Bill and recommends that the National Assembly adopts the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) with amendments.

Hon. Bowen Kangogo, CBS, MP

Chairperson,

Departmental Committee on Blue Economy, Water and Irrigation

PART I

1.0 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Blue Economy, Water and Irrigation is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandates pursuant to the **Standing Order 216 (5)** are as follows:
   - *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. On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
   - *iv. To study and review all legislation referred to it;*
   - *v. To study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
   - *vi. 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;*
   - *vii. 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);*
   - *viii. To examine treaties, agreements and conventions;*
   - *ix. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
   - *x. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
   - *xi. To examine any questions raised by Members on a matter within its mandate.*

1.2 SUBJECT OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider matters of: use and regulation of water resources, irrigation, fisheries development including promotion of aquaculture, fish farming, marine fisheries, the sustainable use of ocean resources for economic growth and improved livelihoods, except seaports and marine transport.

3. In executing its mandate, the Committee oversees the following government ministries and departments and agencies (MDAs), namely:

   i. The State Department for Water and Sanitation
   ii. The State Department for Irrigation
   iii. The State Department for Blue Economy and Fisheries

1.3 COMMITTEE MEMBERSHIP

4. The Committee was constituted by the House on 27th October, 2022 and comprises of the following Members:

Chairperson
Hon. Bowen Kangogo, CBS, MP
Marakwet East Constituency
United Democratic Alliance Party

Vice- Chairperson
Hon. Kemero Maisori Marwa, CBS, MP
Kuria East Constituency
United Democratic Alliance Party

Hon. Tandaza Kassim Sawa, MP, CBS
Matuga Constituency
Amani National Congress

Hon. Buyu Rozaah Akinyi, MP
Kisumu West Constituency
Orange Democratic Party

Hon. William Kamket, MP
Tiaty Constituency
KANU

Hon. Stanley Muiruri Muthama, MP
Lamu West Constituency
Jubilee Party

Hon. Eng. Paul Nzengu, MP
Mwingi North Constituency
Wiper Democratic Party

Hon. Eng. Nebart Bernard Muriuki, MP
Mbeere South Constituency
Independent Member

Hon. (Dr.) Osogo Bensuda Joyce Atieno, MP
Homa Bay Town Constituency
Orange Democratic Party

Hon. George Gachagua, MP
Ndaragwa Constituency
United Democratic Alliance Party

Hon. Mohamed Abdikadir Hussein, MP
Lagdera Constituency
Orange Democratic Movement

Hon. Mnyazi Amina Laura, MP
Malindi Constituency
Orange Democratic Movement

Hon. Eric Wamumbi, MP
Mathira Constituency
United Democratic Alliance Party

Hon. Dorothy Muthoni Ikiara, MP
Nominated
United Democratic Alliance Party

Hon. Adow Mohamed Aden, MP
Wajir South Constituency
Orange Democratic Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Mr. Mohamed Boru
Clerk Assistant I/Head of Secretariat

Ms. Ivy Kageha
Clerk Assistant III

Dr. Benjamin Ngimor
Principal Fiscal Analyst

Ms. Lynette A. Otieno
Principal Legal Counsel

Ms. Veron D. Aluoch
Research Officer III

Ms. Joyce Wachera
Hansard Officer II

Ms. Maryan Ahmed Gabow
Public Communications Officer

Ms. Fridah Ngari
Media Relations Officer III

Mr. Eugene Luteshi
Audio Assisting Officer

Mr. Mohamed Said
Sergeant-At-Arms

PART II

2.0 OVERVIEW OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL

2.1 Introduction

1. The Fisheries Management and Development Bill 2023 aims to establish a comprehensive framework for managing and developing the fisheries sector in a sustainable manner. It seeks to align fisheries management practices for the benefit of Kenyans, ensuring resource utilization and governance at both national and county levels.

2. The bill also addresses various aspects of fisheries, including import, export, trade, and quality, while also providing for fish safety and quality standards. In summary, the Bill seeks to provide for the conservation, management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing.

2.2 Rationale

3. On 29th November, 2021 *Malindi High Court Constitutional Petition No. 13B of 2021, Mahmoud Shalima Mohammed Versus Ministry of Agriculture, Livestock and Fisheries & Others* was filed at the High Court of Kenya.

4. The Petitioner sought to challenge the provisions of Section 42(1)(a), (b), (e), (i), (j), and (m) (herein referred to as the impugned provisions) of the Fisheries Management and Development Act, 2016 which provides limitations on the fishing gear that can be used by persons in the conduct of fishing activity. Section 42 provides for the prohibition of certain fishing gears and methods.

5. The Petitioner was aggrieved that the impugned provisions infringed on the Petitioner's economic and social rights as espoused in Article 43 of the Constitution. Further, the Petitioner contended that the impugned provisions were enacted unconstitutionally, siting lack of public participation in the enactment process.

6. The Petitioner contended that the National Assembly proceeded to pass the impugned provisions without any legislative impact assessment statement from the sponsoring authority or following the strict framework for public participation provided by the Statutory Instruments Act, thus violating the overriding objectives of the framework, that is, to provide a comprehensive regime for the making, scrutiny, publication, and operation of pending Bills.

7. In its Judgment in the matter on 15th November, 2022 the High Court made the following declarations:

    a. A declaration is hereby issued that section 42(1)(a), (b), (e), (i), (j), (m) of the Fisheries Management Development Act, 2016 are inconsistent with the Constitution and therefore null and void.

    b. A declaration is hereby issued that the entire Fisheries Management Development Act, 2016 is invalid for want of Public Participation.

8. The National Assembly subsequently filed an appeal and an application seeking a stay of the Judgment of the High Court pending the hearing and determination of the Appeal. Upon hearing all parties, the following orders were made by the Court that;

    a. *The entire Fisheries Management and Development Act, 2016 continues to be in operation save for Section 42(1)(a) to (k) and (m) and Section 42(2) thereof which remain suspended pending the hearing and determination of the substantive appeal.*

    b. *There shall be no orders as to costs.*

9. The orders granted by the court enable the continued operation of various authorities and agencies established through the Act pending the hearing and determination of the Appeal.

10. Consequently, The Fisheries Management and Development Bill (National Assembly Bills No. 29 of 2023) was published on 16th June, 2023 and read a first time on the Floor of the House on 6th July, 2023

11. However, following consensus of the two House's Leadership it was resolved and agreed that the Bill originates from the Senate. However, Senate did not consider the Bill.

12. Through consultations between the Chairpersons of the Departmental Committee on Blue Economy, Water and Irrigation and the House Business Committee at the beginning of the Fourth Session, February 2025, it was resolved that the Departmental Committee on Blue Economy, Water and Irrigation processes the Bill.

2.3 Contents of the Bill

13. The Fisheries Management and Development Bill, 2023 is divided into twenty (20) parts composed of 210 clauses, one Schedule, and contains the following provisions—

14. Part I contains provisions relating to preliminary provisions including the short title, interpretation, object of the Act and guiding principles, application and jurisdiction and sovereign rights of Kenya.

15. Part II contains the provision relating to the establishment of the Kenya Fisheries Council. The role of the Council is to review and advise the national Government on policies in relation to the co-ordination of fisheries management in relation to the aquatic environment and human dimensions.

16. Part III contains provisions relating the Kenya Fisheries Service and matters incidental, including the appointment of the Director-General, the functions of the Director-General, staff of the Service, establishment of Monitoring, Control and Surveillance Unit, Inter-agency monitoring, control and surveillance unit and funds of the Service. The Service shall be responsible for the conservation, management and development of Kenya's fisheries resources.

17. Part IV provides financial and administrative provisions, including the Financial Year, annual estimates, accounts and audit to be in accordance with the Public Audit Act. This part also provides for the Fisheries Research and Development Fund, whose object is to provide supplementary funding for research intended to further the development of fisheries

management, capacity building, scholarships, grants and support for the observer programme established and;

18. Part IV also provides for the Fish Levy Trust Fund whose object is to provide supplementary funding of activities geared towards management, development and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource.
19. Part V provides for fisheries conservation, management and development. This part provides that all fisheries resources vested in the State and shall be conserved, managed and developed consistently with the Act, including its objective and principles, and acknowledging their role as the heritage of the people of Kenya.
20. Clause 30 provides for fisheries measures where the Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act,
21. This part also provides for implementation of international conservation and management measures relating to fisheries, development of fisheries management plans by counties and submission of the same to the Director-General for endorsement.
22. Part V further provides for how the National and County governments shall relate with regards to fisheries conservation and management. It also provides for the establishment of Beach Management Units. The Responsibility for planning fisheries management, constitution of fisheries management plans and management measures.
23. This part also outlines in clauses 41 and 42 the limitation on fishing and fishing related activities, fish landing stations and prohibited activities relating to fish or fish products taken contrary to the laws of another State.
24. Part VI provides for import, export and trade and marketing of fish. Part VII provides for fish quality and safety, including harmonization of fish quality standards and safety and prohibition of sale of contaminated fish quality and safety.
25. Part VIII provides for aquaculture activities. This part provides for promotion of the aquaculture activities and development of an aquaculture plan.
26. Part IX provides for information and data records. The Director-General may, for purposes of this Act, require any person to keep and furnish in such manner and form and at such time as the Director may specify any information and data, including information relating to fishing, fisheries, aquaculture, landing, research, storage, food safety, processing, buying, selling, exports and other related transactions
27. Part X provides for licensing and registration. The Director-General shall establish and maintain a national register of licenses and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary that shall contain among other information, on each licensed or authorized person and information on the relevant vessel, facility, and/or licensed or authorized activity.
28. Part XI provides for compliance with licenses, authorizations and requirements for fishing vessels.

29. Part XII provides for requirements for foreign fishing vessels or vessels fishing under charter arrangements. This part provides that the Cabinet Secretary may require either as a precondition of issuing a license to any fishing vessel other than a Kenya fishing vessel, or at any time during the licensing period, that a performance bond be provided by the applicant in accordance with such procedures and in such form as may be prescribed.

30. Part XIII provides for monitoring, control and surveillance. The Director-General may establish and operate vessel monitoring systems for purposes of monitoring, control and surveillance, and managing the operations of fishing vessels.

31. Part XIV provides for the regulation of arrested persons and seized items including fishing vessels whereas part XV provides for the regulation of evidence collected in the regulation of fisheries.

32. Part XVI provides for summary and administrative proceedings. A person arrested under the Act shall promptly be brought before the Court of applicable jurisdiction or be subject to administrative proceedings in accordance with the Act and In cases of arrest or detention of foreign fishing vessels for a contravention of this Act, the Director-General shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed.

33. Part XVII provides for the jurisdiction of the Court, prosecution, forfeiture, liabilities and other actions under the Act. Where a court convicts a person of an offence against the Act, the Court may order the forfeiture of any of the following any fish, fish product and fishing related gear that was involved in the commission of the offence or where a fishing vessel, vehicle or aircraft was used in the commission of an offence, any fish on board such vessel, vehicle or aircraft at the time of the offence.

34. Part XVIII provides for the establishment of the Kenya Fish Marketing Authority and its functions.

35. Part XIX provides for miscellaneous provisions while part XX provides for repeal and transitions.

2.4 Overview of the Fisheries Sector in Kenya

Historical Background on Fisheries in Kenya

36. Fishing has been a traditional activity in Kenya for centuries, with indigenous communities along the coast relying on fish as a major food source. These communities, developed their own fishing techniques and practices, including the use of canoes, nets, and traps. During the colonial period under British rule, the fisheries sector underwent major transformation with the introduction of modern fishing technologies such as motorized boats, synthetic nets, and improved gear.[1]

37. After gaining independence in 1963, Kenya prioritized the development of the fisheries sector to promote economic growth and improve food security. The government recognized

[1] Fisheries and Aquaculture Country Profile, Kenya: https://www.fao.org/fishery/en/facp/ken

the potential of marine resources and established policies and institutions to regulate and manage the sector effectively. The Department of Fisheries was established to oversee fisheries management and development activities.

38. Kenya is not only endowed with marine resources but also has several lakes, rivers, and wetlands that support freshwater fisheries. The government initiated various programs to develop and manage inland fisheries, including the stocking of lakes with fish species and the construction of fish ponds for aquaculture. This focus on inland fisheries aimed to diversify fish production and reduce pressure on marine resources.[2]

Fisheries Resources in Kenya

39. Kenya is endowed with both marine and inland water resources making fishing an important economic activity in the country. The inland water resources include lakes, dams and rivers of varying sizes. Additionally, across the country, there are also dams stocked with fish in areas like Uasin Gishu, Narok and Laikipia, where fish production is quite substantial.

40. The country also enjoys a 640 km coastline along the Indian Ocean, which includes 12 nautical miles of territorial waters and an Exclusive Economic Zone (EEZ) extending 200 nautical miles, covering approximately 142,400 km.[3]

41. While both inland and marine waters are exploited, inland capture fisheries dominate Kenya's production. Lake Victoria alone contributes about 92% of inland fish landings, while marine capture contributes 4% and aquaculture 1% of total national production.

42. The Kenyan fishery is mainly artisanal with very few commercial/industrial vessels targeting mainly shallow water shrimps, deep water shrimps and lobsters. The artisanal fishery accounts for most of the inland and marine water catches reported and consequently it is currently the most important fishery in the country, even though our Economic Exclusive Zone (EEZ) which is predominately for commercial fishing is under exploited with an estimated potential of between 150,000 to 300,000 metric tons.[4]

43. The fisheries sector plays a significant socio-economic role nationwide. In 2021, it supported 65,000 fishers, 70,000 fish farmers, and maintained 149,000 stocked ponds, according to KeFS. Overall, the sector supports about 1.2 million people directly and indirectly across fishing, trading, processing, and supply value chains (State Department for Fisheries). Total fish production in 2021 increased to 163,702 MT valued at Kshs. 30.38 billion, representing an 8.2% rise from 2020 due to improved landings and stronger market prices.[5]

44. Inland capture fisheries accounted for 71% of national production, with Lake Victoria recording 94,349 MT, a 7% increase linked to the easing of COVID-19 restrictions. Lake Turkana produced 15,644 MT, a 19% increase attributed to rising water levels and improved fish habitats.

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[2] https://www.worldbank.org/en/country/kenya/brief/kenya-fisheries

[3] Fisheries and Aquaculture Country Profiles, Kenya: https://www.fao.org/fishery/en/facp/ken

[4] Kenya Aquatic Journal: https://www.kmfri.go.ke/

[5] Fisheries Annual Statistical Bulletin 2021: https://kefs.go.ke/sites/default/files/2023-07/2021%20Bulletin.pdf

Challenges in the Fisheries Sector

45. Despite the historical development and efforts to promote sustainable fisheries, Kenya faces several challenges in the sector:

46. The increasing demand for fish, coupled with unsustainable fishing practices such as the use of fine-meshed nets and dynamite fishing, has resulted in the depletion of fish stocks. Overfishing not only threatens the livelihoods of fishermen but also disrupts the marine ecosystem.

47. Illegal, Unreported, and Unregulated (IUU) fishing is a persistent issue in Kenya's fishing industry. It involves fishing activities that violate national and international laws, including fishing without proper licenses, using banned gear, or fishing in restricted areas. IUU fishing undermines efforts to conserve fish stocks, hampers sustainable fisheries management, and affects the income of legal fishermen.

48. Many fishing communities in Kenya lack adequate infrastructure and equipment to support their fishing activities. Inadequate storage facilities, poor transport networks, and limited access to ice or cold storage facilities contribute to post-harvest losses. Insufficient and outdated fishing gear also affect the productivity and efficiency of fishermen.

49. Climate change and environmental degradation have a significant impact on Kenya's fishing industry. Rising sea temperatures, unpredictable weather patterns, and ocean acidification affect fish habitats and migration patterns. Coastal erosion, pollution from agricultural runoff and industrial activities, and degradation of mangrove forests further disrupt the marine ecosystem and threaten fish populations.

50. Many small-scale fishermen in Kenya struggle to access affordable credit or financial services to invest in their fishing activities thus hindering their ability to purchase modern fishing equipment, maintain their boats, and improve infrastructure. Additionally, inadequate market linkages and limited value-addition opportunities result in low returns for fishermen, limiting their income potential.

51. Further, the fishing industry in Kenya faces challenges related to weak regulatory and enforcement mechanisms. Inconsistent enforcement of fishing regulations, limited surveillance and monitoring capabilities, and corruption allow illegal fishing practices to persist. Strengthening governance frameworks and improving enforcement mechanisms are crucial to addressing these issues.

2.5 Existing Legal And Policy Framework

The Constitution of Kenya

52. The Constitution provides the overarching principles for environmental and natural resource governance, including fisheries. Article 69(1) obligates the State to ensure the sustainable exploitation, utilization, management and conservation of the environment and

natural resources, protect biodiversity, and undertake environmental impact assessments for development activities.[6]

53. The Fourth Schedule further allocates fisheries-related functions between the two levels of government. Part 1, assigns the National Government responsibility for fisheries policy, while Part 2 assigns County Governments the role of implementing national natural resource policies, including inland fisheries and aquaculture development.

The Fisheries Management and Development Act (FMDA), 2016

54. This is the principal law regulating fisheries in Kenya. The Act outlines governance principles in Section 3, including sustainability, equity and ecosystem integrity. Further, it establishes key institutions, including the Kenya Fisheries Service (KeFS) under Sections 11–18, responsible for implementing fisheries governance, compliance, capacity development and sector coordination.[7]

The Fisheries Management and Development Regulations, 2021

55. These regulations provide detailed provisions and guidelines for the implementation of the Fisheries Act. They cover areas such as fishing permits and licenses, registration of fishing vessels, protected areas, fishing gear specifications, and penalties for offenses.

Fisheries Management and Development Plans (FMDPs)

56. These are statutory plans prepared under Section 9 of the FMDA (2016). They articulate the government's strategic objectives for sustainable fisheries development. These plans guide resource management, aquaculture expansion, research and innovation, surveillance, value-chain development and institutional strengthening.

Blue Economy Strategy and Initiatives

57. Kenya's Blue Economy frameworks promote sustainable use of aquatic resources for economic growth, improved livelihoods, and ecological health. The strategy emphasizes on sustainable fisheries, marine conservation, value addition and fish processing and maritime safety and surveillance.

Institutional Framework

58. The Bill creates several institutions to coordinate Fisheries as follows-

59. The Kenya Fisheries Advisory Council whose function shall be to review and advise the national Government matters related to fisheries.

60. The Kenya Fisheries Service which shall be responsible for the conservation, management and development of Kenya's fisheries resources in accordance with this act.

61. Monitoring Control and Surveillance unit (MCS) whose functions shall be monitoring control and surveillance including enforcement and compliance with this act as well as

[6] Constitution of Kenya: https://www.kenyalaw.org/lex/

[7] FMDA, 201_.pdf :http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/

cooperating and coordinating with performing relevant functions within the broader systems of monitoring, control and surveillance.

62. Fish Marketing Authority whose object and purpose shall be to market fish and fisheries products from Kenya.

Comparative Analysis of Fisheries Sector in China, Namibia and Kenya

Key Indicator	China	Namibia	Kenya
Primary Fisheries Law	Fisheries Law of the People's Republic of China – governs conservation, licensing, aquaculture, marine protection, fishing zones, and closed seasons.[8]	Marine Resources Act, 2000 (Act No. 27 of 2000) – establishes management, conservation, utilization, quotas, licensing, and enforcement.	Fisheries Management and Development Act (FMDA), 2016 – establishes Kenya Fisheries Service (KeFS), licensing systems, BMUs, aquaculture regulation, enforcement, and monitoring.
Aquaculture Legal Framework	Regulated under 63. the Fisheries Law and regional aquaculture regulations addressing seed quality, water standards, feed rules, and disease control.	Governed under Namibia's Aquaculture Policy, which guides sustainable aquaculture practices and the development of inland and coastal aquaculture.[9]	Provided for under Part VI of the FMDA 2016, covering aquaculture licensing, environmental safeguards, and compliance requirements.
Marine Environmental Protection	Regulates pollution control, marine protected areas, ecological	Environmental provisions integrated into the Marine Resources	Environmental management, conservation measures, and the

[8] Fisheries and Aquaculture Country Profile Chinahttps://www.fao.org/fishery/en/facp/chn

[9] National Planning Commission, Namibia: https://www.npc.gov.na/

Key Indicator	China	Namibia	Kenya
	restoration, and environmental monitoring.	Act, 2000 and supported by national environmental regulations.	establishment of Marine Protected Areas (MPAs) under the FMDA 2016.
Institutional Management Structure	Ministry of Agriculture & Rural Affairs and the State Oceanic Administration oversee fisheries management and enforcement.	Ministry of Fisheries & Marine Resources (MFMR) serves as the central regulatory and enforcement authority.	Kenya Fisheries Service (KeFS), Kenya Marine & Fisheries Research Institute (KMFRI), and the State Department for Fisheries lead fisheries administration and research.
Fisheries Licensing & Rights	Licensing, permits, vessel registration, and allocation of fishing zones established under the Fisheries Law.	Quota-based fishing rights, Total Allowable Catches (TACs), vessel licensing, and gear regulations established under the Marine Resources Act, 2000.[10]	Licensing frameworks, vessel registration, and co-management through BMUs established under the FMDA 2016.
Monitoring, Control & Surveillance (MCS)	Strict MCS including VMS, closed seasons, gear restrictions, and state-led inspections under the Fisheries Law.	Strong MCS with VMS, observer programs, quota monitoring, and enforcement under the Marine Resources Act, 2000.	MCS systems under the FMDA 2016, including surveillance, BMU participation, licensing enforcement, and inspections.

[10] https://www.lac.org.na/laws/annoSTAT/MARINE%20RESOURCES%20ACT.pdf

Key Indicator	China	Namibia	Kenya
Community Participation	Minimal formal co-management structures; fisheries governance is highly centralized and state-led.	Community roles recognized mainly in inland fisheries through localized management practices.	BMUs (Beach Management Units) legally recognized under the FMDA 2016 as co-managers of fisheries resources.
Enforcement Provisions	Heavy penalties for illegal, unreported, and unregulated (IUU) fishing, environmental violations, and non-compliance with closed seasons or gear rules.	Enforcement through penalties for quota misuse, illegal fishing, and non-compliance with vessel and gear regulations.	Enforcement executed through fisheries inspectors, BMUs, and surveillance officers under the FMDA 2016.
Development Priorities	Large-scale aquaculture expansion, modernization of fishing fleets, digital monitoring, and ocean governance reform.	Sustainable exploitation of marine stocks, promotion of high-value species, aquaculture expansion, and ecosystem protection.	Strengthening Blue Economy initiatives, aquaculture development, modernization of fish landing sites, and enhanced co-management approaches.

PART III

3.0 CONSIDERATION OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

3.1 Committal of the Bill

64. The Fisheries Management and Development Bill, 2023 was published on 16th June, 2023 and read a First Time on 6th July 2023. However, following consensus of the two House's Leadership it was resolved and agreed that the Bill originates from the Senate. However, Senate did not consider the Bill.

65. Through consultations between the Chairpersons of the Departmental Committee on Blue Economy, Water and Irrigation and the House Business Committee at the beginning of the Fourth Session, February 2025, it was resolved that the Departmental Committee on Blue Economy, Water and Irrigation processes the Bill.

3.2 Public Participation on the Bill

66. Pursuant to Article 118(1) (b) of the Constitution and Standing Orders 127(3), adverts for request for submission were placed in the "Daily Nation" and the "Standard" newspapers on 21st February, 2025 inviting members of the public to submit memoranda on the Bill.

67. Further, in considering the Bill, the Committee held a total of eleven (11) sittings to receive and consider submissions from stakeholders including the State Department for Blue Economy & Fisheries and the Council of Governors. The Committee held three consultative meetings with the State Department for Blue Economy and Fisheries on 25th March 2025, 3rd April 2025 and 19th February, 2026. The Committee further met with the Council of Governors on 31st July, 2025 and 20th February, 2026 to consider their submissions on the Bill.

68. To ensure sufficient public participation, the Committee conducted public hearings in various Counties to receive submissions from stakeholders on the Bill. Hearings were conducted across the country with a focus on regions with large water bodies where fisheries activities are concentrated. These hearings were conducted in Kwale, Mombasa, Kilifi and Lamu Counties along the Indian Ocean coastline. In the Lake Victoria region, public hearings were conducted in Kisumu, Siaya, Homa Bay and Migori Counties. Hearings were also conducted in Nakuru, Baringo and Turkana Counties which host Lake Naivasha, Lake Nakuru, Lake Baringo and Lake Turkana respectively.

69. The Committee also received written submissions from the Kenya Fish Development Authority (KeFDA), Lake Victoria Aquaculture (LVAA) and Lake Naivasha Basin Landscape Association (LANABLA).

3.3 Submissions from Government Agencies

3.3.1 Submissions from the State Department of Blue Economy and Fisheries

Ms. Betsy Njagi, CBS, the Principal Secretary, State Department for Blue Economy and Fisheries, appeared before the Committee and briefed on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) as follows:

70. Choose whether to use "he", "himself", and "his" or "he or she", "himself or herself", and "his or her" and harmonize throughout the entire Bill.

Justification: For consistency throughout the Bill.

Committee Observation

The amendment was adopted and the Bill will be aligned in accordance with inhouse drafting style and format

Clause 2

71. Amend the definition of "subsistence fishing" as follows: - "Subsistence fishing" means local or non-commercial fisheries, oriented not primarily for recreation but for sourcing of fish for consumption by the fishers, their families and community; Further, delete one of the repeated definitions of Subsistence farming in the Bill.

Justification: Refine the definition to properly distinguish between fishing as a commercial enterprise and fishing for one's own consumption.

Committee Observation

The amendment was adopted as it provides for distinction between subsistence fishing for proper regulation of industrial or commercial fishing.

72. Insert a definition of "Marine Park" as follows: "Marine Park" means any park or reserve covering the area of intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law, and includes any dry land found within the gazette boundary. (Wildlife Conservation and Management Act, Cap 376).

    a. The following definitions are to be added and clause 135 (6) deleted: "Monitoring" means the collection, measurement and analysis of fishing activity including, but not limited to catch, species composition, fishing effort, bycatch, discards, area of operations; "Control" means the specification of the terms and conditions under which resources can be harvested; "Surveillance" means the checking and supervision of fishing activity to ensure that national legislation and terms, conditions of access and management measures are observed.

Justification: For alignment with international standards and best practices. This is expanded to cater for operational efficiency and include authorization beyond Kenya's jurisdiction during MCS operations.

Committee Observation:

The amendment seeks to align the definition of "Marine park" as provided in the Wildlife Conservation and Management Act which is the parent Act that regulates and establishes different category of parks.

73. Replace the definition of "transshipment" with the following: "transshipment" means the direct transfer of any quantity of fish onboard from one vessel to another vessel regardless of the location of the event, without the fish being recorded as landed.

Justification: To align with international best practices and give more clarity.

Committee Observation:

The amendment was adopted as it aligns with international best practices on definition of transshipment.

74. Include a definition of "commercial fishing" as below: "commercial fishing" means fishing for sale, barter, or trade.

Justification: The term "commercial fishing" has been used in the Bill but no definition has been provided in the definition section.

Committee Observation:

The amendment was adopted to provide for clarity on what amounts to commercial fishing.

75. Substitute the definition of "Foreign fishing vessel" with the following: "Foreign fishing vessel" means a fishing vessel not registered in Kenya.

Justification: To give more clarity.

Committee Observation:

The amendment was adopted as it aligns the definition with what is provided in the Merchant Shipping Act that defines foreign vessels.

76. Amend the definition to: "Board" means the board of directors of the Service established by section 10;

Justification: To align with other defined terms in the Bill.

Committee Observation:

The Bill already provides for the definition of the Board, hence the proposal is unnecessary.

77. Delete the definition of "Board of Directors"

Justification: To align with the Cabinet directive to dissolve the Fish Marketing Authority

Committee Observation:

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the

Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

78. Substitute the definition of "Territorial waters" with the following: "territorial waters" shall have the meaning assigned to it under the Maritime Zones Act, Cap. 371. Change all references of "territorial sea" in the Act to "territorial waters".

Justification: The Bill defines Territorial Waters but Territorial Sea is then used throughout the Act but not "territorial waters"

Committee Observation:

The amendment aligns with the definition of territorial waters as defined Maritime Zones Act, Cap. 371 and was adopted.

79. "Exclusive Economic Zone" shall have the same meaning as assigned to it under the Maritime Zones Act Cap. 371.

Justification: Add as part of the definitions as the term is used throughout the Bill but not defined (for example in clauses 127 (5), 162 (3) and 208 (2) (l))

Committee Observation:

The amendment was adopted as it makes provision for definition that was erroneously omitted.

80. Delete the definition of 'Authority' to align with the Cabinet directive to dissolve the Fish Marketing Authority

Committee Observation:

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

81. Insert the following definitions "Inspector" is any person appointed under clause 147 (1) (a) of the Bill; "Observer" is any person appointed under clause 147 (1) (b) of the Bill; "Authorization" means any authorization issued under clause 83(5); Insert definition of Fishing License.; "Fishing License" is any license granted under clause 83 of the Bill.

Justification: For Clarity.

Committee Observation:

The amendment is superfluous and unnecessary.

Clause 4

82. Clause 4 appears twice in the proposed bill, causing a disruption in the numbering sequence.

Justification: Revise the numbering to reflect the true position.

Committee Observation:

The amendment was adopted to correct numerical errors in the Bill.

Clause 5

83. Delete the entire part creating the Fisheries Advisory Council.

Justification: This Council is no longer needed as there is now a State Department dedicated to Blue Economy which was not the case when the FMDA 2016 was passed.

Committee Observation:

The amendment is adopted in line with government directive on reduction of state corporations and transfer of role to the relevant State Department.

Clause 8

84. Delete the functions under Clause 8(b), (k), (r) (s) and (t) from the Act as functions of the Service and Kenya Fish Marketing Authority and move them to the new clause on the functions of the Ministry.

Amend following sub-clauses of clause 8 as follows: (p) Replace the word "facilitate" with "promote".

Justification: These are the functions of the Ministry responsible for blue economy and fisheries.

Committee Observation:

The amendment was adopted however the functions of the Kenya Fish Marketing Authority have been assigned to the Kenya Fisheries Service.

Clause 12

85. Rename to 'Vacation of office' for consistency.

Committee Observation:

The proposal is adopted as a general cleanup of the Bill.

Clause 14

86. Amend clause 14 (2) as follows: - (2) A person shall be qualified to be appointed under sub-clause (1) if such person holds a postgraduate degree from a recognized university in either-

(a) natural resource or environmental management, or science.

(b) fisheries studies, including fisheries governance, management. development or science

(c) aquatic science; or

(d) any other related field, and has at least ten years' experience in a senior management position in a public or private institution.

Justification: To make the provision less rigid to ensure that the best available candidate can be recruited for the position.

Committee Observation:

The amendment seeks to enable persons who have management experience in private institutions to be also qualified to be appointed as the Director-General and further seeks to require a person to be compliant with Chapter Six of the Constitution to be eligible for appointment.

Clause 15

87. Delete Clause 15 (2) (d).

Justification: Clause 15 (2) (d) refers to the Fish Marketing Authority which is to be dissolved under the directive from the Cabinet and the functions of the Fish Marketing Authority have been transferred to the State Department.

Committee Observation:

The amendment was adopted noting this is a consequential amendment based on deletion of the Fish Marketing Authority

Clause 17

88. Amend the clause by Substituting with the following: - The Cabinet Secretary may, on the recommendation of the Director- General, by notice in the Gazette appoint a person to be an authorized officer for purposes of this Act.

Justification: Correcting a typographical error in the clause. Changing 'in consultation with' to 'on the recommendation of'.

Committee Observation:

The amendment was adopted as this is a general clean and ensures appointment of authorized officers is on recommendation of the technical person who is the Director-General.

Clause 18

89. Delete the clause as positions of honorary fisheries officers are unnecessary.

Committee Observation:

The amendment was adopted as the position of honorary fisheries officers are unnecessary and no such officers have been appointed since enactment of the Act.

Clause 27

90. Delete the clause and other references to the Fish Levy Trust Fund in the Bill.

Justification: The provision creates the Fish Levy Trust Fund which is to be dissolved under the directive from the Cabinet and the functions transferred to the Cabinet Secretary's office.

Committee Observation:

The amendment was adopted with necessary modifications and restructures the Fish Levy Trust Fund into the Fish Levy Development Fund and further provides for the manner in which the Levy will be distributed for purposes of accountability. Subsequently the Fisheries Research and Development Fund has been proposed to be deleted. The Fisheries Research and Development Fund is yet to be established since the enactment of the Fisheries Management and Development Act in 2016 hence the proposal to delete the provision and transfers its purpose to the Development Fund

Clause 29

91. Delete 29 (d) and 29 (j).

Justification: These functions have been transferred to the State Department.

Committee Observation:

The amendment was not adopted these functions of marketing have been transferred to the Kenya Fisheries Service.

Clause 33

92. Amend sub-clause 2 as follows: - (2) In developing the management measures and plans, referred to in sub-clause (1), the relevant authorities in the County shall

    (a) take steps to ensure that such plans and measures are consistent with the provisions of this Act, including its objective and principles, and national fisheries management plans and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act, and

    (b) take into consideration, to the extent possible, elements of a fisheries management plan described in Clause 38.

Justification: The proposal provides for harmony and synergy in developing fisheries management plans.

Committee Observation:

The amendment was adopted with modification. The proposals ensures the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments.

Clause 35

93. Amend as follows: (1) Where there is any conflict between the national and county management plans, the national management plan shall prevail.

Justification: Under Article 62 (3) the Constitution of Kenya, all rivers, lakes, other water bodies, the territorial sea, the exclusive economic zone and sea bed all constitute public land that vests and is held by the national government and as such where the plans conflict in respect to these resources the national government should prevail. Additionally, under Article 191 (3)(b) and 191 (3)(c)(vi) the national government should prevail in this instance.

Committee Observation:

The amendment was adopted as it aligns with the provisions of Article 191 of the Constitution on conflict of laws and when national laws ought to prevail especially for establishing uniform standards and national policies.

Clause 38

94. Amend as follows: -

38. (1) The Cabinet Secretary may, on the recommendation by the Director-General and in consultation with the Council of Governors declare a fishery as a designated fishery, where having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery-

(a) is important to the national interest; and

(b) requires special conservation and management measures for effective sustainable use of the fisheries resources.

Justification: We have deleted the Board.

Committee Observation:

The amendment was adopted as it seeks to provide for declaration of designated fisheries to be by the Cabinet Secretary which is in line with role of the CS in declaration of designated fisheries in other provisions of the Act.

Clause 44

95. Amend the sub-clauses (1) and (2) by inserting the bolded text below to read as follows:

44 (1) The Cabinet Secretary may, by notice in the Gazette, declare any species of fish to be endangered or threatened with extinction in Kenya, and shall, to the extent possible, include those species relevant to Kenya that have been declared endangered or threatened under any international agreement or instrument to which Kenya is party.

(2) Unless otherwise provided by the Cabinet Secretary, no person shall engage in fishing for, catch, possess, transport, process, buy or sell any species of fish and/or fish products declared endangered or threatened with extinction pursuant to sub-clause (1).

Justification: For clarity.

Committee Observation

The amendment was adopted with necessary modifications as it provides for clarity, the declaration of endangered fish is with regards to Kenya in addition to those declared in international agreement. Further prohibit the sale of fish products emanating from endangered species.

Clause 53

96. Amend the marginal note to read "Import of fish and fish products" and in the provision:

    53 (1) No person shall import any fish or fish products into Kenya without the written authorization of the Director-General and in accordance with such procedures as may be prescribed, and the authorization shall only be given upon production of an environmental impact assessment report on the effect of each introduction.

    Add a new sub-clause 53 (6); (6) A person who contravenes sub-clause (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding three years or to both.

Justification: The deletion is for clarity because the definition of fish includes live fish. The addition of a fine is to enable enforcement.

Committee Observation:

The amendment was adopted as the deletion is of the word "live" is for clarity purposes as the definition of "fish" includes live fish. The addition of a fine is to enable enforcement.

Clause 54

97. Amend as follows: - Delete 'live' from the marginal note. 54 (1) No person shall export any fish or fish product from Kenya without the written authorization of the Director-General and in accordance with such procedures as may be prescribed.

Justification: The deletion is for clarity because the definition of fish includes live fish.

Committee Observation:

The amendment was adopted as the deletion is of the word "live" is for clarity purposes as the definition of "fish" includes live fish.

Clause 64

98. Amend Clause 64 (2) and replace it as follows: - Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities in areas under their respective jurisdiction, are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government shall in consultation with the Cabinet Secretary take such measures as prescribed.

Justification: For clarity

Committee Observation:

The amendment was adopted as it provides for clarification on the role of enforcement which is by the respective county government. Under the Constitution functions of defunct local authorities was devolved to County Governments.

Clause 82

99. Replace reference to Clause 82 in accordance with Clause 79.

Justification: Cure a mistake in cross-referencing. Clause 83 should refer to confidential data as per Clause 80, as opposed to "Clause 82" which is on public access to information.

Committee Observation:

The amendment was adopted as it corrects a cross-referencing error and provides for the role of the County Director in managing information under the Act

Clause 83

100. Replace reference to Clause 90(3) with 85(1) to cure cross-referencing error.

Committee Observation:

The amendment was adopted as it corrects a cross-referencing error.

Clause 85

101. Amend Clause 85 (1) as follows: -

> 85 (1) The Director General may approve the grant or renewal of licenses and authorization for any purpose specified in Clause 86 after all inspections, verifications and other pre- licensing requirements under this Act have been discharged.

Justification: Operational efficiency.

Committee Observation:

The amendment was adopted as it clarifies the role of the Director-General in issuance of licenses and provides for operational efficiency.

Clause 87

102. Amend the marginal note as follows: - replace "requirements' with 'grounds" so that it reads as "Grounds for denial of licenses and authorizations"

Justification: For clarity.

Committee Observation:

The amendment was noted however as a matter of practice the House does not amend marginal notes at the Committee Stage.

Clause 88

103. Amend Clause 88 (1) (d) as follows: - (d) be accompanied by a fishing plan which shall specify for each month of the full period of validity of a license or authorization, the— (iv) area in which fishing and/or fishing related activities will take place.

Justification: This increases the mandate to cover fishing related activities.

Committee Observation:

The amendment was adopted as seeks to expand the information required under fishing plans to include information on where fishing related activities will take place which is important for regulation.

Clause 89

104. Amend Clause 89 (6) as follows: - (6) A person who contravenes sub-clause (3), (4) or (5) commits an offence and shall be liable on conviction to a fine not exceeding three hundred and fifty thousand shillings or to a term of imprisonment not exceeding three years or to both.

Justification: Inserted "shillings".

Committee Observation:

The amendment was adopted as it clarifies the amount prescribed as a fine is in shillings.

Clause 90

105. Amend as follows: - (1) Where commercial employment is foreseen in relation to the activity for which the license or authorization is sought, it shall be a condition of the license or authorization that citizens of Kenya possessing the necessary qualifications and experience shall be given preference for employment, and such employment shall be in accordance with applicable labour laws and any other laws governing safety at sea.

Justification: Compliance with relevant labour laws and laws relating to safety at sea.

Committee Observation:

The amendment was adopted. It seeks to provide that where persons are employed by persons issued with licenses under the Act that employment should be in compliance with relevant labour laws and laws relating to safety at sea.

Clause 91

106. Amend as follows: - 91 (1) A license issued pursuant to this Act shall, unless otherwise provided, be valid for a maximum period of one calendar year and may be renewable, subject to any fisheries management decision taken in accordance with this Act and the terms and conditions set out in the license.

91 (2) An authorization issued pursuant to Clause 83 (5) shall be valid for a period prescribed by the Director-General.

Justification: For clarity.

Committee Observation:

The amendment was adopted as it clarifies on the validity period of licenses issued under the Act.

Clause 99

107. Amend sub-clause 99 (1) (a) as follows:

> 99 (1) (a) maintaining a fishing logbook for each fishing trip in the area to which the relevant license applies in the English language or other language approved by the Director-General, which shall include:
>
> (ii) the noon position of the vessel and, where applicable, the set start and finish positions of the fishing gear and soak time or the number of hooks and the sea surface temperature;

108. Add new 99 (1) (a) (vi) as follows: 99 (1) (a) (vi) by-catches of non-target species

> 99 (1) (c) (ii) certifying that all information provided pursuant to subparagraphs (a), (b) and (c) is true, complete and correct.

Justification: For clarity.

Committee Observation:

The amendment is a cleanup of the provision and enhances the reporting requirements for industrial fishing vessels to include catches of non-target species

Clause 103

109. Amend as follows:

> (5) The Director-General shall maintain or cause to be maintained a fishing vessel register in which shall be entered the following information in respect of the vessel –
>
> (a) the name, street address, telephone number and email address of the owner and where applicable, the previous owner;

Amend Clause 103 as follows:- Delete fax number in 103 5 (a) no longer in use

Justification: For clarity.

Committee Observation:

The amendment is unnecessary, hence not adopted.

Clause 105

110. Amend Clause 105 (1) as follows: - Licenses issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions—

(a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by regulations.

Delete 105 (b).

Justification: These functions have been devolved to the counties and relevant regulations are in place.

Committee Observation:

The amendment was adopted as recreational fishing is a function devolved to county governments hence requirements should be issued by the County Director.

Clause 117

111. Delete Clause 117.

Justification: Given that under Clause 122 an aquaculture license-holder has the exclusive rights to harvest their fish which requires an aquaculture permit, a license is sufficient. It does not make sense to have both when one confers the same right that the other does.

Committee Observation:

The amendment was not adopted as the provision provides for clarity.

Clause 121

112. Insert new condition (c) under sub-clause 3 to read as follows: 121. (3)(c) "measures to be taken to minimize the escape of waste products and the pollution of land and water".

Justification: To include pollution mitigation measures.

Committee Observation:

The amendment was adopted as it provides for pollution mitigation measures when issuing aquaculture licenses.

Clause 122

113. Amend the clause to read as follows: - An aquaculture license holder shall apply to the Director-General for an aquaculture permit as provided under the relevant regulations.

Amend the marginal note to read as "Aquaculture Permits"

Justification: For clarity given the proposed deletion of Clause 117. The Aquaculture Regulations have substantive provisions on aquaculture permits.

Committee Observation:

The amendment was not adopted as the provision provides for clarity.

Clause 127

114. Amend clause 127 (1) to read as follows: -

127 (1) The Cabinet Secretary may, on behalf of the Government of Kenya and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities

Remove "and/or" at the end of sub-clause (2)(a)(iv).

(iv) such other persons or bodies as the Cabinet Secretary considers appropriate; ~~and/or~~

Justification: Correcting a typographical error. To align with the proposed deletion of the provisions relating to the Fisheries Advisory Council.

Committee Observation:

The amendment was adopted with modifications as it is a cleanup. However there is not clarity that the permit to foreign fishing vessels is issued by the Cabinet Secretary on recommendation of the Director-General of KFS.

Clause 134

115. Delete clause 134 and replace it with the following: -

134 (1) Nothing in this Act or Regulations made thereunder affects the entry of a vessel to port in accordance with the laws of Kenya for reasons of force majeure or distress.

(2) The Director-General may grant a vessel that falls within the scope of this Act entry into port for reasons of force majeure or distress, provided that:

(a) the vessel may enter port under its claim of force majeure or distress for such period of time necessary to remedy such claim; and

(b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.

Justification: For clarity.

Committee Observation:

The amendment was adopted as it provides for clarity on conditions under which vessels may be granted access in instances of distress.

Clause 135

116. Amend sub-clause 135 (1) to read: - An authorized officer may give such directions as are reasonably necessary for the purposes of exercising any of his or her powers under this Act. Delete sub-clause (6) and in line with the added definitions of "monitoring", "control" and "surveillance".

Justification: For clarity and to harmonize with the new definitions of monitoring control and surveillance in Clause 2.

Committee Observation:

The amendment was adopted for clarity and to harmonize with the new definitions of "monitoring, control and surveillance" introduced in clause 2.

Clause 139

117. Amend sub-clause 139 (1) as follows: (1) (i) any Kenyan fishing vessel within or outside the Kenya fishery waters.

Justification: Expansion of scope.

Committee Observation:

The amendment was adopted to align with the terminology used in the Act and make reference to power to stop, enter or board vessels is with regards fishing vessels which are within Kenya fisheries water.

Clause 141

118. Amend sub-clause 141 (1) as follows: Delete the 'or' between sub-clause 141 (1) (b) and sub-clause 141 (2).

Justification: Correcting a typographical error.

Committee Observation:

The amendment was adopted as it provides for clarity and cleans up a typographical error.

Clause 144

119. Amend sub-clause 144 (1) as follows: (1) An authorized officer may remove any part from the vessel seized pursuant to this Act for the purpose of immobilizing that vessel where the operator is uncooperative, but in any event the authorized officer shall take reasonable measures to ensure that such removal shall not cause a permanent or material damage to the vessel.

Justification: 'in co-operative' changed to 'uncooperative'.

Committee Observation:

The amendment was adopted as it is a cleanup of a grammatical error.

Clause 146

120. Amend Clause 146 as follows: Delete the word 'Board' after programme in sub-clause 146 (1).

Insert new sub-clause (3) and replace by the following:

146 (3) An observer shall on request identify himself or herself and produce proof of identification as an observer.

Justification: For clarity. The observer programme does not have a Board.

Committee Observation:

The observer programme does not have a Board hence the deletion further amendment requires an observer to identify themselves when required.

Clause 147

121. Amend clause 147 to read as below: 147 (l) The Director-General may, in writing appoint-

(b) Observers for purposes of the observer programme established under clause 147 or any international agreement and arrangements.

Justification: The word Board deleted for clarity.

Committee Observation:

The amendment was adopted as observer programme does not have a Board hence the deletion of the word "Board".

Clause 150

122. Insert a new sub-clause (2) to read: - Where any person mentioned in sub-clause (1) is forced by circumstances to stay on board the vessel for a prolonged period of time, provide him, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel, at the expense of the operator.

Renumber current sub-clause (2) as sub-clause (3).

Justification: To align with best international practices.

Committee Observation

The amendment was adopted as it align with best international practices to provide where observers is forced to be on board the vessel for a prolonged period of time they be provided with food, accommodation and medical facilities.

Clause 155

123. Amend 155 (2) by adding "shall" after the word "vessel": 155 (2) No person being the operator or a crew member of a vessel shall-

Justification: For clarity.

Committee Observation:

The proposed amendment was adopted as it is a cleanup and makes the prohibitions against obstruction of authorized persons and related matters mandatory.

Clause 156

124. Amend sub-clause 156(4) to read as follows:

a. (4) Where the mobile transceiver unit or other device ceases to operate as required, the operator shall immediately notify the Director-General and submit to him a report of the vessel's name, call sign, position expressed in latitude and longitudes to the minutes

of arc, course and speed, and the date and time of the report at intervals of one hour or such other period as the Director-General may notify the operator, and—

In sub-clause 156(5), add as (d) "accuracy requirements" and renumber the rest of the list as follows:

(5) The operator shall comply with such other conditions that may be prescribed and such additional conditions that may be required by the Director-General, including-

(a) the type of vessel monitoring system equipment to be used

(b) installation procedures;

(c) operational requirements;

(d) accuracy requirements

(e) information requirements:

(f) confidentiality: and

(g) reports.

Insert sub-clause (6) to read: -

The Director-General may require the operator of any fishing vessel, as a condition of license or otherwise, to install, maintain and operate in accordance with such conditions as may be prescribed and such other conditions that may be required by the Director-General, remote electronic monitoring.

Renumber current sub-clauses (6) and (7), sub-clauses (7) and (8) respectively.

Justification: Alignment with best practices, and ensures better monitoring, control and surveillance.

Committee Observation:

The amendment was adopted as it aligns with best practices, and ensures better monitoring, control and surveillance on reporting times of vessels.

Clause 157

125. Insert a clause before the existing "Designation of port"

(1) The Cabinet Secretary shall designate and publicize by notice in the gazette, the port or ports to which vessels engaged in fishing and fishing related activities may request entry.

(2) The Cabinet Secretary shall provide a list of ports designated pursuant to paragraph (1) to the Food and Agriculture Organization of the United Nations and to any regional fisheries management organization pursuant to applicable conservation and management measures.

Justification: Alignment with international obligations, specifically the Port State Measures Agreement. (PSMA).

Committee Observation:

The amendment was adopted as it aligns with Kenya international obligations, specifically the Port State Measures Agreement. (PSMA) on designation of fishing ports.

Clause 158

126. Amend Clause 158 as follows:

158. (1) Authorization to enter a port shall be denied where there is sufficient proof that a vessel seeking entry into port:

(a) has engaged in illegal, unreported and unregulated fishing, or in fishing-related activities in support of such fishing, or

(b) appears on a list of vessels which have engaged in illegal, unreported and unregulated fishing or fishing related activities in support of such fishing adopted by a regional fisheries management organization.

(2) Without prejudice to sub-clause (1), authorization for a vessel to enter a port may be given exclusively for the purpose of:

(a) inspecting the vessel; and

(b) taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring or eliminating illegal, unreported and unregulated fishing and fishing-related activities in support of such fishing.

(3) The Director-General shall communicate any decision taken pursuant to sub-clause (1) or (2) to the vessel or its representative.

(4) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not less than fifty million shillings or to imprisonment for a term not less than ten years or to both.

Justification: For clarity

Committee Observation:

The amendment was adopted as it is a cleanup of the provision and provides clarity on circumstances vessels may be prohibited entry into ports.

Clause 160

127. Amend Clause 160 as follows:

(1) In carrying out inspections of foreign fishing vessels in port, authorized officers shall follow such procedures as may be prescribed or as the Director-General may require.

(2) A report of the inspection shall promptly be provided to the Director-General in such form as may be prescribed or as the Director-General may require.

Add 'foreign' between 'of' and 'fishing'.

Justification: For clarity

Committee Observation:

The amendment was adopted as it provides clarity that the inspection relates to foreign vessels.

Clause 161

128. There is no clause 161.

Committee Observation:

The amendment was noted and appropriate amendment shall be made to align the numbering of the Bill.

Clause 179

129. Amend clause 179 as follows: 179 (2) Where a person is charged with the contravention of clause 126, the onus shall be on that person to prove that his entry into the fishery waters was for a purpose recognized by international law. (3) Where a person is charged with the contravention of section 79, the onus shall be on that person to prove that the information given was true, complete and correct.

Justification: Correcting cross-referencing errors

Committee Observation:

The amendment was adopted as it cleans a cross-referencing error.

Clause 182

130. Amend Clause 182 by removing reference to the "Attorney General" and replacing it by "Director of Public Prosecution".

Justification: This is moved to the Director of Public Prosecutions who is responsible for charging criminal offences.

Committee Observation:

Prosecutorial powers are under the Director of Public Prosecution in accordance with the Article 157 of the Constitution. Hence proposal was adopted.

Clause 198-207

131. Delete Clause 198 -207.

Justification: In line with Cabinet directive dissolving the Fish Marketing Authority.

Committee Observation:

The Kenya Fish Marketing Authority established in Part XVIII has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the

Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

Clause 210

132. Clause 210 should be amended as follows: 210 (1) The Fisheries Management and Development Act, Cap 378 is hereby repealed.

210 (2). (b)All property, except such property as the Cabinet Secretary may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority shall with approval of the Cabinet Secretary vest in the State Department for the Blue Economy and Fisheries and the Service, subject to all interests, liabilities, charges, obligations and trusts affecting such property;

(c) Except as otherwise provided in paragraph (b) in relation to property, all contracts, debts, obligations and liabilities of the Government attributable to the Fish Levy Trust Fund and the Kenya Fish Marketing Authority immediately before the commencement of this Act shall, with the approval of the Cabinet Secretary, remain vested in the Government and may be enforced by or against the Government;

(d) All persons, being public officers, who, immediately before the commencement of this Act, are employed by the Government for the purposes of the activities of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority, shall at the commencement of this Act be, deemed to be staff of the State Department for the Blue Economy and Fisheries and the Service, in accordance with this Act, or their deemed secondment otherwise ceases in accordance with the terms of such secondment;

(e) Where, at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority pursuant to disciplinary proceedings against such employee, and the penalty has not been or remains to be served by such employee, such employee shall, on his transfer to the State Department for the Blue Economy and Fisheries and the Service, serve or continue to serve such penalty to its full term as if it had been imposed by the State Department and the Service.

Justification: The Bill should repeal the FMDA which already repealed the Fisheries Act, Trout Ordinance and Fisheries Protection Act. The transitional provisions should also be amended to align with the dissolution of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority.

Committee Observation:

The amendment was adopted with necessary modification to provides for the transitional provisions for existing bodies and repeal of the existing Act.

Second schedule

133. Title should change to "Designated fish landing ports" and not "Designated fish landing stations". The correct cross-referencing Clause 50 (2) and not 53(2). Retain content as is.

Justification: Correcting a cross-referencing error.

Committee Observation:

The amendment was adopted with necessary modification as it corrects a cross-referencing error.

Third schedule

134. Delete the Third schedule: In line with Cabinet directive dissolving the Fish Marketing Authority.

Committee Observation:

The amendment was adopted noting the repeal of the Fish Marketing Authority.

Proposed Transfer of Kenya Marine and Fisheries Research Institute to the Fisheries Management and Development Bill.

135. Since the Kenya Fish Marketing Authority's functions are being taken over by the Ministry, it is the proposal of the State Department that Section 198 all the way to Section 207 be utilized by the introduction of Kenya Marine Fisheries Research Institute (KMFRI) as provided hereunder.

1. Establishment of the Institute.

(1) There shall be established an institute to be known as the Kenya Marine and Fisheries Research Institute (KMFRI) which shall be the successor to the Kenya Marine and Fisheries Research Institute (KMFRI) specified in paragraph 4 of the Fourth Schedule to the Science, Technology and Innovation Act, 2013.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and, in its corporate name, be capable of–

(a) suing and being sued;
(b) purchasing or otherwise acquiring, holding,
charging or disposing of movable and immovable property;
(c) entering into contracts;
(d) borrowing and lending money; and
(e) doing or performing all such other things or acts necessary for the performance of its functions, and which may lawfully be done or performed by a body corporate.

2. Mandate and functions of the institute.

The mandate and function for which the institute is established is to –

a) Conduct research in order to generate scientific data and information in "marine and freshwater fisheries, aquaculture, socioeconomics, environmental and ecological studies, and marine research including chemical and physical oceanography and hydrography, marine geology, minerology, bio-prospecting, and energy, for sustainable development of the blue economy;

b) Promote local, regional and international collaboration and partnerships;

c) Collaborate with other organizations and institutions of higher learning in competitive capacity development for exploitation of the blue economy;

d) Transfer innovative technologies in marine and freshwater fisheries, aquaculture and the blue economy to stakeholders;

e) Promote community participation and outreach programs,

f) Conduct capacity development on fisheries resources; and

g) Conduct all such things as appear to be necessary, desirable or expedient to carry out its functions.

3. Objectives of the institute.

The objectives of the institute shall be to –

a) undertake research and innovation to drive transformation of Blue Economy (BE) towards sustainable development;

b) disseminate scientific information to support blue economy development; and

c) strengthen community participation and integration of indigenous knowledge in research development.

4. Powers of the Institute.

The Institute shall have powers necessary for performance of its functions including entering contracts, and borrowing funds subject to approval.

5. National coordination mandate.

The Institute shall serve as the national coordinating institution for fisheries, marine, aquaculture, and socioeconomics research for blue economy development in Kenya.

PART III — GOVERNANCE OF THE INSTITUTE

6. Board of Management.

(1) The Institute shall be governed by a Board of Management.

(2) Board of Management shall consist of —

(a) a Chairperson appointed by the President;
(b) the Principal Secretary responsible for blue economy and fisheries;
(c) the Principal Secretary responsible for the National Treasury;

(d) a representative of the Attorney-General;
(e) four persons appointed by the Cabinet Secretary with relevant expertise; and

(f) the Director-General.

(3) Functions of the Board of Management.
The functions of the Board of Management shall be to –

a) carry out the objects and functions of the institute;

b) advise the Cabinet Secretary on matters of policy relating to blue economy, marine and freshwater fisheries, aquaculture, and socioeconomics research;

c) oversee the effective co-ordination of the operations of the institute;

d) ensure that the activities of the institute are consistent with the policy and objectives of the Government, and the national priorities relating to marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;

e) approve, oversee and evaluate the organizational structure and on a continuing basis, the programs being implemented by the institute;

f) direct strategic research, prioritize and determine the research agenda;

g) co-operate with other lead agencies and organizations in carrying out marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;

h) develop an efficient and cost-effective internal management structure, strategic and annual plan of the institute;

i) implement and fulfil the policies and agreed objectives, performance targets and service standards of the institute;

j) administer the approved Human Resource instruments, including appointments, dismissals, remuneration and retiring benefits, of employees in the Institute;

k) manage the secondment of personnel to and out of the Institute in co-operation with the Ministry;

l) provide advice as required on all matters within the responsibility of the institute;

m) hire the Director General, Directors and Senior staff through the human resource (HR) instruments; and

n) perform such other functions as may be necessary for the exercise of its powers and functions under this Act.

(4) Powers and term of office of the Board of Management.

(a) The Board of Management shall have all the powers necessary for the proper performance of its functions under this Act and subject to the provisions of this Act, the Board of Management shall have the power to –

i) enter into contracts;

ii) manage, control and administer the assets of the institute in such manner and for such purposes as best promotes the purpose for which the institute is established;

iii) receive gifts, grants, donations, fees or endowments made to the institute and make disbursement therefrom;

iv) open such bank accounts as may be necessary for the funds of the institute into which all moneys received by the institute shall be paid in the first instance and out of which all payments made by the institute shall be made;

v) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the institute; and

vi) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the institute's funds not immediately required for the purposes of this Act, as it may determine.

(b) The chairperson and members of the Board of Management shall –

i) be appointed on such terms as the appointing authority may determine;

ii) have qualification of a minimum of Master's Degree in relevant field; and

iii) hold office for a term of three years' renewable for one further term.

(c) A person shall cease to be a member of the Board of Management if such person –

i) is unable to perform the functions of his office by reason of mental or physical infirmity;

ii) is adjudged bankrupt;

iii) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;

iv) is absent from three consecutive meetings of the Board of Management without the permission of the Board of Management;

v) resigns in writing, addressed, in the case of the Chairman to the President, and in the case of any other member, to the Cabinet Secretary;

vi) fails to declare his interest in any matter being considered or to be considered by the Board of Management; or

vii) violates Chapter Six of the Constitution.

(5) Committees of the Board of Management.

(a) The Board of Management may establish committees necessary for performance of its functions under this Act; and

(b) The Board of Management may co-opt into the membership of a Committee established under subsection (5a), such other persons whose knowledge and skills are found necessary for the functions of the institute.

(6) Delegation by the Board of Management.
The Board of Management may delegate functions to committees or officers.

(7) Conduct of business and affairs.
The Board of Management shall conduct its affairs in accordance with *Mwongozo* Code, but subject thereto, the Board of Management may regulate its own procedures.

7. The Secretariat of the Board of Management.
The Secretariat of the Board of Management shall comprise of –

a) the Director General;

b) Directors;

c) Corporation Secretary; and

d) any other staff as directed by *Mwongozo* code of governance

8. Director-General.
(1) There shall be a Director-General of the Institute who shall be the chief executive officer of the Institute and who shall be appointed and serve in accordance with the provisions of this section. The Director-General shall be –

a) competitively appointed through HR instruments on such terms and conditions of service as the Board of Management shall determine, for a term of three years' renewable once based on performance;

b) an ex officio member of the Board of Management and shall have no right to vote at any meeting of the Board of Management; and

c) responsible to the Board of Management for all the activities of the Institute.

(2) A person shall qualify for appointment as Director General if that person—

a) holds a Doctor of Philosophy (PhD) degree from a recognized institution in any of the following disciplines:

(i) fisheries,

(ii) aquaculture,

(iii) aquatic sciences,

(iv) marine sciences;

(v) Environmental science;

(vi) Economics in natural resources, fisheries, and environment; and

(vii) Any other related courses or equivalent from a recognized institution.

a) is a citizen of Kenya;

b) has at least fifteen (15) years' research experience in the above areas,

c) has at least five (5) years' experience in leadership or at senior management level in research; and

d) meets the requirements of chapter six of the Constitution.

(3) The Director-General shall be the chief executive officer of the Institute and shall be responsible to the Board of Management for the day-to-day management of the affairs of the institute and shall, on behalf of the Board of Management and subject to this Act, have the general superintendence of all research matters within the scope of this Act.

(4) Without prejudice to the generality of the foregoing, the Director-General shall—

a) Advice the Board of Management on all policies and strategies related to marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;

b) Be responsible for the execution and communication of the Board of Management's strategies, decisions and policies;

c) Provide regular, thorough and prompt communication to the Board of Management on key technical, financial and administrative matters;

d) Serve as the link between the Board of Management and the Management;

e) Serve as the Secretary to the Board of Management;

f) Be responsible for the day to day operations of the institute;

g) Be responsible for the achievement of the objectives of the Institute;

h) Ensure that the Institute has effective management structures, processes and systems; and

i) Foster a corporate culture that promotes ethical practices and good corporate citizenship.

9. Directors.

(1) The Director shall be the head of the Directorate and shall be answerable to the Director General and the Board of Management for the day-to-day management of the affairs of the Directorate and shall, on behalf of the Director General and subject to this Act, have the general superintendence of all matters in the Directorate.

(2) The Director shall be competitively appointed on such terms and conditions of service through the HR instruments by the Board of Management for renewable term of five years based on performance.

10. Removal of Director General and Directors from office.

The Board of Management may remove the Director-General and the Directors from office in accordance with the terms and conditions of service for:

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct or misbehavior; or

(c) incompetence or neglect of duty.

11. Staff of the Institute.

The Institute may appoint staff as necessary for its functions.

PART IV — FINANCIAL PROVISIONS

12. Funds of the Institute.

The funds of the institute shall comprise of—

(a) monies allocated by the National Assembly for the purposes of the Institute;

(b) monies accruing to or vesting in the Institute in the course of the exercise of its powers or the performance of its functions;

(c) fees and royalties from registered patents, inventions or improvements; and

(d) monies from any other source provided for or donated or loaned to the Institute.

13. Financial year.

The financial year of the institute shall be the period of twelve months beginning 1st July and ending on the 30th June each year.

14. Annual estimates.

(1) The Board of Management shall prepare annual estimates of revenue and expenditure.

(2) The annual estimates shall make provision for all the estimated expenditure of the Institute for the financial year, and in particular, the estimates shall provide for–

(a) the payment of salaries, allowances and other charges in respect of the employees of the Institute;
(b) the payment of pensions, gratuities and other charges in respect of the employees of the Institute;
(c) monies to fund seed research programmes; and
(d) the proper maintenance of the buildings and grounds of the Institute.

15. Accounts and audit.

(1) The Board of Management shall cause to be kept proper books of accounts and other books in relation thereto of all its undertakings, funds, activities and property of the institute.

(2) The Board of Management shall ensure that all money received is properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets and liabilities.

(3) The accounts of the institute shall be audited in accordance with the Public Audit Act, 2015.

16. Annual reports.

The Board of Management shall, within three months after the end of each financial year, submit to the Cabinet Secretary a report on the operations of the Institute for the period immediately preceding financial year.

17. Borrowing powers.

The Board of Management may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.

18. Investment powers.

The Institute may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the institute, whether in any fund established by it, in securities or in any form of property in which the Trustees are authorized to invest under the Trustee Act (Cap.167), and in such other securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance.

PART V — COLLABORATION AND RESEARCH

19. Partnerships and collaboration.

The Institute may collaborate with national, regional and international partners.

20. Technology and innovations transfer.

The Institute shall promote technology and innovations transfer of research outputs.

21. Data management.

The Institute shall maintain national research databases.

22. Intellectual property rights and scientific publications.

Intellectual property and scientific publications shall be managed in accordance with relevant laws.

PART VI — GENERAL PROVISIONS

23. Protection from liability.

No personal liability shall attach for actions done in good faith.

24. Disclosure of interest.

Members shall disclose conflicts of interest.

25. Regulations.

The Cabinet Secretary may make regulations for implementation.

PART VII — TRANSITIONAL AND SAVINGS

26. Commencement of the Act

Upon commencement of this Act—

(1) All the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former institute shall, by virtue of this subsection, vest in the Institute.

(2) All rights, powers and liabilities which immediately before such day were vested in, imposed on or enforceable against the former institute shall by virtue of this subsection, be vested in, imposed on or enforceable against the institute.

(3) Any reference in any written law or in any document or instrument to the former institute shall, on and after the commencement of this Act, be construed to be a reference to the Institute.

(4) The annual estimates of the former institute for the financial year in which this Act comes into operation shall be deemed to be the annual estimates of the institute for the remainder of that financial year: Provided that such estimates may be varied by the Institute in such manner as the Cabinet Secretary may approve.

(5) The administrative directions made by the former institute or by the Cabinet Secretary which were in force immediately before the commencement of this Act shall, on or after such day, have effect as if they were directions made by the institute or the Cabinet Secretary under this Act.

(6) Any person who was a member of the former institute immediately before the commencement of this Act shall remain in office for the unexpired period of that person's tenure.

(7) Any person who immediately before the commencement of this Act was the Director-General or employee of the former institute shall remain in office for the remaining period of his or her term of office.

(8) Any person who was an officer or employee of the former institute immediately before the commencement of this Act shall be deemed to be an officer or employee of the Institute subject to such terms of service as the Board of Management may, on the advice of the Salaries and Remuneration Commission, determine.

Committee Observation:

The amendment was adopted as it seeks to establish the Kenya Marine and Fisheries Research Institute under the Act. The Institute is currently housed in a Schedule to the Science, Technology and Innovation Act. Establishing the Institute in the Act with the creation of direct link to its sectoral Ministry will enhance the governance and management of the Institute. The new Part also contains a more streamlined and expanded mandate of the Institute, including the provision of on blue economy research and blue economy carbon trading development. This will further contribute to effective capacity building and knowledge transfer to relevant stakeholder to promote sustainability and growth in the blue economy sector

3.3.2 Submissions from the Council of Governors

H.E Gov. Paul Otuoma, accompanied by Ms. Mary Mwiti, the Chief Executive Officer of the Council of Governors and Mr. Leonard Bett (Legal Counsel) appeared before the Committee and briefed on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) as follows:

Long Title

127. Amend to read as follows:

AN ACT of Parliament to provide for the sustainable development, management, utilization and conservation of fisheries and other aquatic resources to enhance the livelihood of communities; provide for the roles of the National and County Governments; and for connected purposes.

Justification: Noting that fisheries is a devolved function, it is important for the law to define the roles and responsibilities of the two levels of government taking into account the assignment of functions between the National and County Governments.

Committee Observation:

The amendment is unnecessary and was not adopted as the Act provides for regulation, management and development of the sector and further in the substantive provisions set out roles of the various actor.

Clause 2

128. Amend the definition of the terms "agent", "authorized officer", "fisheries officer", "fish landing station", "fishery" "Government" , "illegal fishing", "landing", "subsistence fishing" , "test fishing operation" as follows:

"**agent**" means any person or unit appointed by the National Government or County Governments to execute designated functions under this Act, or such other agent as may be appointed in accordance with section 17 (1) (c);

"**authorized officer**" means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary or County Executive Committee Member under section 18;

"**fisheries officer**" means any person in the public service of or above the rank of assistant fisheries officer;

"**fish landing station**" means a point on the shore of any waters or coastline of which the County Executive Committee Member responsible for matters relating to lands has by notice in the gazette designated as a point to land fish and includes fish landing site;

"**fisheries**" means all activities relating to the management and utilization of fish resources and its environment starting from pre-production, production, processing until marketing and includes a place where fish is caught for commercial or recreational purposes.

"**designated Fishing** Port" means fishing port designated by the Cabinet Secretary under section 50 (1) (b) for purposes of imports and exports of fish and fish product.

"**Government**" means the National Government and County Governments;

"**illegal fishing**" includes—

(c) activities carried out in violation of relevant laws of Kenya or international obligations, including those undertaken by co-operating states to a relevant regional fisheries management organization;

"**landing**" means bringing any fish or fish product to the fish landing station or fish landing port from within or outside the Kenya fishery waters and offloading;

"**subsistence fishing**" means harvesting fish as a source of food for a person's consumption or their dependents or community and is not for sale or barter;

"test fishing operation" means any fishing operation undertaken over a limited period of time with the approval of the Director General or County Executive Committee Member for the purpose of testing the feasibility of commercial fishing operations with a view to establishing fishery operations, and not for commercial purposes;

Justification: To provide for recognition of the County Governments officers responsible for fisheries as fisheries is a fully devolved function under the Fourth Schedule to the Constitution.

Committee Observation:

The amendments were adopted with necessary modifications including definition of "county fisheries officer" to provide for recognition of the County Governments officers responsible for fisheries noting fisheries is devolved function under the Fourth Schedule to the Constitution .Further recommendation is the inclusion and provision of definitions of County Director and CECMs responsible for fisheries in the interpretation.

Clause 4

129. Amend clause 4 to read as follows:

4. (1) The objective of this Act is to protect, manage, use and develop the fisheries and aquatic resources in a manner which is consistent with ecologically sustainable development of fisheries value chain and to enhance food security.

4(2)(q) ensuring effective co-operation between the National and County Governments in the sustainable development, management, utilization and conservation of fisheries and other aquatic resources

Justification: To align to the provisions of Article 6(2), 186 and 189 of the Constitution of Kenya.

Committee Observation:

The amendments were adopted with necessary modifications taking cognizance of the role of county Government in matters relating to fisheries and further expands the scope of the Bill to deal with matters related to Blue Economy.

Clause 5

130.Amend by deleting clause 5(5) and amend clauses 5(1)(h), (2) and (3) to read as follows:

(5)

(1) (h) The chairperson of the Council of Governors committee responsible for fisheries; and

(f) the vice chancellor from a university or research institution with expertise in fisheries and who shall be nominated by the University Council;

(g) the chairperson of the consumer federation nominated by the national consumer federation;

(i)the chairperson of the national umbrella of body fisheries.

(2) The function of the Council shall be to review and advise the Government on—

(3) The Vice Chairperson of the Council shall be one of the members nominated by the Council of County Governors under section 6(1)(h).

Introduce the following new clauses

(6)The Council may establish such working groups and committees as it deems necessary;

(7) The Council shall meet not less than twice in a year;

Justification: To provide for sufficient representation of the County Governments in the Council.

Also, we propose amendment of clause 6(2) to require the Council to advise both levels of government as opposed to only the National Government.

Further, in the spirit of Article 6(2), 186 and 189 of the Constitution, we opine that the County Governor Chair of the Council of Governors Committee on matters related to fisheries be the Vice-Chairperson of the Council.

In addition, the membership of the Council should constitute high level representation.

Committee Observation:

The amendment was not adopted as the Fisheries Advisory Council is deleted in line with government directive on reduction of state corporations.

Clause 6

131. Amend by reviewing the name of the Service to reflect the functions of the National Government under the Fourth Schedule of the Constitution.

"Kenya Fishing Service" as opposed to Kenya Fisheries Service.

Justification: Pursuant to the provisions of section 1 of Part 2 of the Fourth Schedule to the Constitution, agriculture including fisheries are functions fully devolved to the County Governments. The naming of a national agencies as "Kenya Fisheries Service" goes against the aforementioned provisions of the Constitution as it seeks to claw back on devolved functions. The Council thus opines a change of the name of the institution to reflect the functional assignment.

Committee Observation:

The amendment was not adopted as it is superfluous. The name of the agency is not a final determinant of the functions of the agency.

Clause 8

132. Amend clause 8 of the Bill by deleting clauses8(c)(e)(f)(g) (i)(n)(o)(p) q)(r) and amend clauses 8(a)(b)(e) (j) (h)((m) (r)(u) and (v) to read as follows;

8. The Service shall—

(a) the development of standards on management, sustainable use, development and protection of the fisheries resources;

(b) Advice the Government on formulation of policies regarding the conservation, management and utilization of all fisheries resources within the scope of this Act;

(e) create public awareness and support on protection and conservation of fisheries resources;

(j) consult as appropriate with Government and persons, including stakeholders, industry, regional and international organizations and experts, whether local or foreign, on matters falling within the scope of this Act;

(h) collect and analyze data in relation to resources and activities on imports, exports and within exclusive economic zone of this Act;

(m) develop standards on fish safety and quality;

(r) identify and promote construction of any works deemed necessary for the sustainable protection and conservation of fisheries resources and export;

(u) co-ordinate fish quality assurance and operations of the marine and international waters;

(v) co-ordinate and or in collaboration with the County Governments undertake monitoring, control and surveillance of all activities within the scope of this Act; and

Justification: To align to the provisions of section 1 and 7 of Part 2 of the Fourth Schedule to the Constitution which has devolved agriculture including fisheries, trade development and regulations to the County Governments. It is therefore imperative that the provisions of clause 9 is aligned to the functional assignment between the two levels of government.

In addition, there need to clearly demarcate roles of the service to speak to its responsibilities in Kenya's international waters and beyond the EEZ.

Committee Observation:

The amendments were adopted with necessary modifications to align functions of the Service with roles assigned to the two levels of Government.

Clause 10

133. Amend clause 10(1)(a) and (c) to read as follows:

10. (1) The members of the Board shall consist of—

(a) a chairperson appointed by the President;

(c)two members, not being public officers, openly appointed by the Cabinet Secretary for their long-term knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;

(ca) Three persons nominated by the Council of County Governors and appointed by the Cabinet Secretary.

Justification: To provide for sufficient representation of the County Governments in the Board of the Service. The functions given to the Service have a direct and indirect impact on the functions of the County Governments and its imperative that they are represented in the Board.

Committee Observation:

The amendment was adopted with necessary modifications to aligns with the provision of State Corporation Act on representative of Board to include the Attorney-General or their representative. Further the amendment seeks to provide for representation of the County Governments in the Board of the Service. Noting the functions given to the Service have a direct and indirect impact on the functions of the County Governments.

Clause 17

Introduce a new clause/part to the Bill to provide for functions of the County Governments:

Functions of the County Governments

The County Governments shall—

a) ensure the appropriate conservation, sustainable management, use, development and protection of the fisheries resources;
b) issue licenses, permits as per this Act
c) formulate and monitor the implementation of policies regarding the conservation management and utilization of all fisheries resources;
d) manage all fisheries and aquaculture in the county;
e) prepare and implement fisheries specific management plans for fishery waters;
f) provide education to create public awareness and support for fisheries conservation, management, development and sustainable use;
g) collect and analyze data in relation to fisheries resources and activities;
h) In collaboration with necessary government agencies, control and regulate fish safety and quality;
i) undertake the development of appropriate fisheries infrastructure;
j) facilitate investment in commercial fisheries, in collaboration with relevant agencies, persons or bodies, including Government departments;

k) promote development and introduction of appropriate technologies in aquaculture production, processing and preservation in collaboration with relevant agencies, other county governments and stakeholders;
l) identify and promote construction of any works deemed necessary for the sustainable development and economic utilization of fisheries resources;
m) identify opportunities and promote all aspects of fisheries marketing;
n) arrange and enter into joint ventures or any other forms of investment arrangement for purposes of performing any of its functions;
o) co-ordinate fish quality assurance and operations of the coastal fisheries, aquaculture and inland and riverine fisheries;
p) undertake monitoring, control and surveillance of all activities within the scope of this Act;
q) Promote cooperation amongst fishers, fish traders, fish farmers
r) perform such other duties and functions as may be assigned by county legislation.

Justification: Constitutionally, County Government are assigned the fisheries function and in the spirit of constitutionalism, it is therefore good practice that this fact is affirmed an provided for in law including spelling out the specific roles and responsibilities of counties as regards fisheries.

Committee Observation:

The amendment was not accepted as the role of counties is provided in various other provisions including clause 32 that enables counties to come up with fisheries management plans.

Clause 17

134.Amend to read as follows:

17. The Cabinet Secretary or the County Executive Committee Member responsible for fisheries may, within their respective jurisdictions and in consultation with the Director-General or the County Director, as the case may be, by notice in the Gazette, appoint a person as an authorized officer for purposes of this Act.

Justification: Fisheries being a devolved function that is primarily undertaken at the county level, then it is only reasonable that the law recognizes and provides for the appointment of authorized officers at the county level as well.

Committee Observation:

The amendment was adopted with necessary modifications to provide for county fisheries officers.

Clause 18

135.Amend to read as follows:

18. (1) The Director-General may, with the approval of the Board, by notice in the Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the Service in carrying into effect the provisions of this Act.

(1a) The County Executive Committee Member may, in consultation with the County Public Service Board, by notice in Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the County government in carrying into effect the provisions of this Act.

Justification: County Executive Committee Members being in charge or responsible for fisheries at the county level, have a similar mandate to hire honorary fishing officers as the case may be.

Committee Observation

The amendment was not adopted. The position of honorary fisheries officers are unnecessary and no such officers have been appointed since enactment of the Act, hence proposal to delete the provision.

Clause 27

136. Amend clause 27 to read as follows:

27. (1) There is hereby established a fund to be known as the Fish Levy Trust Fund.

(2) The Fish Levy Trust Fund shall consist of —

(a)a levy imposed by the Cabinet Secretary under section 28 by Order to require the payment of

levies by persons engaged in fishing or fishing related activities of a fish levy ("the levy") which may provide requirements relating, inter alia, to activities within the scope of this Act; and the evidence by which a person's liability to pay the levy, or the payment thereof, may be established, and the time at which any amount shall become payable, provided that artisanal fishers are exempted from payment of the levy.

(3) The fund shall be utilized as follows:

a) 40 per cent to be utilized at the national level as supplementary funding of activities geared towards and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource.
b) 60 per cent to be remitted directly to the County Governments on pro rata basis for management, development, capacity building of fishing communities and urgent mitigation to ensure sustainability of the fisheries resource.

(4) The Trust shall be administered by a seven-member Board of Trustees nominated through an open and competitive process and they shall meet the requirements of Chapter six of the Constitution.

(5) The members of the Board of Trustees shall include—

a) two representatives from fishers organizations in fresh inland waters and marine waters;
b) two persons nominated by the traders exporters association and fish processors;
c) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science; and
d) two persons with experience in fisheries resources management nominated by the Council of County Governors

Justification: Provide for sharing of the Fund 60% to 40% with counties getting 60pc of the share. This is attributed to the fact that county governments have a primary role to play in creating and improving on the experience of all persons involved in the fishing industry value chain.

Additionally, promoting sustainability and development of fisheries resource in Kenya on the part of the county governments as implementers requires supplementary funding through this Fund.

Committee Observation:

The amendment was adopted with necessary modifications and restructures the Fish Levy Trust Fund into the Fish Levy Development Fund and further provides for the manner in which the Levy will be distributed for purposes of accountability. Subsequently the Fisheries Research and Development Fund has been proposed to be deleted. The Fisheries Research and Development Fund is yet to be established since the enactment of the Fisheries Management and Development Act in 2016 hence the proposal to delete the provision and transfers its purpose to the Development Fund

Clause 29

137. Amend clause 29 to read as follows:

29. (1) The Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act, through inter alia—

a) providing a national framework of extension and training services;
b) conducting research and surveys;
c) spearhead arrangements for the international marketing of fish;
d) promote the development of other sustainable methods of in-situ and ex-situ fishing;

e) developing a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the fish market value chain;

f) support the establishment of accredited fish safety and quality control laboratories and other infrastructural facilities; and such other measures and actions as may be approved by the Board.

Committee Observation:

The amendment was not accepted as the role of counties is provided in various other provisions including clauses 32 and 33 that enables counties to come up with fisheries management plans.

New Clause 29 (2)

29. (2) The County Executive Committee Member shall promote the development of fisheries through—

(a) provision of extension and training services;

(b) disseminate research and survey's findings;

(c) promote co-operation among fishers;

(d) spearhead arrangements for the orderly marketing of fish;

(e) stocking waters with fish and supplying fish for stocking;

(f)promote the adoption of alternative means of livelihood amongst fishers

(g) provide for the establishment of investor friendly licensing and approval systems at the county;

(h) develop a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the market value chain;

(i) promote value addition and utilization of fish by products and bycatch;

(j)providing for the establishment of accredited fish safety and quality control laboratories and other infrastructural facilities; and

(o) such other measures and actions as may be provided for in county legislation.

Justification: To provide for the clarity of functions between the National and County Governments as stipulated in the Fourth Schedule to the Constitution.

Committee Observation:

The amendment was not accepted as the role of counties is provided in various other provisions including clauses 32 and 33 that enables counties to come up with fisheries management plans.

Clause 33

138.Amend by deleting clause 32 of the Bill and replace with the following new clause:

County fisheries management plan

33. (1) Each County may develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in the Fourth Schedule to the Constitution.

(2) In developing the management measures and plans, referred to in subsection (1), the County Government shall—

(a) take into consideration, to the extent possible, elements of national fisheries management plan; and

(b) ensure that such measures are consistent with the provisions of this Act, including its objective and principles, and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act.

Committee Observation:

The amendment was adopted with necessary modifications as it ensures the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments.

Clause 34

139.Amend by deleting clause 34 of the Bill and replace with the following new clause:

Consultation and Cooperation between the National and County Governments

34.(1) The Director-General shall ensure that all County Governments are consulted and kept informed, by effective means of communication, of relevant management measures and processes taken pursuant to this Act.

(2) County Governments shall collaborate with the Director- General in the management of fisheries and shall, for this purpose ensure that the Director-General is informed, by effective means of communication, of relevant developments in relation to the management of fisheries within the County.

Justification: To ensure the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional

provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments.

This clause should be deleted. The clause does not comport with the provisions of the Intergovernmental Relations Act on matters relating to intergovernmental disputes and the procedure conflict resolution thereto.

Committee Observation:

The amendment was adopted was not adopted as the existing clause 32, 33 and 34 provide for such matters.

Clause 36

140. Amend clause 36 to read as follows:

Establishment of Beach Management Units.

36.(1) Each County Executive Committee Member shall establish beach management units within its jurisdiction ensuring structured community participation in fisheries management.

(2) The Cabinet Secretary may in consultation with the Council of County Governors make regulations for the management of beach management units.

Justification: To provide for clarity on the establishment of the BMUs in the respective County Government.

Committee Observation:

The amendment was adopted with necessary modifications provides for clarity on the establishment of the BMUs in the respective County Government. However there is need to provide for payment of BMUs.

Clause 37

141. Amend clause 37 to read as follows:

37. The Cabinet Secretary and respective County Government shall be responsible for planning for the conservation, management, development and sustainable use of all fish and fisheries within Kenya fishery waters.

Justification: Planning is a function of both the National and County Governments under the Constitution. It is therefore imperative that the Bill recognizes and provides for the same as the case may be.

Committee Observation:

The amendment was not adopted as environmental conservation and management including sustainable use of resources is a function of National Government pursuant to paragraph 22 of Part of Part 1 of the Fourth Schedule to the Constitution.

Clause 38

142. Amend clause 38 by deleting the words "Director General" wherever it appears and replacing with the words "Cabinet Secretary" to read as follows:

> 38. (1) The Cabinet Secretary may, in consultation with the Council of Governors and on the recommendation of the Director-General, declare a fishery as a designated fishery where, having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery—
>
> (2) The Cabinet Secretary or County Executive Committee member as the case may be, shall—

Justification: This is a mandate of the Cabinet Secretary and not the Board of the Service as proposed in the Bill.

It is important to recognize the role of the County Governments in the management of the fisheries resources thus the introduction of the role of the County Director.

Committee Observation:

The amendment was adopted with necessary modifications it seeks to provide for declaration of designated fisheries to be by the Cabinet Secretary which is in line with role of the CS in declaration of designated fisheries in other provisions of the Act.

Clause 39

143. Amend clause 39(1) to read as follows:

> 39. (1) The Director-General in consultation with County Governments and in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary as the case may be, by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery—

Justification: To provide role of the County Governments in prescribing measures for conservation of inland fisheries.

Committee Observation:

The amendment was adopted as the imposition of fisheries management measures may affect functions of county government hence the need to consult before imposition of the same.

Clause 40

144. Amend clause 40 to read as follows:

> 40. (1) The Director-General or County Director may take fisheries management measures to limit fishing and fishing related activities in accordance with the

objective and principles of this Act and shall communicate such measures by notice in writing to the persons affected.

(2) A person aggrieved by the action taken by the Director-General or County Director pursuant to subsection (1) may appeal in writing to the Cabinet Secretary or County Executive Committee Member as the case may be.

Justification: To make provisions for the role of the County Governments, and specifically the role of the County Committee Member in charge of matters relating to Fisheries.

Committee Observation:

The amendment was not adopted as environmental conservation and management including sustainable use of resources is a function of National Government as per paragraph 22 of Part of Part 1 of the Fourth Schedule to the Constitution.

Clause 42

145.Amend clause 42(2)(c) to read as follows:

42(2)(c) make a full report of the incident and steps taken by him or her to the Director General or County Director as the case may be, at the earliest opportunity.

Justification: To provide for reporting to the County Director in charge of fisheries in cases of fisheries falling under the purview of the County Governments.

Committee Observation:

The amendment was not adopted as regulation by counties is with regards to recreational fishing vessels.

Clause 47

146.Amend clause 47(2) to read as follows:

47. (2) Where an application is made under subsection (1), the Director General shall refer the matter to the National Management Authority and respective County Executive Committee Member who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat and possible means of preventing or minimizing adverse impact.

Being in charge of and implementers of the fisheries function, it is important to provide for and require a Fisheries Impact Assessment Report from a concerned County Government before any activity is undertaken in any fisheries resource other than fishing.

Committee Observation:

The amendment is not adopted as the competent authority to undertake environmental impact assessment under Environmental Management and Co-ordination Act is NEMA and not a County Executive Committee Member.

Clause 48

147.Amend clauses 48(3) and (4) to read as follows;

48 (3) The Director- General or County Director as the case may be, may suspend or cancel the license of a vessel to which this section applies until such time as all fines, penalties and damages have been satisfied.

(4) Notwithstanding subsection (2), in the event of an accidental introduction into the Kenya fishery waters of any deleterious article or substance prohibited in subsection (1), or in the event of encountering such articles, the owner, operator or master of the vessel shall immediately report the incident to the Director-General or County Director giving the following information to the extent possible—

Justification: To recognize the role of the county governments in control of pollution in inland fisheries waters.

Committee Recommendation:

The amendment was not adopted as environmental conservation and management including sustainable use of resources is a function of National Government pursuant to paragraph 22 of Part of Part 1 of the Fourth Schedule to the Constitution.

Clause 50

148.Amend clause 50(1) to read as follows:

50. (1) The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by

the Board establish by a notice in the Gazette —

(a) designated fishing ports, and

(b) protected fish breeding grounds.

(1A) The County Executive Committee Member may, on recommendation of the County Director by a notice in a Gazette establish fish landing stations in their area of jurisdiction.

Justification: Based on their implementation powers as regards fisheries, counties are constitutionally enabled to establish fish landing stations as the situation or circumstances may warrant.

In addition, this proposal is anchored in Gazette Notice No. 116 of 9th August 2013 issued by the Transition Authority, which assigned the development and management of fish landing sites and jetties to County Governments.

Committee Observation:

The amendment was adopted with modification. The Committee was of the view consultation with the relevant county government before the Cabinet Secretary establishes of fish landing stations was important for fish landing stations. Noting in most instances management of the station will require collaboration with the county governments.

Clause 51

149.Amend clause 51 by adding the following:

51 (1) In addition to the information requirements specified in Part VIII, the Director-General or County Executive Committee Member may by notice in writing direct any person whom he is satisfied is suitably qualified to undertake the periodic stock assessment of all the fishery waters and collect and analyze statistical and other data and information on activities under the scope of this Act and forward the same to the Board.

Justification: It is important the law to recognize the fact that the county governments can also undertake stock assessment based on their own initiative or authority.

Committee Observation:

The amendment was not adopted fish stock assessment is primary a conservation role of the national government and also as result of international reporting obligations.

Clause 54

150.Amend clause 54(1) to read as follows:

54. (1A) No person shall move any live fish from one fishery to another without a movement permit from the respective County Government.

Justification: To provide for the regulation of movement of live fish by the County Governments within the country.

Committee Observation:

The provision relates to the export of fish and not movement of fish within Kenya and is misplaces. Hence the proposal was not adopted.

Clause 56

151.Amend clause 56 to read as follows:

56. The County Executive Committee Member may, in consultation with Fish Marketing Authority, for the purposes of promotion of fish production and marketing—

(a) enter into arrangements and agreements with registered associations or institutions for the management development and administration of fisheries, and

(b) facilitate the establishment of fish market management units and aquaculture production units.

Justification: We opine that fish production and marketing should be the role of the respective County Government in collaboration with the fish marketing authority.

Committee Observation:

The Fish Marketing Authority was deleted hence the proposal is not adopted.

Clause 57

152.Amend by deleting sub-clause 57(2) and amend sub-clause 57(3) to read as follows:

(3) The County Executive Committee Member shall —

(a) monitor the production of fish products and fish feed with a view to assessing risks to humans;

(b) regulate fish handling, landing, transportation, processing and marketing;

(c) work in collaboration with other Government agencies in matters related to this section;

(d) carry out inspection of operational fishery enterprises for compliance with fish safety regulations issued by the Cabinet Secretary;

(e) lay down all procedures to be followed for compliance with provisions under paragraph (f);

(f) specify conditions for the placing on the market of fish, fish products and fish feed;

(g) maintain a register of fishery enterprises in the county;

(h) issue health certification of fish, fish products and fish feed subject to the consignment meeting set requirements;

(i) perform such other functions as may be necessary or expedient for food safety conditions of fish products in accordance with this Act.

Justification: The Council of Governors (COG) strongly opposes the creation of a Standing Committee and a Technical Committee on Fish Quality and Safety, as it is our position that these functions rightfully fall under the mandate of County Governments.

The Constitution of Kenya and the devolved governance structure empower counties to manage local resources, including fisheries, and to ensure the quality and safety of fish products within their jurisdictions.

The establishment of such committees at the national level would undermine the authority and responsibilities of County Governments in this sector. County Governments are best positioned to understand and address the specific needs and challenges faced by their respective regions, including fish quality and safety concerns. We believe that further centralization of these functions would lead to duplication of efforts, inefficiencies, and unnecessary bureaucracy.

Committee Observation:

The amendment was not adopted as the provision relates to conservation and management which is a function of the National Government.

Clause 61

153.Amend clause 61 to read as follows:

61. (1) The Cabinet Secretary shall, in consultation with the Service and County Governments, prepare a national aquaculture development plan for promoting the sustainable development of aquaculture in Kenya in accordance with the principles and objectives of this Act.

(2) Any aquaculture development plan developed under subsection (1) shall be for duration of five years.

(4) The Cabinet Secretary shall publish the aquaculture development plan in the Gazette.

(5) Each County Government may develop a county aquaculture development plan taking into consideration the national development plan.

Justification: These should be the role of the Cabinet Secretary as opposed to the Director General and should be done in consultation with the County Governments.

Committee Observation:

The amendment was adopted as it seek to provide for the development of the national aquaculture development plan by the Cabinet Secretary in consultation with the County Governments and further provide for development county aquaculture development plan, noting that inland aquaculture is regulated by counties.

Clause 62

154.Amend to read as follows:

62. The Cabinet Secretary and County Governments shall, ensure that—

Justification: To align to our proposals above.

Committee Observation:

The technical body to undertake aquaculture development is the Service hence proposal is not adopted.

Clause 63

155.Amend clause 63 to read as follows:

63. (1) A person carrying out aquaculture activities, shall undertake Environment & Social Impact Assessment commencing the activities

Justification: To prescribe requirements for undertaking aquaculture activities including mandatory Environment & Social Impact Assessment.

Committee Observation:

The proposal is not adopted as the Bill already provides EIA to be undertaken for purposes of an aquaculture license under clause 87.

Clause 64

156.Amend clause 64(2) and (3) to read as follows:

64 (2) Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government, give notice in writing to the owner of the relevant waters requiring the destruction of all fish and fish products in the said waters or the taking of such other measures as the county government may specify in the notice.

(3) Every person who receives a notice under subsection (2) shall comply with its requirements at her own expense, and in default of such compliance, the county government may enter the relevant facility and take or cause to be taken such measures as may be necessary for complying with the requirements of the notice and any expenses incurred shall be recoverable as a civil debt from the person so notified.

Justification: To provide clarifications that this is the role of the respective county government.

Committee Observation:

The amendment was adopted as it provides for clarification on the role of enforcement which is by the respective county government. Under the Constitution functions of defunct local authorities was devolved to County Governments.

Clause 65

157.Amend to read as follows:

65. (1) No person shall, without written permission granted by the Director-General on the advice of the Board and respective County Government—

Justification: To provide for a process of involvement of the County Governments given that they are responsible for the respective fisheries.

Committee Observation:

The amendment was not adopted as the provision relates to the environmental protection role of the national government.

Clause 67

158.Amend clause 67(2) to read as follows:

67(2) Where any person fails or apparently fails to fulfil the conditions set out in subsection (1), the County Director, in consultation with the National Environmental Management Authority, may notify such person in writing of the requirement to take measures to restore the applicable area to such standard as the County Director may specify within a stated period of time, and may upon inspection require such person to redesign the applicable area.

(3) Each person who is notified by the County Director pursuant to subsection (2) shall promptly fulfil the requirements set out in the notification

Justification: To ensure clarity, it is recommended that the responsibility for managing aquaculture waste be explicitly assigned to the respective County Governments.

Committee Observation:

The amendment was not adopted as the provision relates to the environmental protection role of the national government.

Committee Recommendation:

Clause 68

159.Amend by deleting the words "Director General" and replacing with the words "County Director" whenever it appears in clause 68(3) and (4) to read as follows;

68(3) Each person engaged in commercial aquaculture in Kenya shall, within twelve hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility over which the person exercises management or control or to other equipment, that may lead to the escape of hatchery reared aquaculture stock, notify the County Director of the escape or damage, including the following—

(a) the species of fish affected;

(b) the date (or an estimate of the date) on which the escape or damage took place;

© the number and biomass (or an estimate of the number and biomass) of the fish that have escaped; and

(d) the age or developmental stage of the fish at the time of their escape and details of the circumstances in which the escape or damage took place, and, within seven days after becoming aware of such escape or damage, notify the County Director in writing of the action taken to deal with it.

Justification: The Council of Governors asserts that the regulation of fish escapements from aquaculture operations should be the responsibility of the respective County Governments.

County Governments are best positioned to manage and oversee local aquaculture activities, ensuring that any potential environmental impacts, including fish escapements, are effectively controlled in line with regional needs and conditions. This approach aligns with the principles of devolution, which emphasize local governance and management of natural resources.

Committee Observation:

The amendment was adopted as it seeks to provide for notification of escapement to the Director-General as well as the County Director in instances of escapement noting that regulation of commercial aquaculture is primarily by county governments.

Clause 69

160.Amend clause 69 to read as follows:

69. (1) No person shall use in a commercial aquaculture establishment any drug, pharmaceutical, antibiotic or other chemical for the treatment of fish diseases or for the enhancement of fish growth without the written approval of the County Director.

Justification: To align to the provisions of the Fourth Schedule to the Constitution which has devolved Agriculture including animal disease control; and fisheries are functions to counties.

Committee Observation:

The amendment was adopted to the provisions of the Fourth Schedule to the Constitution which has devolved agriculture including animal disease control; and fisheries are functions to counties.

Clause 73

161.Amend to read as follows:

73. (1) The Cabinet Secretary may, in consultation with County Governments, make regulations the better carrying out of the provisions of this Act.

Justification: To provide for a consultative process between the National and county governments in the regulatory making process.

Committee Observation:

The amendment was adopted to provide for a consultative process between the National and county governments in the regulatory making process,

Clause 74

162.Amend by introducing the words "or County Director" immediately after the words "Director General" whenever it appears to read as follows:

74.(1) The Director-General or County Director as the case may be, may, for purposes of this Act, require any person to keep and furnish in such manner and form and at such time as the Director may specify—

Justification: To recognize the role of the County Director in requiring information under the Act.

Committee Observation:

The amendment was not adopted as the provision is sufficient.

Clause 79

163.Amend clause 79 to read as follows:

79. (1) No person carrying out duties or responsibilities under this Act shall, unless authorized or otherwise provided or directed in accordance with this Act, reveal information or other data of a confidential nature or designated as confidential in accordance with this Act, acquired by virtue of their said authority, duties and responsibilities to any person not having such authority or carrying out such duties and responsibilities.

(2) The Cabinet Secretary or County Executive Committee Member in consultation with the Director-General or County Director as the case may be, may designate any information as confidential, and in doing so may also exempt general summaries of aggregated information from confidentiality requirements.

(3) The Director-General or County Director may authorize in writing any person to—

Justification: To provide for the role of the County Governments in handling confidential information.

Committee Observation:

The amendment was adopted as it seeks to provide for the role of the County Governments in handling confidential information.

Clause 80

164. Insert New Clause

80(A) The County Director shall establish and maintain a County register of licenses and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary.

(2) The register established under subsection (1) shall include —

(a) information on applications for licenses and authorizations under this Act;

(b) information on each license and authorization issued, renewed, suspended or cancelled under this Act, including the activity, date and duration;

(c) information on each licensed or authorized person;

(d) information on the relevant vessel, facility, and/or licensed or authorized activity;

(e) any record of non-compliance with the license or authorization;

(f) any record of action taken as a result of non-compliance

g) such other information that may be prescribed or required by the County Director.

Justification: County Governments also need to have in place a register of licenses and authorizations.

Committee Observation:

Amendment was adopted as it recognizes that County Governments also need to have in place a register of licenses and authorizations.

Clause 81

165.Amend clause 81 to read as follows:

81. The Director-General or County Director shall maintain and make publicly available a record of the outcome of any legal or administrative action taken in respect of any violation against this Act that results in a judgment or administrative determination.

Justification: To recognize the role of the County Director in managing information under the Act.

Committee Observation:

The amendment was adopted as it provides for the role of the County Director in providing information under the Act.

Clause 82

166.Amend to read as follows:

82. The Director-General and County Director shall make information available to the public and as necessary disseminate relevant information to stakeholders for purposes of fisheries conservation, management and development, including regional and international organizations, except for such information that may be designated confidential in accordance with section 82.

Justification: To recognize the role of the County Director in managing information under the Act.

Committee Observation:

The amendment was adopted as it provides for the role of the County Director in providing information under the Act.

Clause 83

167.Amend clause 83(2) and (3) to read as follows:

83 (2) The respective county governments shall be responsible for issuing licenses with respect to —

(a) using any vessel for recreational fishing in the Kenya fishery waters.

(b) using an artisanal fishing vessel for commercial purposes;

(c)commercial aquaculture; and

(e) ornamental fishing

(3) The Cabinet Secretary shall in consultation with the Council of County Governors, prescribe the standards for the registration of vessels and grant, renewal and revocation of licenses by a county government under subsection (2).

Justification: The Constitution of Kenya, 2010, which assigns Counties responsibility for trade licenses, local economic development, trade regulation, and service delivery, including activities that take place within their territorial jurisdictions. In practical terms, recreational fishing, artisanal fishing, commercial aquaculture, and ornamental fishing are locally based activities that require day-to-day monitoring, community engagement, and enforcement, functions that can only be effectively performed by County Governments due to their proximity to fishers.

Committee Observation:

The amendment was not adopted further the Committee notes the need for clarification that registration is for fishing activities and not the vessel which are regulated under the Merchant Shipping Act.

Clause 84

168.Amend to read as follows:

84 (2) The Cabinet Secretary may after consultation with the respective County Government and by order published in the Gazette determine the quantity of fish which may be deemed to be fish for own consumption under subsection (1), and different quantities may be determined for different areas of Kenya.

Justification: To provide for a consultative process with the respective County Government.

Committee Observation:

The amendment is not adopted as fish for own consumption is under purview of the national government.

Clause 85

169.Amend to read as follows:

85 (3) The Director-General or County Director shall, in approving or renewing a license under subsection (1), act in accordance with the procedures required pursuant to this Act and such other transparent and accountable standards as may be determined and published.

Justification: There is need to provide for the County Director to be able to exercise similar powers at the county level.

Committee Observation:

The Bill already contains provisions for providing for authorization for county governments and the amendment is unnecessary.

Clause 92

170.Amend clause 92 by including the words "or County Government" immediately after the words "Director General" whenever it appears to read as follows:

92.(1) A license or authorization granted under this Act shall be subject to payment of—

(a)such license fee prescribed for that class of license as may be prescribed; and

(b)such other fees, charges or levies as are set out in this Act, or as may be prescribed or required by the Director-General or County Government by public notice

Justification: To recognize the role of the County Governments to charge fees and other charges in the fisheries sector.

Committee Observation:

The amendment was accepted as fees and charges may be imposed by Counties hence the need for the same to be published.

Clause 93

171.Amend to read as follows:

93. (1) The Director-General or County Director may, by written notice to the holder of a license or authorization or that person's agent, suspend or cancel any license or authorization issued pursuant to this Act for any of the following reasons—

Justification: To provide for the role of the County Governments in suspension or cancellation of licenses.

Committee Observation:

The amendment is unnecessary already provided in other provisions.

Clause 96

172.Insert New Clause to read as follows:

An applicant for a license who is aggrieved by a decision not to grant or renew any license or authorization under this Act, or to a person who holds a license or authorization who is aggrieved by a decision to suspend or cancel such license or authorization may appeal to the County Directorate within thirty days of receiving notification of such decision, and may further appeal to the County Executive Committee Member within thirty days of receiving notification of the Directorate's decision.

Justification: To provide for the right of appeal at the county level.

Committee Observation:

The proposal was adopted to provide for appeal at the county level.

Clause 102

173.Amend to read as follows:

102. (1) No person shall use an artisanal fishing vessel for fishing in the Kenya fishery waters without—

(a) a valid and applicable registration number; and

(b) displaying such registration number in accordance with the requirements in such form as may be prescribed.

(2) The owner of each artisanal fishing vessel shall apply for a registration number on such form as may be prescribed or as the County Director may require

Justification: Registration of artisanal fishing vessels should be regulated by the respective County Governments.

Committee Observation:

The amendment was not accepted what ought to be regulated is artisanal fishing and not the vessel itself.

Clause 103

174.Amend to read as follows:

103 (7) In any judicial or administrative proceedings brought under this Act, the entry in respect of a vessel in the Register of Fishing Vessels, or any other register

maintained by the Director-General or County Director under this section, shall be prima face evidence of the ownership of the vessel.

Justification: Counties should as a matter of law and procedure put in place a register of vessels operating within their areas of domain.

Committee Observation:

The amendment is unnecessary as the provision is sufficient.

Clause 105

175.Amend to read as follows:

105. (1) Licenses issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions—

(a)the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the County Director.

(b) on receipt of an application for registration of a recreational fishing vessel, the County Director shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the County Director shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration; and;

(c) such other requirements as may be prescribed or required by the County Director.

Justification: The Council of Governors maintains that the regulation of recreational fishing, including the registration of vessels used for such activities, should be undertaken by the respective County Governments. County Governments are better equipped to oversee and manage recreational fishing within their jurisdictions, ensuring compliance with local regulations and promoting sustainable use of aquatic resources. This responsibility aligns with the principles of devolution, allowing for effective governance and management at the local level.

Committee Observation:

The amendment was adopted with necessary modifications as recreational fishing is a function devolved to county governments hence requirements should be issued by the County Director.

Clause 107

176.Amend clause 107 to read as follows:

107. (1) No person shall deploy or maintain a fish aggregating device in the Kenya fishery waters except with the authorization by the Director-General and in accordance with such conditions as the Director-General may specify in consultation with the respective County Government or as are otherwise specified in this Act

Justification: To provide for consultation with the respective County Government

Committee Observation:

The provision relates to conservation which is a national government function hence not adopted.

Clause 108

177.Amend clause 108(2) to read as follows:

108 (2) Subject to subsection (3), no person shall fish within a radius of one nautical mile from a designated fish aggregating device except with the permission of the Director-General and in accordance with such conditions as he/she may specify.

(2A) The Director General shall consult the respective county government before issuing the permission stipulated under subsection 2.

Justification: To provide for consultation with the respective County Government

Committee Observation:

The provision relates to conservation which is a national government function hence not adopted.

Clause 111

178.Amend clause 111(1) to read as follows;

111. (1) Each license to operate a fish processing establishment shall be issued by the respective county government subject to the following conditions in addition to any other conditions required pursuant to this Act—

Justification: To clarify, the respective County Governments shall be responsible for issuing fish processing licenses in accordance with the conditions set forth in the Act. Trade regulation, including the issuance of trade licenses, is a fully devolved function under the Fourth Schedule of the Constitution.

Committee Observation:

The amendment was adopted as it clarifies, the respective County Governments shall be responsible for issuing fish processing licenses in accordance with the conditions set forth in the Act. Trade regulation, including the issuance of trade licenses, is a fully devolved function under the Fourth Schedule of the Constitution.

Clause 114

179.Amend to read as follows:

114 (1) For purposes of fishery conservation and management, the Director-General or County Director may require data returns from the sellers or buyers of such species during such periods including information relating to the -

(2) Any person to whom a request for data returns is made by the Director-General or County Director pursuant to subsection (1) shall promptly furnish such information.

Justification: To provide for the powers of the County Director to require for data as the circumstances may warrant or require.

Committee Observation:

The provision relates to conservation and management which is a national government function hence proposal is not adopted.

Clause 115

180.Amend clause 115(1) and (3) to read as follows:

115(1) No person shall establish or operate a commercial aquaculture establishment otherwise than under the authority of, and in accordance with the conditions of, an aquaculture license granted by the County Executive Committee Member under this Act.

(3) This section shall apply to such aquaculture establishments as the County Executive Committee Member may by notice in the Gazette, prescribe.

Justification: Regulation of aquaculture is a function of the County Governments, as it falls within the devolved mandates outlined in the Constitution. County Governments are responsible for overseeing and managing aquaculture activities within their jurisdictions, ensuring compliance with relevant regulations and promoting sustainable practices.

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 116

181.Amend clause 116 to read as follows:

116. (1) The owner or lessee of an aquaculture establishment shall register such establishment with the County Executive Committee Member and shall, for the purposes of the registration, provide to the County Executive Committee Member —

(2) A person who is a buyer or transferee of an aquaculture establishment shall, within fourteen days after the sale or transfer, give notice of the sale or transfer to the County Executive Committee Member —.

Justification: Regulation of aquaculture is a function of the County Governments, as it falls within the devolved mandates outlined in the Constitution. County Governments are responsible for overseeing and managing aquaculture activities within their jurisdictions, ensuring compliance with relevant regulations and promoting sustainable practices.

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 117

182.Amend clause 117 to read as follows:

117. (1) An application for an aquaculture permit shall be made to the County Executive Committee Member in the prescribed form.

(2) An aquaculture permit shall—

(a)...

(b)be subject to such conditions as appear to the County Executive Committee Member to be necessary or expedient for the regulation of aquaculture, the management of fisheries or for the economic benefit of Kenya and, without prejudice to the generality of the foregoing, may contain conditions relating to-

(3) An aquaculture permit shall not be transferred without the prior written consent of the County Executive Committee Member.

(4) The County Executive Committee Member may approve the application subject to the applicant being granted, where applicable, an environment impact assessment license under the Environmental Management and Co-ordination Act, 1999.

Justification: Regulation of aquaculture is a function of the County Governments, as it falls within the devolved mandates outlined in the Constitution. County Governments are responsible for overseeing and managing aquaculture activities within their jurisdictions, ensuring compliance with relevant regulations and promoting sustainable practices.

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 118

183.Amend clauses 118 by deleting the words "Director General" and replacing the words "County Executive Committee Member" whenever it appears to read as follows:

118. (1) An application for an aquaculture license shall be made to the County Executive Committee Member in such form as may be prescribed or required by the County Executive Committee Member and be accompanied by such documents and information as County Executive Committee Member may require, including proof that the applicant is legally entitled to use the land or other area designated as the proposed site.

(2) After receipt of an application pursuant to subsection (1), the County Executive Committee Member shall ensure that any relevant environmental standards for the proposed aquaculture project are being met, including requirements for siting, emissions and other relevant matters under the Environment Management and Coordination Act, determine whether the applicant is required to submit an environmental assessment of the proposed aquaculture project.

Justification: To align to our proposals above

Committee Observation:

The provision relates to aquaculture and not commercial aquaculture hence the proposal not adopted. The Counties regulate commercial aquaculture and not aquaculture in its entirety.

Clause 121

184.Amend to read as follows:

121. (1) The period of validity of each commercial aquaculture license shall not exceed ten years, and shall be subject to a compliance review on an annual basis.

(2) The County Executive Committee Member may issue an aquaculture license subject to any conditions the County Executive Committee Member considers appropriate, including conditions relating to —

Justification: There is need to be clear that the aquaculture licenses shall be subject to compliance review annually, over the license period.

Committee Observation:

The provision contemplates review by virtue of subjecting the license to annual renewal and the amendment is unnecessary.

Clause 143

185.Amend to read as follows:

143 (3) Anything seized pursuant to subsection (1) shall be delivered into the custody of the Director-General or County Director.

Justification: To provide for the powers of the County Director as regards seizures.

Committee Observation:

The seizure of vessels is a national government function in accordance with Paragraph 18 of Part 1 of the Fourth Schedule to the Constitution. Hence the proposal is not adopted.

Clause 147

186.Amend to read as follows:

147(1)(b) observers for purposes of the observer programme established under section 147, in accordance with such standards and procedures as may be prescribed or approved by the Board or the County Director.

Justification: To provide for the powers of the County Director as regards the appointment of and identification by inspectors and observers.

Committee Observation:

Appointment of inspectors and observers is a national government function in accordance with Paragraph 18 of Part 1 of the Fourth Schedule to the Constitution. Hence the proposal is not adopted.

Clause 153

187.Amend to read as follows:

153 (1) No liability shall attach to the Service or the County Government and their officers, employees or other persons acting under the authority of the Service or County Government, including persons with delegated authority and any person assisting an authorized officer pursuant to section 19, for any damage sustained by any person as a result of any act or omission done or made in good faith in performance of their duties under this Act or any other law relating to fisheries.

Justification: Provide for similar powers of the County Governments at the county level.

Committee Observation:

The amendment was adopted to provide for protection from liability for County Government officers undertaking duties in accordance with the Act.

Clause 154

188.Amend to read as follows:

154. The Service or County Government shall ensure full group insurance coverage for all authorized persons.

Justification: Provide for similar powers of the County Governments at the county level.

Committee Observation:

The amendment was adopted to provide for insurance for County Government authorized officers.

Clause 166

189.Amend to read as follows:

166. (1) Any fish or fish products seized by an authorized officer under this Act may, at the direction of the Director-General or County Director, be sold and the proceeds of the sale held and dealt with pursuant to this Act.

Justification: Provide for the powers of the County Director to exercise similar powers but at the county level.

Committee Observation:

The amendment was adopted.

Clause 200

190.Amend to read as follows:

200. The functions of the Fish Marketing Authority, in collaboration with the County Governments, shall be to;

Justification: It is legally prudent and justifiable for the Fish Marketing Authority to collaborate with the County Governments in the exercise of its functions.

Committee Observation:

The amendment was not adopted as provisions on the Fish Marketing Authority have been deleted.

Clause 201

191.Amend to read as follows:

201(1)(f). There shall be a Board of Directors of the Fish Marketing Authority which shall consists of - two persons, who have knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;

Justification: For fairness in representation and also taking into account the place and position of County Government in matters relating to fisheries, it is important that the number of representatives from the Council of Governors be enhanced to two.

201 (6) The members of the Board of Directors shall be paid remuneration and allowances determined by the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission.

Justification: Remuneration is a constitutional function of the Salaries and Remuneration Commission.

Committee Observation:

The amendment was not adopted as provisions on the Fish Marketing Authority have been deleted.

Clause 208

192.Amend to read as follows:

> 208. The Cabinet Secretary, in consultation with the County Governments, may make regulations for the better carrying into effect of the provisions of this Act.

Justification: The involvement of the County Government in the formulation of the regulations shall go a long way in the implementation of the Act including the realization of its objectives being that fisheries is a devolved function.

Committee Observation:

The Statutory Instruments Act require for public participation and consultation with relevant stakeholders in the formulation of all regulations. Hence the amendment is unnecessary.

3.4. Submission of Memoranda from the Public Hearings

3.4.1 Mombasa County

The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill No. 29 of 2023 in Mombasa County on Monday, 1st September, 2025, at the Kenya Marine and Fisheries Research Institute (KEMFRI). During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

193. A section of the public were concerned about the limited time allocated to review the Bill, noting that the period was insufficient for meaningful participation. Moreover, they observed that the Bill was extensive and required careful study and consultation, and therefore urged that the submission period be extended to allow for inclusive and informed contributions. In addition, some members of the public proposed that Persons with Disabilities (PWDs), particularly those who are blind, be provided with the Bill in Braille format. They emphasized that this measure would promote inclusivity and ensure that all citizens are able to effectively participate in the legislative process.

194. Furthermore, some fisher-folks raised concern that Illegal, Unreported, and Unregulated (IUU) fishing had caused significant harm to the county by depleting fish stocks and threatening the livelihoods of local fishermen. They emphasized the need for fishermen to be sensitized on the appropriate fishing nets to use in order to promote sustainable fishing practices. In the same breath, it was proposed that the distribution of fishing nets be centralized through KEMFRI or any other designated government institution to ensure standardization and to avoid unnecessary conflicts with other relevant authorities.

195. Similarly, some members of the public expressed concern over port expansion activities, noting that waste from the port was being disposed of in areas where fishing takes place. They observed that this practice was causing serious harm to fish breeding zones and

threatening the sustainability of marine resources. Consequently, they called for deliberate measures to protect breeding areas by preventing the port from engaging in such harmful disposal practices. At the same time, they sought empowerment through the provision of larger boats to enable them to engage in deep-sea fishing. They noted that access to bigger vessels would expand fishing opportunities and enhance their economic livelihoods.

196. Moreover, a section of the public suggested that training on the correct fishing nets and sustainable practices should be provided prior to the issuance of licenses to ensure that all licensed fishermen are adequately equipped with the necessary knowledge and skills to promote responsible fishing. In addition, they expressed that PWDs should not be licensed in any fisheries-related activities. They argued that exempting them from licensing would promote inclusivity and remove barriers that could limit their effective participation in the sector.

197. Likewise, some members of the public proposed that the law provide guidance on the appropriate nets to be used, noting that currently it only outlines prohibited nets without offering direction on acceptable ones. They emphasized that nets used to catch fish species that mature without growing to a large size should not be classified as illegal. They further proposed that fishers be clearly advised on the appropriate nets to use for such species to ensure compliance and sustainable fishing.

198. In the same way, they urged consideration for poor and illiterate fisher-folks, noting that some languages used in the law are not easily understandable to them. They emphasized the need for civic education to be conducted in simple and accessible terms to empower them and enable them engage in legal and sustainable fishing.

199. Furthermore, the participants unanimously proposed adoption of a single regulated license that would allow local fisher-folks to operate freely across counties without the requirement of obtaining multiple licenses to ease compliance and reduce unnecessary costs. They noted that Kenyan waters belong to all and should not be subjected to restrictive county-based licensing systems. In addition, it was recommended the deployment of qualified staff with adequate knowledge and expertise in fisheries to relevant offices in order to support informed decision-making. They emphasized that individuals without a background in fisheries should not be employed in such positions, as it undermines effective sector management.

200. A section of members of the public proposed that fish vendors should not be required to pay for permits for the distribution of fish in every county. They argued that such charges restricted free movement and contributed to higher fish prices in the marketplace, thereby burdening both traders and consumers. Equally, they raised concern over the absence of landing sites in Mombasa County, attributing the challenge to the lack of title deeds or allotment letters, which has made development difficult. They noted that out of fifteen registered Beach Management Units (BMUs), only one has an established landing site.

201. In addition, some members of the public raised concern over the lack of public participation in the decision to increase the license fee from 200 shillings to 560 shillings. They argued that the increment was imposed without adequate consultation and therefore requested that the fee be retained at 200 shillings. Similarly, participants observed that leaders of BMUs, though elected in accordance with the law, do not receive salaries, which has led to laxity in implementation of their roles. They suggested that the chairpersons and other office bearers be considered for remuneration and that budgetary allocations be made to support their work.

202. Some members of the public suggested that the identification of areas for mangrove planting, especially in relation to fish breeding sites, should be done in consultation with BMUs, as they know the best places for such initiatives. They emphasized that this would help safeguard breeding grounds and promote sustainable fisheries. Additionally, they called for an audit of grants issued in the fisheries sector, noting concerns that funds were being misappropriated. They emphasized that proper accountability measures were necessary to ensure the resources benefit the intended beneficiaries.

203. Furthermore, some members of the public proposed that BMUs be actively involved in the making of bylaws as such inclusion would ensure that they are practical, locally relevant, and supported by the fishing communities. Further, they noted that the proposed regulations be issued to BMUs in good time to allow for adequate deliberations with their members and the wider public as early access would promote proper understanding and effective participation in the implementation process. Moreover, they argued that the ministries should hold their own public participation forums to help the public fully understand proposed policies before they are sent to the National Assembly.

204. In addition, participants emphasized the need for clear procedures on how the Kenya Marine Fisheries and Socio-Economic Development (KEMFSED) grant is being disbursed. They noted that since the grant is taxpayers' money, there should be transparency and accountability in its management to ensure it benefit the intended beneficiaries. . Additionally, they called for an audit on the grant noting concerns that funds were being misappropriated. They further proposed that civic education be conducted for BMUs to guide them on the procedures for accessing and utilizing the grant effectively.

205. Similarly, some members of the public observed that the law should clearly specify whether subsistence fishing is to be conducted offshore or inshore to prevent unnecessary arrests. In addition, some members of the public called for strict implementation of inspection on foreign vessels, noting that the process is currently not properly carried out. They observed that many foreign vessels operate without a representative from the Kenyan government on board, a gap that has contributed to IUU fishing. They emphasized that ensuring government presence and thorough inspections would strengthen oversight.

206. Likewise, some members of the public urged the government to clearly define the end goal of the training being offered in the fisheries sector to ensure that citizens who undergo the training are able to secure meaningful employment and apply their skill productively. They further recommended investment in government-owned ships to accommodate all trained fisher-folks and to support the growth and sustainability of the fishing industry in Kenya.

207. Further, they proposed that the government consider incorporating International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel (STCW-F) courses, noting that the current International Convention on Standards of Training, Certification, and Watch-keeping for Seafarers (STCW) course only covers sea safety and does not address fishing. They observed that without the STCW-F component, trained persons are unable to secure employment until they fully complete the course, which delays their opportunities to work in the sector.

208. Additionally, some members of the public raised concern that certain commercial fishing vessels use dragged nets which destroy marine resources by catching even fish eggs, thereby interfering with breeding. They observed that despite this harmful practice, such vessels continued to be issued with licenses, and they called for stricter regulation to protect fish breeding grounds. They also proposed that legal fishing gears be subsidized to empower fisher-folk and make them more accessible. They further emphasized that the gears should come with clear user guidelines to ensure proper utilization and promote sustainable fishing practices.

3.4.2 Kwale County

The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill No. 29 of 2023 in Kwale County on Tuesday, 2nd September, 2025, at Kwale Cultural Center. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

209. Members of the public proposed that the Fisheries Management and Development Bill should focus on strengthening the livelihoods of local fishers. They emphasized the need to include compensation mechanisms for damages or loss of life that may occur due to marine accidents, noting that fishing often exposes communities to high risks.

210. The public also highlighted the importance of empowering BMUs. They suggested that BMUs be granted more legal recognition and decision-making powers to enable them to co-manage fisheries alongside county and national authorities. This, they argued, would improve accountability and ensure sustainable fisheries management.

211. Further, the public called for improvement of infrastructure and market access. They recommended that transport links and market infrastructure be enhanced to allow fishermen to sell their catch directly. This would cut out exploitative middlemen and improve earnings for local communities. They further proposed the establishment of fish

processing and packaging hubs, particularly in the coastal region, to promote value addition and exports.

212. On education and capacity building, members of the public suggested that scholarships or bursaries be introduced for coastal youth to pursue studies in marine sciences and blue economy courses. They noted that this would build local expertise, create opportunities for young people, and strengthen the sector's long-term sustainability.

213. A section of the participants proposed that the Bill be interpreted into Kiswahili so as to make it more accessible to the wider public, and they further suggested that adequate time be provided for reading and understanding the document in order to enable meaningful and knowledge-based discussions during public participation.

214. Further, participants noted that Vanga, which borders Tanzania, has become a hotspot where Kenyan fishermen are often harassed, arrested, and compelled to pay huge fines to Tanzanian authorities on claims that they are fishing within Tanzanian waters. Therefore, they requested that clear boundaries be established to resolve this issue and protect local fishermen from such challenges.

215. Some participants observed that although the powers to designate marine managed areas are given to Beach Management Units (BMUs), public participation is necessary before such areas are set aside; consequently, they requested that this requirement be included in the Bill to provide BMUs with the legal backing to implement it effectively.

216. A section of the public stated that protection of marine resources cannot be carried out by government officials alone, and they therefore proposed that one representative from the BMU be included in the patrol boats to support enforcement efforts and help prevent corruption.

217. In addition, participants expressed concern that large areas have been designated as marine parks and reserves, which has forced fishers to cross into Tanzanian waters where they face arrests and heavy fines; as a result, they requested that the size of marine parks and reserves be reduced to increase the available fishing areas for local communities.

218. Similarly, a section of the public noted that some designated landing site areas have been replaced by houses, with individuals claiming ownership of the land, and they requested that the authorities verify the officially gazetted landing site areas, reclaim them, and hand them back to the BMUs for proper use in supporting fisheries activities. They further emphasized that proper title deeds should be produced to secure these areas and prevent future encroachment, and that clear boundaries of 60 meters from the highest water mark be set aside and protected for landing sites.

219. Participants raised concern that politicians have infiltrated BMUs, noting that some boats are owned and controlled by them, and they further observed that they interfere when individuals are arrested for illegal fishing practices. The participants requested that BMU leadership be respected and allowed to enforce the law and carry out their work effectively, since political interference has created conflicts of interest and undermined the primary role of BMUs in managing fisheries resources for the benefit of local communities.

220. Additionally, a section of the participants raised concern that stone and sand harvesting by leaders and companies destroys fish habitats, reduces fish populations, and causes health hazards from dust, and they noted that citizens are punished for the same practices while leaders are not, creating injustice. They therefore called for accountability, environmental protection, and community safeguards.

221. Participants further raised concern that emergency response to save fishermen in the ocean often takes too long, thereby leading to preventable deaths. They further noted that when bodies are found, they are sometimes left in the waters out of fear, as those who retrieve them are often blamed and subjected to lengthy investigations, and this, they emphasized, discourages people from offering timely help in such situations.

222. Furthermore, participants unanimously proposed the adoption of a single regulated license that would allow local fisher-folks to operate freely across counties without the need to obtain multiple licenses, and they emphasized that this would ease compliance and significantly reduce unnecessary costs.

223. They further noted that while the national government provides support to BMUs, information on the progress and nature of this assistance is often scarce; hence, they proposed that clear and timely information be shared with BMUs before such interventions are brought in, to ensure transparency and proper preparedness.

224. Participants raised concern that access roads to landing sites have been blocked, making fishing activities difficult. They proposed that these roads be reopened and widened to facilitate smooth operations for fishermen.

225. Participants noted that BMU leadership is currently limited to only two terms in office and requested that the term limit be increased. Moreover, they proposed that BMU leaders be provided with a stipend or budgeted salaries to support them in carrying out their responsibilities effectively.

226. Participants highlighted that there was widespread confusion regarding ocean management, noting overlaps in roles among different authorities and a lack of clarity on who holds responsibility for specific functions. Consequently, they emphasized the need for clear guidelines and coordination to streamline management and avoid conflicts.

227. Participants observed that inlets and outlets have become shallow, causing difficulties for fishermen who are not well conversant with the routes and sometimes leading them to get lost, and they therefore requested that the channels be rectified to enable boats to move in and out of the ocean effectively.

228. Likewise, some members of the public proposed that the law provide guidance on the appropriate nets to be used, noting that currently it only outlines prohibited nets without offering direction on acceptable ones. They emphasized that nets used to catch fish species that mature without growing to a large size should not be classified as illegal, and they

further proposed that fishers be clearly advised on the appropriate nets to use for such species to ensure compliance and sustainable fishing.

229. Participants proposed that inclusion of a specific position for Persons with Disabilities (PWDs) within BMU leadership structures should be considered, as this would strengthen inclusivity, ensure that the voices and interests of PWDs are adequately represented in decision-making, and guarantee that their concerns are considered in fisheries management.

230. Participants raised concern that fishers using ring nets have begun fishing in areas where they are not allowed, making it difficult for small-scale fishers to access fish. They proposed that clear boundaries be established and both groups be guided on where to fish in order to prevent conflicts and promote fairness.

231. A section of the public proposed that fisheries management be fully devolved to county governments, noting that in some cases fishers are required to report to the Director General based in Nairobi despite the presence of county governments. They observed that the current system, where powers flow from the Director General down to the counties, creates unnecessary bureaucracy and hardship; hence, they recommended that counties be given direct authority to manage fisheries for more efficient service delivery.

232. They further expressed concern that the license fee had been increased from 200 shillings to 560 shillings without public participation, and they noted that the new cost is not affordable to small fisher-folks. They called for the fee to be reviewed.

233. In addition, they proposed that waterproof licenses be introduced, noting that the current paper licenses get wet and tear easily when exposed to water, and they suggested that durable card-based licenses be considered to address this challenge.

Memorandum: Kwale Youth Assembly

Mr. Omar Salim Mbwana, president of Kwale youth assembly, presented a memorandum on 2nd September, 2025 at Kwale Cultural Center to the Committee on behalf of the youth as follows;

234. The youth representatives from Kwale County expressed their appreciation for the opportunity to present their views on the Fisheries Management and Development Bill, 2023. They observed that fisheries remain a lifeline for coastal communities as they provide livelihoods, food security, and employment to thousands of households. They further noted that in Kwale County, fishing, together with aquaculture, seaweed farming, and related marine activities, forms an integral part of the Blue Economy. They emphasized that their memorandum was intended to set out key recommendations to strengthen sustainable fisheries management, empower local communities, and support inclusive economic growth.

235. The youth representatives were of the view that artisanal and small-scale fishers, being the most vulnerable to the pressures of large-scale commercial operations, ought to be recognized and protected. They proposed the establishment of clear fishing zones and

licensing regulations to safeguard artisanal fishers from displacement by industrial trawlers. They further observed that local fishers would benefit from targeted support programmes such as credit facilities, provision of equipment, and safety gear to enable them to modernize their operations.

236. On matters of youth empowerment, they recommended the establishment of a Youth Fisheries and Aquaculture Fund to support startups and innovations in seaweed farming, fish processing, and value addition. They were of the view that digital solutions should be promoted to improve market access, pricing transparency, and skills training. They further suggested that fisheries be integrated into TVET curricula so as to equip young people with practical and market-ready skills.

237. On the issue of sustainability, they stressed the importance of strengthening enforcement against Illegal, Unreported, and Unregulated (IUU) fishing, particularly by foreign fleets. They underscored the need to support community-led marine conservation initiatives such as mangrove restoration, marine protected areas, and coral reef rehabilitation. They further recommended that climate adaptation measures be incorporated to safeguard coastal communities from the adverse impacts of rising sea levels, cyclones, and shifting fish stocks.

238. The youth representatives were also of the view that the roles and responsibilities of county governments in fisheries management ought to be clearly defined in line with the Constitution. They proposed that adequate resources be allocated to counties for landing sites, fish markets, and enforcement at the local level. They further called for stronger mechanisms of joint planning and coordination between the national and county governments.

239. On matters of infrastructure and market development, they recommended increased investment in modern landing sites, cold storage facilities, and processing plants in Kwale and other coastal counties. They were of the view that value addition, including filleting, packaging, fishmeal, ornamental fish, and seaweed products, should be promoted in order to increase earnings. They further emphasized the importance of strengthening market linkages to regional and international markets while at the same time safeguarding local food security.

240. They also recognized the vital role of women in fisheries, particularly in post-harvest handling, trading, and value addition. They called for deliberate measures to ensure that women and marginalized groups have equal access to financing, equipment, and training opportunities.

241. In conclusion, the youth representatives commended the National Assembly for initiating the Fisheries Management and Development Bill, 2023, and acknowledged the effort being made to modernize Kenya's fisheries governance. They emphasized that for the Bill to succeed, it must prioritize sustainability, devolution, youth employment, and the empowerment of small-scale fishers and women. They therefore respectfully urged the

Committee to take into account their recommendations so that fisheries may continue to serve as a sustainable source of livelihoods, food security, and national economic growth.

Memorandum: Kwale - Community Action for Nature Conservation (CANCO)

Community Action for Nature Conservation (CANCO), a community organization based in Kwale County appeared before the Committee and submitted as follows:

Part I – Preliminary (Clause 2)

242. Regarding the definition of "Beach Management Units", they observed that an important category was missing - seaweed farmers. They further observed that the word "traditionally" should be replaced with "primarily." It was therefore their Recommendation that Section 2 be redefined as follows:

> "An organization of fishers, fish traders, boat owners, seaweed farmers, fish farmers, and other stakeholders who primarily depend on fisheries activities for their livelihoods."

243. Regarding the definition "Buyer", they observed that the definition in the bill - "means any person who buys." They noted that the remarks are too general and miss the fisheries context. They therefore recommended that the definition be amended to read: "Any person who buys fish and fish products."

244. Regarding the definition "Fish Landing Station", they observed that it was defined as a point designated by the Director-General (DG). They noted that since the County Executive Committee Member (CECM) establishes BMUs, he/she understands the landing sites. This role should not be reserved for Director General. Section 36 (1) already gives counties this mandate. They therefore recommended that this definition be amended to read:

> "...a point on the shore of any waters or coastline of which the County Executive Committee Member in charge of fisheries, has by notice in the Gazette designated as a point to land fish."

245. On the definition "Fisheries Officers", they observed that it has been defined as Director General and Kenya Fisheries Service employees. They further observed that County fisheries officers are excluded in the definition. They therefore recommended that it be define as:

> "The Director and any person in the public service of or above the rank of Assistant Fisheries Officer."

246. On the definition of "Kenya Fishing Vessel", they observed that the Current definition uses "traditionally. It is their view that the word be replaced with "primarily". They therefore recommended that the definition should read as:

> "- means a fishing vessel which is registered under the Merchant Shipping Act, and does not hold any other registration, or is wholly Owned and crewed by residents of Kenya or

by other persons gazetted by the Service as persons who primarily fish in Kenya fishery waters, and which meets such other conditions as may be prescribed

247. On the definition of "Fish", they observed that it has been defined broadly to include any aquatic plant or animal. It is their view that marine plants should be specific as general wording creates confusion e.g., mangroves. They therefore recommended that the definition be refine to specify marine/aquatic plants relevant to fisheries.

Part III – The Kenya Fisheries Service (Section 8)

248. On subsection (e) it was their view that basic education/ public awareness be provided. They recommended that the National Government should build capacity and provide technical assistance to counties. Counties should extend this to communities. (Refer to Gazette notice 2024). They further recommended that this subsection be amended to read:

"Provide education to create public awareness and support for fisheries conservation, management, development, and sustainable use, and provide technical assistance to county fisheries departments."

249. On function (h): It was their view that the current subsection overlaps functions. They therefore recommended that the National government should develop a national fish information system, while counties collect and share fish statistics.

Part V - Fisheries Conservation, Management and Development

250. On Clause 39 (1) they observed that the Director General may impose conservation measures. This omits the county role, despite counties signing management plans. They therefore recommended and amendment to the section as follows:

"The Director General in collaboration with the county governments, shall, in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery.

Clause 41

251. Clause 41 (ii): they noted that the Section is unclear on whether spear guns are legal or illegal. They therefore recommended of legality in the regulations.

252. Clause 42 (2c) regarding reporting vessel entanglement, it is their view that this section should involve county directors for artisanal vessels. They therefore recommended that the Section be amended to: "...Where an artisanal vessel becomes entangled with fixed fishing gear or other objects referred to in subsection (1), the master shall make a full report of the incident and steps taken by him or her to the Director-General through the County Director at the earliest opportunity

253. Clause 46 (1) regarding declaration of MPAs, it is their view that the use of "may" weakens intent and therefore recommended that "may" to be replaced with "shall" as follows:

"The Cabinet Secretary shall, in consultation with the Kenya Fisheries Advisory Council, stakeholders, and the Board, by notice in the Gazette, declare any area of the Kenya

fishery waters to be a Marine Protected Area and shall, as part of such declaration, identify its components, including the following"

254. Clause 49 (1) regarding the establishment of fish landing stations, ports, breeding grounds, the landing stations fall under county mandate. They recommended the omission of (a) fish landing stations as follows:

> The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by the Board establish by a notice in the Gazette (a) designated fishing ports, and (b) protected fish breeding grounds.

Part VIII - Aquaculture (Clause 64)

255. They observed that the roles of National vs County governments are not clearly demarcated. (Refer to Gazette notice, 2024). They therefore recommended that County Governments should implement, promote, and regulate aquaculture and mariculture.

Part IX - Information, Data and Records (Clause 80)

256. They observed that the Director General is solely responsible for the license register. It is their view that Counties should access the register.

Part X - Licensing and Registration

257. In Clause 83 (1) it is their view that reference to artisanal fishing vessels under national licensing be omitted.

258. In Clause 83 (2): it is their view that Counties should issue licenses not only for recreational fishing, but also for artisanal fishing, artisanal vessels, and small-scale aquaculture and/or mariculture. (Refer to gazette notice 2024 where counties have been mandated to limit access to fishing, and this can be through licensing)

259. In Clause 102 (2): it is their view that vessel registration applications should be in consultation with the counties

260. In Clause 105: it is their view that recreational vessel registration and licensing should be a fully county function (Refer to section 83 (2)) as follows;

> a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the Director General in consultation with the relevant county government
>
> b) On receipt of an application for registration of a recreational fishing vessel the county government shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the county government shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration.

261. Clause 117 (1): it is their view that aquaculture permits should be applied through counties as a fully devolved function. Amendments to be made from section 115 to section 122

Part VIII - Monitoring, Control and Surveillance (Clause 156)

They observed that on section 156(3) which states that "the operator of each fishing vessel shall comply with all license conditions and requirements imposed pursuant to subsection (2)". Wording too broad. It was their recommendation that this should specify applicability only to semi-industrial and industrial fishing vessels to read as follows:

"The operator of each semi-industrial and industrial fishing vessel shall comply with all license conditions and requirements imposed pursuant to subsection (2)"

3.4.3 Kilifi County

The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill No. 29 of 2023 in Kilifi County on Wednesday, 3rd September, 2025, at Jawaba Hall. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

262. Participants raised concern that the Bill re-introduced issues which had previously led fishermen to go to court and halt its implementation. They opposed the ban on monofilament nets, noting that fishermen cannot afford larger nets and that such a ban would threaten their livelihoods.

263. In addition, they raised concern that octopus fishing, which traditionally uses fishing guns, has been banned by the Bill. They observed that these methods have been used for many years without causing harm. They opposed the proposed ban and requested that the use of traditional methods be allowed to continue.

264. It was proposed that the size of ring nets should not be reduced. They explained that when the size is reduced, it takes longer to remove fish from the nets, which can lead to spoilage and losses for fishermen. Further, they expressed concern that licenses should not be carried in the ocean since the current paper ones risk getting wet and tearing, unless waterproof cards are provided. In addition, they emphasized that one regulated license should be encouraged to ease compliance and reduce unnecessary costs.

265. A section of the participants raised concern that only 2-meter boats are allowed into the ocean, questioning how the length of a boat affects fishing. They proposed that small-scale fishermen be allowed to use smaller boats and emphasized that fishermen should be given the freedom to fish using boats they understand and can operate better. They also noted that access roads to landing sites have been blocked and, in some cases, grabbed. They requested that these roads be reclaimed, reopened, and protected to ensure smooth access for fishermen.

266. Participants also raised concern that the KEMFSED grant was being given to non-fishing communities, including women groups not involved in fishing, which they felt undermines

the fishing sector. They further observed that no scholarships are provided to support fisher folk or their families. Therefore, they proposed that KEMFSED publish a clear list of beneficiaries to enhance transparency and accountability.

267. In addition, some members of the public raised concern over the lack of public participation in the decision to increase the license fee from 200 shillings to 560 shillings. They argued that the increment was imposed without adequate consultation and therefore requested that the fee be retained at 200 shillings.

268. They further noted that there is no coordination with county governments since the Director General is the only person with authority to issue licenses. They therefore proposed that the DG's powers be reduced and that fisheries management be devolved to county governments. In addition, they rejected the proposal to measure the amount of fish to be caught for subsistence use, noting that some fishermen have large families and such restrictions would be unfair.

269. Participants proposed that adequate time be given to read and understand the Bill, noting that most people in Kilifi speak Kiswahili while the Bill is written in English. They therefore recommended that future Bills be translated into Kiswahili to promote inclusivity and meaningful participation.

270. In addition, they observed that the Bill generalizes fishing vessels without providing clear categorization. They proposed that the law specify the different types of ships, their measures, and their intended uses to avoid ambiguity and enhance proper regulation.

271. In the same breath, they raised concern that disaster management response was slow, leading to unnecessary deaths that could have been prevented with timely action. They therefore proposed that only qualified and skilled workers be allowed to work in the waters to enhance safety and effective response.

272. Participants observed that the issuance of licenses takes too long, preventing fishermen, who have dependents to support, from going into the ocean to fish during the waiting period. They proposed that license issuance be expedited to avoid disrupting livelihoods.

273. Furthermore, they expressed concern over the proposed merging of entities like Fish Levy Trust Fund, Kenya Fish Marketing Authority (KFMA) and Kenya Fish Industry Cooperation (KFIC) questioning where current employees would go and noting that such mergers may not create new opportunities for the youth. They emphasized the need for clarity on job security and employment creation

274. Participants sought clarity on the definition of a fisheries officer, noting that the Bill categorizes both county and state departments but does not specify where they fall within the definition. They therefore requested that this be clearly outlined to avoid confusion and proposed that the Kenya Fisheries Advisory Council include representatives from BMUs, noting that their involvement would ensure grassroots perspectives are considered in decision-making.

275. Participants proposed that compensation be provided to the families of fishermen who die while fishing, noting that this would help support their dependents and cushion the affected households from hardship. They further proposed that coxswain (coffers) training for coastal region fishermen should be conducted in the Indian Ocean rather than in Lake Victoria, since the conditions and fishing environments are not the same. They emphasized that this would make the training more practical and relevant for coastal fishermen.

Memorandum: Kilifi BMU

Captain Shillo Issa presented a memorandum on behalf of Kilifi local fishing community groups from Kilifi County regarding the Fisheries Management and Development Bill, 2023 as follows;

276. The memorandum reflected the sentiments of their local communities, who rely on fishing as a primary source of livelihood and cultural heritage. Further, they expressed concern that the proposed Bill granted immense powers to the Director General of Fisheries, which they believed undermined the constitutional principle of devolution.

277. They observed that under the current legal framework, fisheries services are a devolved function under the Fourth Schedule of the Constitution, and therefore, the role of County Governments must be clearly defined and respected within the proposed Bill. They strongly recommended that the powers granted to the Director General should be shared with and, where necessary, delegated to County Governments, particularly regarding the management of local inland and coastal fisheries. They further noted that County Governments should be allowed to play a leading role in monitoring, licensing, and enforcing fishing regulations within their jurisdictions.

278. In addition, they acknowledged the critical role of the National Government in managing international fisheries and overseeing compliance with regional and global agreements. However, they emphasized that this role must not override or duplicate the functions already assigned to County Governments. They recommended that the National Government should focus on international and deep-sea fisheries while providing technical and financial support to counties for the management of local fisheries. They further proposed that coordination mechanisms be established to ensure harmonized policies between the two levels of government without creating conflicts or overlapping mandates.

279. They raised concern that local fishing communities, who are the primary stakeholders, had not been meaningfully involved in the drafting of the legislation. They reminded the Committee that participation of local communities is a constitutional right under Articles 10 and 118 of the Constitution. They therefore requested that the process be made inclusive and participatory, with adequate opportunities for public consultation, especially in fishing communities. They added that stakeholder forums should be held in each county affected by the proposed law so as to collect views and incorporate them into the final draft.

280. Due to the complex nature of the proposed Act and its potential implications, they respectfully requested that more time be granted for thorough review by community members, county officials, and other relevant stakeholders. They further recommended that

a structured timeline for engagement be developed to allow for feedback and recommendations to be submitted meaningfully.

281. In conclusion, they submitted the following key recommendations;

i. They called for the proposed Bill to be amended so as to recognize and strengthen the role of County Governments in local fisheries management.

ii. The scope of the Director General's powers be clearly defined to ensure they do not override devolved functions.

iii. The rights and livelihoods of local fishing communities be recognized and protected.

iv. The public participation period be extended and localized consultative forums be organized.

v. Regulations be collaboratively drafted to reflect the unique needs of both national and county levels of governance.

282. They expressed appreciation for the opportunity to share their views and affirmed their commitment to engaging constructively in the development of a fisheries law that would be inclusive, fair, and effective.

3.4.4 Lamu County

Memorandum: Shela BMU Co-operative Society Limited

Shela BMU Co-operative Society Limited submitted a memorandum to the Standing Committee on Blue Economy Water and Irrigation on Wednesday, 3rd September, 2025 regarding the Fisheries Management and Development Bill, 2023 as follows;

283. They noted that while they appreciated the government's effort to modernize and regulate fisheries, they strongly opposed Section 41(1)(e), which prohibits the use of monofilament nets, and Section 41(1)(i), which prohibits the use of beach seines. They explained that these provisions, if passed, would directly affect their livelihoods, culture, and food security. They therefore requested that both clauses be removed from the Bill in their entirety.

284. Further, emphasized that fishing in Malindi is not only an economic activity but also a cultural tradition that has existed for centuries. They observed that local communities initially relied on artisanal gear such as woven nets, hand lines, traps, and spears. Over time, as populations grew and markets expanded, they adopted modern gear like monofilament nets and beach seines, which provided efficiency and affordability. They added that for decades, beach seines had been used along the shores of Kilifi County to catch small fish species that remain vital to local diets. They stressed that past governments recognized artisanal fishing as the backbone of the coastal economy, and only in recent years had blanket bans emerged under conservation debates.

285. In addition, they stated that monofilament nets and beach seines are not just fishing tools but lifelines for thousands of families. They noted that in Kilifi County, about 65 percent of shoreline households depend directly or indirectly on artisanal fishing. They explained that monofilament nets are cheaper to buy and maintain than multi-filament nets, making them accessible to poor fishermen with limited capital. They warned that banning these nets without affordable alternatives would exclude the poorest from fishing. They added that beach seines require no sophisticated boats and that hauling one involves 15 to 20 men. They noted that this cooperative system provides employment for young people and helps reduce idleness and crime.

286. They also highlighted existing challenges in the sector, citing foreign industrial trawlers, often operating illegally, hence reducing local catches and destroying artisanal gear. Security restrictions, such as the night fishing ban, were said to further limit access to fishing grounds. They explained that the absence of infrastructure like cold storage and modern landing sites forces fishermen to sell catches at low prices or suffer post-harvest losses. During COVID-19, the collapse of the tourism sector caused severe income losses for fishing households. In this context, they argued that additional restrictions such as banning monofilament nets and beach seines would only punish communities already struggling for survival.

287. They criticized Section 41(1)(e) and Section 41(1)(i), noting that the prohibitions were presented as conservation measures but lacked scientific and social justification when applied indiscriminately in Kilifi. They pointed out that the Bill offered no affordable alternatives to monofilament nets, with multi-filament nets being too costly for small-scale fishers.

288. They further argued that past bans had been enforced harshly against artisanal fishermen while industrial trawlers, which cause greater harm, continued operating. They insisted that local fishermen had traditional knowledge of how and where to deploy gear without harming reefs or catching juveniles, and that a blanket ban ignored this wisdom. They also stated that criminalizing poor fishermen for using affordable nets undermines constitutional rights to livelihood and fair access to natural resources.

289. As alternatives, the fishermen proposed:
    i. Regulating the mesh size of beach seines and monofilament nets to prevent juvenile overfishing.
    ii. Involving Beach Management Units (BMUs) in monitoring and enforcing responsible practices.
    iii. Providing subsidized access to alternative gear if prohibition became unavoidable.
    iv. Investing in cold storage, processing, and marketing facilities.
    v. Cracking down on illegal industrial trawlers, which they identified as the real threat to marine ecosystems.

290. In conclusion, the fishermen reiterated that Section 41(1)(e) and Section 41(1)(i) of the Bill should be deleted. They stated that these clauses unfairly targeted the poorest artisanal

fishermen who had historically sustained their families and communities through responsible use of monofilament nets and beach seines.

291. They emphasized that banning these gears without viable alternatives would destroy livelihoods, undermine cultural traditions, and increase poverty and hunger. They urged the government to adopt a collaborative approach that empowers fishermen, protects the marine environment, and promotes sustainable use of resources.

Committee Observation:

Sustainable use and management of fisheries is necessary hence removal of provision on illegal fishing gear and methods may not be possible. Further, it may not be possible to provide County specific. However the Bill may be amended to provide for subsidies and continuous training on matters related to fishing gear to provide for access to affordable fishing gear.

Faza Island

The members of public in Faza island, Lamu County submitted their views on the Bill as follows;

Clause 4

292. It was observed that Clause 4 is repeated. It was suggested that Clause 4 retain the short title as it appears in the Table of Contents (ToC), namely "Application," while Clause 5 should carry the short title "Objective and Guiding Principles" as reflected in the ToC. It was further urged that the subsequent text be renumbered accordingly to ensure proper alignment with the Table of Contents.

Committee Observation:

The Committee has proposed appropriate amendments to correct the numerical issues in the Bill.

Clause 2

293. On Interpretation, it was noted that the Bill lacks a definition of the term "Fisheries," despite its inclusion in Schedule 4 Part 2 of the Constitution of Kenya 2010, and it was recommended that the term be defined in the Bill. It was further observed that the current definition of "Fishers" excludes groups such as foot fishers, and it was recommended that the definition be amended to read;

Fishers means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch, and foot fishers but excluding pilots, naval personnel, other persons in the permanent service of the government, shore-based persons carrying our work aboard a fishing vessel and fisheries observers.

Committee Observation:
Fishery has been defined in the Bill and the amendment may be unnecessary.

Clause 49 (1)

294. Reference is made to protected fish breeding grounds, but no definition has been provided, and it was recommended that the term be defined. The Bill also defines fish landing stations and fishing ports but does not clarify the term fish landing sites, which is commonly used interchangeably with fish landing stations.

Committee Observation:

The Committee has proposed appropriate amendments to distinguish between landing site and fishing ports.

295. Since clarification is necessary due to the central role of fish landing facilities in advancing human rights, food security, livelihoods, poverty eradication, social stability, housing, economic growth, and rural development for artisanal and small-scale fishers, it was recommended that the Bill expressly clarify the relationship between fish landing sites and fish landing stations, and if they differ, a definition of fish landing sites be incorporated.

Committee Observation:
The Committee has proposed appropriate amendments to distinguish between landing site and fishing ports.

Clause 10 (1) (c)

296. On the membership of the board, it is unclear who the five members referred to are. It was recommended that the provision be clarified to specify that two of these members should be drawn from fishers' organizations, one representing inland (freshwater) fishers and one representing marine fishers. This clarification is necessary to ensure inclusivity, transparency, and representation of both inland and marine fishing communities in fisheries governance.

297. The clause should therefore state that five members, not being public officers, be appointed by the Cabinet Secretary for their knowledge and experience in conservation, management, development, and sustainable use of fisheries resources, with two drawn from the fishing community as specified.

Committee Observation:

The appropriate amendments have been made in line with the recommendation, further qualifications have been proposed.

Clause 10(5)

298. While the high academic qualifications under subsection (1)(c) are necessary to bring professional expertise to the body, applying them to artisanal fishers would unfairly exclude them despite their critical role and indigenous knowledge in fisheries management.

299. It was therefore recommended that fishing representatives be exempted from the degree requirement and instead be appointed based on their practical experience, age, knowledge of fishing practices and the ocean, and ability to articulate community concerns in Kiswahili. Appointment in consultation with the BMU Network would ensure legitimacy, inclusivity, and proper representation of fishing communities.

300. The following amendments were recommended;

i. 5(1) A Person shall be qualified to be appointed under subsection 1(c) if, in addition to the requirement of that subsection, such person holds a university degree of its equivalent in

(a) Natural resource or environmental management. Development or science;
(b) Fisheries studies. Including fisheries governance, management. Development or science;
(c) Marine affairs;
(d) Port management;
(e) Aquatic science, or
(f) Any other matters related to the functions of the body.

5(2) The qualification requirements under subsection (1) shall not apply to representatives of the fishing community. Fishing representatives shall instead:

(a) not be active public officers;

(b) be at least eighteen years of age;

(c) possess demonstrated indigenous knowledge of the ocean and fishing practices; and

(d) be able to articulate themselves effectively in Kiswahili

5(3) The Cabinet Secretary shall appoint such representatives in consultation with the Beach Management Unit (BMU Network.

Committee Observation:
The amendments were adopted with necessary modifications noting requirements under the State Corporations Act for compositions of Boards.

Clause 26 (1)

301. On Fisheries Research and Development Fund, it was observed that a national research institution, the Kenya Marine and Fisheries Research Institute (KMFRI), already exists with the statutory mandate of undertaking fisheries and marine research. It was therefore noted that duplication of mandates should be avoided and alignment with existing legal frameworks ensured. The amendment proposed was that a fund be established, to be known as the Fisheries Development Fund, which would be administered by the Director General.

Committee Observation:

The provision on Fisheries Research and Development Fund has been proposed to be deleted. Further it has been proposed that the Kenya Marine and Fisheries Research Institute be established under the Act. The Institute is currently housed in a Schedule to the Science, Technology and Innovation Act. Establishing the Institute in the Act with the creation of direct link to its sectoral Ministry will enhance the governance and management of the Institute. The new Part also contains a more streamlined and expanded mandate of the Institute, including the provision of on blue economy research and blue economy carbon trading development. This will further contribute to effective capacity building and knowledge transfer to relevant stakeholder to promote sustainability and growth in the blue economy sector.

Clause 40

302. On limitation of fishing and fishing related activities, it was noted that directing grievances to the Cabinet Secretary risks undermining impartiality, while an independent and specialized tribunal provides a fairer and more credible mechanism for dispute resolution. Tribunals, being quasi-judicial bodies, handle appeals efficiently based on law and evidence while minimizing political interference. Routing grievances to a tribunal would therefore enhance accountability, access to justice, and compliance with Article 47 of the Constitution on fair administrative action. The Bill should thus provide that the Director-General may take fisheries management measures and notify affected persons in writing, and that any aggrieved person may appeal in writing to the Fisheries Tribunal established under the Act.

Committee Observation:

A Fisheries Tribunal has been proposed to be established in line with the proposal.

Clause 41(1)

303. On prohibited fishing gears and methods, it was noted that coastal small-scale and artisanal fishing communities rely heavily on fishing for their livelihoods, making it essential that laws, regulations, and management plans reflect their realities and needs. The development of fisheries management plans was proposed to allow for the sustainable use of monofilament gear, which is critical for artisanal fishers targeting mullet and demersal species.

304. An outright ban would negatively affect income, food security, and livelihoods. To guide evidence-based decision-making, it was recommended that research be undertaken on the ecological impacts of monofilament gear. Authorities were urged to engage with artisanal fishers and their organizations in co-developing management plans that protect the marine environment while ensuring socio-economic stability. This recommendation was anchored in Articles 43 and 47 of the Constitution, safeguarding rights to life, dignity, food, social security, and fair administrative action.

305. It was further recommended that Clause 41(1)(c) be deleted and replaced with a provision requiring the establishment of a fisheries management plan for monofilament gear use by artisanal fishers. The proposed framework included: (1) restricting monofilament to stationary use only; (2) designating specific fishing areas; and (3) prohibiting its use in critical habitats or marine ecosystems. Additional measures included strengthening monitoring, control, and surveillance (MCS), involving communities in implementation and oversight, raising awareness on sustainable practices, and conducting continuous research with periodic reviews of the management plan.

Clause 41 (1) (h) (i) (j)

306. Recommends deletion and a provision be developed establishing a fisheries management plan for the use of beach seine gear by artisanal fishers. This approach would safeguard livelihoods while minimizing the ecological impacts associated with beach seine fishing. Sustainable use and management of fisheries is necessary hence removal of provision on illegal fishing gear and methods may not be possible. Further it may not be possible to provide County specific. However the Bill may be amended to provide for subsidies and continuous training on matters related to fishing gear to provide for access to affordable fishing gear.

307. Proposed Management Framework for Beach Seine Fishing
    (1) Specific Mesh Size. Require a minimum mesh size of 45 mm (2 inches) for beach seine nets to reduce bycatch and protect juvenile fish populations.
    (2) Areas of Operation. Designate specific fishing zones for beach seine use, with a minimum distance of 1 nautical mile from coral reefs to minimize habitat destruction and avoid conflicts with other fisheries.
    (3) Closed Seasons. Establish closed seasons during peak breeding and spawning periods to protect fish stocks and ensure long-term sustainability.
    (4) Licensing and Participation Limits. Introduce a licensing system to regulate the number of fishers engaged in beach seine fishing, based on scientific research and community input.

Committee Observation:

Sustainable use and management of fisheries is necessary hence removal of provision on illegal fishing gear and methods may not be possible. Further, it may not be possible to provide County specific. However the Bill may be amended to provide for subsidies and continuous training on matters related to fishing gear to provide for access to affordable fishing gear.

308. Additional Measures for Implementation

    i. Conflict resolution. Establish conflict resolution committees within Beach Management Units (BMUs) to address disputes and support smooth implementation of the management plan.

ii. Monitoring and enforcement. Strengthen monitoring, control, and surveillance (MCS) to ensure compliance and prevent destructive practices.
iii. Community engagement. Actively involve artisanal fishers and local communities in awareness-raising, decision-making, and co-management processes.
iv. Research and review. Undertake continuous research on the ecological and socio-economic impacts of beach seine fishing, with periodic reviews to update and strengthen the management plan.

Committee Observation:

The proposal was adopted and included in the relevant provision regulation of BMU and MCS.

309. Further, it was noted that there are more harmful fishing gears which have not been listed among prohibited gears that should. It was proposed that the following fishing gears/methods are listed and prohibited:

i. (l) mosquito net;
ii. (m) hooker;
iii. (n) scuba fishing;
iv. (o) such other gear as may be prescribed or prohibited by regulations established under this part.

Committee Observation:

Emerging fishing gear and methods have been proposed to be included in the relevant clause of the Bill to address the proposal.

Clause 42 (1,2,3)

310. On damage, destruction to, and interference with fishing gears, vessels, person prohibited. This clause was noted to provide safeguards against damage caused by vessels to endangered species and protected objects, but it was observed that the Bill is silent on two critical issues for artisanal fishing communities. First, human-wildlife conflict exposes fishers to harm from protected marine species such as stingrays, stonefish, and sharks, sometimes resulting in injury or death.

311. It was recommended that the Bill include provisions for treatment, compensation, and protective measures for affected fishers. Second, artisanal fishers often lose gear when vessels, including industrial fishing vessels, destroy or displace fixed gear at fishing sites. Since fishing gear is a major investment for these communities, the Bill should provide clear provisions on liability, compensation, and restitution.

Committee Observation:

The Committee adopted the proposal and proposed for compensation of fishers engaged in industrial fishing in the relevant provisions.

312. Further, insertion of additional subsections under Clause 42 was recommended to provide that:

(4) Where artisanal fishers suffer injury, harm, or loss as a result of encounters with protected species, the State shall establish a mechanism for treatment, support, and compensation.

(5) Where fishing gear belonging to artisanal fishers is destroyed, damaged, or displaced by vessels or other maritime users, the responsible party shall be liable for compensation, and the State shall provide a framework for enforcement and redress.

Clause 42 (4)

313. Delete repeated words *vessel that caused such consequence were legally entitled* as it is appearing twice in the same sentence.

Committee Observation:
The proposal was adopted.

3.4.5 Kisumu County

The Committee engaged the residents of Kisumu County at the ABDP Regional Office. The persons present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Governments of Kisumu and Kakamega, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute, Local Administration, Research Scientists and the general public including women, youth and persons with disabilities. The public was sensitized on the clauses of the Bill and thereafter allowed to give views on the Bill. They submitted as follows:

314. The residents of Kisumu County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector. They, however, reiterated that there ought to have been stakeholder engagement before publication of the Bill and consideration of the Bill should give adequate opportunity for all interested parties to make submissions on the Bill.

315. The residents, particularly those in the aquaculture sector, raised concerns that the Bill was not aligned with the proposed Aquaculture Policy undergoing consideration by the Ministry. In this regard, they proposed that aquaculture be regulated in a separate Act.

316. In terms of suggested amendments, the people of Kisumu County provided several constructive recommendations to strengthen the Bill. The residents proposed a comprehensive and clearer definition of a "fisher" and "fishing" under clause 2 of the Bill. A clear and distinct definition of those terms would aid in the proper identification of persons and activities to be regulated.

317. The residents also raised concerns about the harmonization of the definition of "fisheries officer". The Bill provides that *"fisheries officer" means the Director-General and any employee of the Service described in the first schedule.* The definition does not take cognizance of the role of counties in the appointment of "fisheries officer" at the county level, as the Bill provides for appointment by the Director-General.

318. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government under Parts V and X of the Bill. In the alternative, they suggested the County Government undertake regulation, whereas the National Government restrict itself to policy formulation.

319. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods".

320. The residents also highlighted the need for proper training and sensitization of "fishers" on the importance of conservation and why certain fishing gear and methods should be avoided. Some of the fishers were uninformed on the detrimental effects of illegal fishing gear and methods, hence the continued engagement in the illegal activities. They proposed that the role of the Kenya Fisheries Service and Kenya Marine Fisheries and Research Institute in stakeholder training and sensitization be made mandatory to ensure the two institutions undertake their role more efficiently.

321. The residents proposed the regulation and protection of breeding areas and further reintroduction of closed seasons to reduce overfishing and enhance conservation. Clause 39 enables the Director-General, by notice and subject to approval by the CS, to impose Closed seasons, however, the residents were of the view that the provision should be in mandatory terms, and the frequency should be determined.

322. The residents proposed that the provisions of the Bill be enhanced to provide for the proper vetting of fishers and registration of boats. This would help to coordinate the regulation of activities.

323. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. They also proposed that the leadership of BMUs be funded; this would help to motivate them in their role in the regulation of beaches and deter instances of corruption.

324. The residents raised concerns about the manner in which the power of hot pursuit had been enforced. In this regard, the proposal that the provision of clause 138 of the Bill on the power of hot pursuit be amended in a manner that it is undertaken reasonably, avoids excessive use of force, destruction of vessels and accidents.

325. The residents also proposed that authorised officers restrict themselves to the arrest of persons undertaking prohibited fishing activities and not engage in the detention of fishing vessels of such persons.

326. The residents also proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake.

327. Some of the residents who were PWDs proposed that there be provision of data on PWDs engaged in the sector and provision of designated areas within beach units for PWDs. They also proposed a waiver in registration and licensing fees for PWDs.

3.4.6 Siaya County

The Committee engaged the residents of Siaya County including present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Government of Siaya, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute, Kenya Coast Guard Service, Local Administration, Research Scientist and the general public including women, youth and persons with disabilities. They submitted as follows:

328. The residents of Siaya County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector.

329. In terms of suggested amendments, the residents of Siaya County provided several recommendations to strengthen the Bill.

330. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government.

331. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods". The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear.

332. The residents emphasized the need for proper training and sensitization of "fishers" on the importance of conservation and regulation of fishing gear. They observed that there was a disconnect between fishers and the Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute in terms of their role in training and general stakeholder engagement. The fisheries officers had focused on regulation and neglected their role to sensitize and train members of the public.

333. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need to streamline the functions of the Kenya Coast Guard Service and the Kenya Fisheries Service in this regard.

334. The residents proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation. They highlighted that the removal of the closed season had led to the depletion of certain species in the lake, such as Lake Victoria Sardine, commonly referred to as "*omena*".

335. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units by the National Government. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. They also proposed that BMUs be incorporated into monitoring and counter-surveillance (MCS) to offer support to authorized officers.

336. The BMU leadership proposed that a revenue-sharing formula be introduced in the Bill, from which respective BMUs could be allocated resources to facilitate their functions. They also proposed that a percentage of the landing fee paid could be allocated to respective BMUs.

337. The BMU leadership finally proposed that there be better data collection on registered and licensed fishers for enhanced coordination and regulation.

338. The residents proposed that an amendment be made to provide that all confiscated illegal fishing gear be subjected to destruction or other irreversible disposal measures, to eliminate opportunities for its re-entry into the market through corrupt practices.

339. A representative from the aquaculture sector in the region raised concern that the Bill was not aligned with the proposed Aquaculture Policy, which is being considered by the Ministry. In this regard, they opposed the Bill and proposed that aquaculture be regulated in a separate Act. However, the majority of the residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake.

340. The residents also noted there was a need to streamline regional laws and agreements regarding the utilization of joint resources such as Lake Victoria. They suggested the introduction of fishing quotas.

341. Some of the residents finally raised concern that Kenya had not implemented some of the recommendations emanating from reports of the Lake Victoria Fisheries Organization (LVFO). The LVFO, which is a specialized institution of the East African Community (EAC), is mandated to coordinate and manage the fisheries and aquaculture resources of Lake Victoria. Implementation of this report would aid in better management of the fisheries sector.

3.4.7 Homa Bay County

The Committee engaged the residents of Homa Bay County including fishermen, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Government of Homa Bay, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and

Fisheries Research Institute, Kenya Coast Guard Service, Local Administration, Research Scientist and the general public including women, youth and persons with disabilities. They submitted as follows:

342. The residents of Homabay County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector.

343. In terms of suggested amendments, the residents of Homabay County provided several recommendations to strengthen the Bill.

344. The residents also raised concerns about the harmonization of the definition of "fisheries officer" vis-à-vis *"authorized officer"*. The Bill provides that *"fisheries officer" means the Director-General and any employee of the Service described in the first schedule,* whereas *"authorised officer" means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 18.* The definition does not take cognizance of the role of counties in the appointment of "fisheries officer" at the county level, as the Bill provides for appointment by the Director-General.

345. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government. They proposed licensing to be at one level to avoid conflicts. They also proposed enforcement to be at the National Government level. However, some residents proposed that counties should license inland fisheries such as aquaculture and regulate artisanal fishermen.

346. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods". The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear.

347. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need for better coordination between the Kenya Coast Guard Service and the Kenya Fisheries Service.

348. The residents proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation. They observed the need for enhanced protection of breeding zones and the introduction of high penalties for violation of the same.

349. The residents also raised concerns about the protection of landing sites through the issuance of the requisite title deed to avoid the grabbing of such areas.

350. The residents who are members and officials of Beach Management Units (BMUs) raised concerns on the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs

be incorporated in the Act and not Regulations. They also proposed that BMUs be professionalized, term limits of BMU leadership be removed, and BMUs be regulated by the National Government as opposed to the County Governments. They proposed that BMUs be incorporated in monitoring and counter-surveillance (MCS) to offer support to authorized officers.

351. The BMU leadership finally proposed that they be funded and that data collection at the beach level be digitized.

352. The residents proposed that an amendment be made to provide that all confiscated illegal fishing gear be subjected to destruction or other irreversible disposal measures, to eliminate opportunities for its re-entry into the market through corrupt practices.

353. The residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake, such as harmful fish feeds. They further proposed enhanced protection of the indigenous fishing community. In this regard, they proposed the enhancement of clause 61 on the requirement of environmental impact assessment before approval and licensing of aquaculture activities, including the introduction of an environmental protection bond requirement.

354. The residents noted that Bill had focused on fishing and related activities; however, there was a need to introduce an aspect of promoting the blue economy. Further, the Bill ought to take cognizance of climate change and its impact on fishing.

355. Some residents further proposed that the role of the Director-General of the Kenya Fisheries Services on supervision be moved to the Director of the relevant State Department.

356. The resident also highlighted the need to retain the Fish Levy Trust Fund. This Fund would aid in capacity building and further its objectives, which could be enhanced to provide loans and start-up capital to marginalized groups, such as women, youth and persons with disabilities engaged in the fisheries sector.

3.4.8 Migori County

The Committee engaged the residents of Migori County on the Fisheries Management and Development Bill and they submitted as follows:

357. The residents of Migori County provided several recommendations to strengthen the Bill.

358. To avoid double taxation, the residents highlighted the need for a single licensing mechanism by the respective County Governments and the National Government.

359. Additionally, residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods". The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the

cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear. They also proposed that there be a clear definition or description of legal fishing gear as opposed to prohibited fishing gear, as provided in clause 41

360. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need for better coordination between the Kenya Coast Guard Service and the Kenya Fisheries Service.

361. The public proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation for species such as the Lake Victoria Sardine, commonly referred to as "*omena*". They proposed the closed season should be two weeks in a month to restore and conserve the lake.

362. The residents also raised concerns about the protection of landing sites through the issuance of the requisite title deed to avoid the grabbing of such areas.

363. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. The election of BMUs' leaders should be transparent, and term limits for BMU leadership should be removed.

364. To promote accountability and transparency in monitoring and counter-surveillance (MCS), it is proposed that authorized officers undertake patrols in the daytime and BMUs be incorporated in (MCS) and patrol to offer support to authorized officers. They also proposed that no punishment be enforced during patrol, and that any action required be undertaken at a designated location.

365. The BMU leadership finally proposed that they be funded, including the provision of a monthly stipend to facilitate their functions. They also proposed that data collection at the beach level be digitized. In terms of data collection, the fishers expressed the need for the provision of a recording of expenses incurred to be factored at the point of collection of landing and other related fees.

366. The public suggested that minor offences be handled in a corrective manner and not through the imposition of punitive measures for first-time offenders. Example where it is a first offence, educate on the importance of wearing a life jacket and issue a warning for a person who does not wear a life jacket where required to.

367. The residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake, such as harmful fish feeds. They emphasized the need for capacity building training in aquaculture and observed that aqua tourism was a potential source of income that could be utilized.

368. The public also voiced concern that there was a need to promote and protect artisanal fishers, and there was a need for funding of such fishers through access to loan facilities. In view of this, the resident highlighted the need to retain the Fish Levy Trust Fund to facilitate capacity building and to provide loan facilities to fishers.

369. The public also highlighted the need to streamline the double licensing and registration of fishing vessels by the Kenya Maritime Authority and the Kenya Fisheries Services.

3.4.8 Nakuru County

Naivasha

The Departmental Committee on Blue Economy, Water, and Irrigation conducted stakeholder engagements in Naivasha, Nakuru County allowing the public to provide views on the Fisheries Management and Development Bill, 2023. The submissions reflected the concerns, aspirations, and lived realities of artisanal and small-scale fishers, who form the backbone of Kenya's blue economy. This summary harmonizes the common issues raised in Naivasha:

370. **Public Participation and Inclusivity**

i. Ensure genuine, transparent, and timely public participation in line with Articles 10 and 118 of the Constitution.
ii. Provide adequate time for review and conduct localized forums to empower fishers with meaningful engagement.

371. **Licensing and Fees**

i. Retain the license fee at Ksh. 200 and revoke the unconsulted increase to Ksh. 560.
ii. Replace paper licenses with durable waterproof cards suitable for marine environments.

372. **Fishing Gear and Methods**

i. Withdraw blanket bans on monofilament nets and beach seines and instead regulate their use for different water bodies eg, for lakes and oceans due to different species and sizes of fish in different water bodies:
    - Mesh size controls,
    - Designated fishing zones,
    - Seasonal closures, and
    - Community monitoring through BMUs.
ii. Offer clear guidance on permitted gears, not only prohibited ones.

373. Strengthening Beach Management Units (BMUs)

i. Legally empower BMUs to co-manage fisheries with county and national authorities.
ii. Provide stipends or salaries for BMU leaders to support effective operations.
iii. Ensure inclusion of Persons with Disabilities (PWDs) in BMU leadership.
iv. Prevent political interference in BMU operations and safeguard their independence.

374. Devolution and Governance

i. Align the Bill with the Fourth Schedule of the Constitution by strengthening county governments' role in fisheries management, licensing, and enforcement.
ii. Limit the powers of the Director General to avoid duplication and centralization.

iii. Assign the national government responsibility for international and deep-sea fisheries, while counties manage local fisheries.

375. Infrastructure and Market Development

i. Invest in landing sites, cold storage, fish processing hubs, and transport links.
ii. Ensure there is riparian land near the lake to ensure pollution of the lake caused by farming activities do not interfere with the fish.
iii. Reclaim encroached landing sites, reopen blocked access roads, and secure title deeds for BMU-managed facilities.
iv. Facilitate market linkages, value addition, and export readiness while safeguarding local food security.

376.Protection of Fishers and Livelihoods

i. Establish compensation mechanisms for injuries, loss of life, or destruction of gear caused by vessels or marine wildlife.
ii. Provide larger boats, safety equipment, and insurance to enhance security at sea.
iii. Recognize and protect the rights and livelihoods of artisanal fishers in all regulatory frameworks.

377.Protection of Coast Guards

i. Establish compensation mechanisms for injuries, loss of life, or destruction of gear caused by marine wildlife and illegal fishermen.
ii. Provide larger boats, safety equipment, and insurance to enhance security at sea.

378.Education, Training, and Youth Empowerment

i. Establish a Youth Fisheries and Aquaculture Fund to support innovation and value addition.
ii. Provide scholarships and bursaries in marine sciences and blue economy studies.

379.Combating Illegal, Unreported, and Unregulated (IUU) Fishing

i. Strengthen inspections of foreign vessels and ensure government presence onboard.
ii. Enhance monitoring, control, and surveillance (MCS) to protect artisanal fishers and marine ecosystems.
iii. Section 39(3)(b,c) be removed or reviewed (on special licenses)

380.Environmental Protection and Conservation

Pollution - Prevent harmful waste disposal from farmers and destructive practices like dumping pesticides in the lake

3.4.9 Baringo County

The Departmental Committee on Blue Economy, Water, and Irrigation conducted stakeholder engagements in Baringo County allowing the public to provide views on the

Fisheries Management and Development Bill, 2023. The submissions reflected the concerns, aspirations, and lived realities of artisanal and small-scale fishers, who form the backbone of Kenya's blue economy as follows:

i. Determination of Jurisdiction Over the Lake - Stakeholders requested clarity on whether the management of the lake falls under county or national government.

ii. Recognition of Beach Management Units (BMUs) - They proposed that BMUs be formally recognized in the relevant legislation and allowed greater autonomy in managing their affairs.

iii. Enhanced Intergovernmental Consultation – They expressed the need for strengthened collaboration and regular consultation between the county and national government was highlighted.

iv. Licensing and Cess/Landing Charges - Concerns were raised regarding the current framework for licensing and associated cess or landing fees.

v. Capacity Building for Fishers - Stakeholders requested that fisheries officers intensify training and capacity-building programmes for fishers.

vi. Support for Regulation of Fishing Gears - They emphasized the need to regulate fishing gears and ensure compliance to protect fish stocks.

vii. Provision of Speed Boats- The national government was urged to provide speed boats to enhance fisheries management and ensure safety.

viii. Vetting of BMU Leadership - Stakeholders recommended proper vetting of Beach Management Unit officials to ensure accountability and transparency.

ix. Feeding of Fish in Lake Baringo – Concern was raised regarding practices related to feeding fish and the need for clear guidance or regulation.

x. Prohibition of Night Fishing - There was a proposal to restrict or prohibit night fishing due to safety and conservation concerns.

xi. Control of Agricultural Activities Along the Lake Shoreline - Stakeholders recommended prohibiting or regulating agricultural activities near the lake to reduce pollution and environmental degradation.

xii. Introduction of Closed Fishing Seasons - They suggested establishing specific closed seasons to allow fish regeneration and sustain the fishery.

xiii. Security for Wildlife and Humans - Concerns were raised about the security of both wildlife and local communities, calling for stronger measures to enhance safety in and around the lake.

3.4.10 Turkana County

381. The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill no. 29 of 2023 in Turkana County on Friday, 14th November, 2025, at Kalokol. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

382. Members of the public raised concern on the prohibited gears particularly monofilament nets yet the Bill is silent on the manufacturer. They proposed that it should be an offence in the Bill for any manufacturer who manufactures monofilament nets or any other prohibited fishing gears.

383. The was also a proposal to expand the definition of the fisheries officer to also include those currently working in the National and County Governments departments of fisheries.

384. Composition of the institutions such as the Advisory Council and the Fish Marketing Authority established in the Bill are mostly comprised of members of the National Government. There was a proposal to ensure fair distribution of the membership to include county governments considering that fisheries is a devolved function in the Constitution.

385. Additionally, the public proposed inclusion of BMUs representation in the established institutions. Highlighting the importance of empowering BMUs, they suggested that BMUs be granted more legal recognition and decision-making powers to enable them to co-manage fisheries alongside county and national authorities. This, they argued, would improve accountability and ensure sustainable fisheries management.

386. Moreover, there was a concern that the Bill proposes to establish these institutions in Nairobi County, it was proposed to have these institutions in other cities such as Kisumu or Eldoret.

387. In the same way, the public proposed for fishing ports to be included in inland waters such as Lake Turkana and provision of aquaculture funding of fisherfolks in inland fishing ground such as Lake Turkana. They also noted that high licensing fees charged on aquaculture activity may also discourage fish farming.

388. Members of the public also proposed for inclusion in the Bill the responsibility of the Government to get rid of any pollution in the water that is naturally occurring such as the Mathenge weeds that have invaded the lake.

389. Members of the public raised concern about the need for capacity training of BMUs on how to handle post-harvest losses noting the hot weather in Turkana County and the perishable nature of fish caught by the fisher-folks. Further, they proposed improvement of infrastructure and market access. They recommended transport links and market

infrastructure be enhanced to allow fisher-folks to sell their catch directly. This would cut out exploitative middlemen and improve earnings for local communities. They further proposed the establishment of fish processing and packaging hubs to promote value addition and exports.

390. The fisher-folks noted with concern the lack of awareness of boundaries in the Lake noting regular arrests by officers from the Kenya Wildlife Service for fishing in waters strictly prohibited by KWS-managed marine parks. They proposed that the Bill should consider inclusion of KWS in refence to creating awareness, training and compensation of fisher-folks fishing in waters bordering KWS-managed marine parks.

3.5 Written Submissions from Stakeholders

391. The Committee further received memoranda from the Kenya Fish Marketing Authority (KFMA), Lake Victoria Aquaculture (LVAA) and Lake Naivasha Basin Landscape Association (LANABLA) as follows:

3.5.1 Kenya Fish Marketing Authority (KFMA)

The Committee received Memorandum on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) from the Kenya Fish Marketing Authority (KFMA) as follows:

392. The fisheries sector in Kenya is a critical component of the national economy, contributing significantly to food security, employment, and foreign exchange earnings. Kenya is endowed with vast inland water bodies, including Lake Victoria, Lake Turkana, and Lake Naivasha, as well as a long coastline along the Indian Ocean. Additionally, the potential for aquaculture remains largely untapped, representing a new frontier for economic growth. Despite this potential, the sector faces numerous challenges, including overfishing, illegal fishing, inadequate infrastructure, and weak regulatory frameworks.

393. The recent approval by the Cabinet to dissolve the Kenya Fish Marketing Authority (KFMA) and the ongoing debate in Parliament to replace the Fisheries Management and Development Act of 2016 present a unique opportunity to reimagine the governance and management of the fisheries sector. The KFMA Board, in consultation with stakeholders, proposes the establishment of a single, unified state corporation—the Kenya Fish Development Authority (KeFDA)—to manage and develop the fisheries sector in Kenya. This paper outlines the rationale, mandate, and functions of KeFDA, in line with international fisheries instruments, and provides a compelling case for its establishment.

394. The fisheries sector in Kenya has the potential to contribute up to KES 100 billion annually to the national economy. However, this potential remains unrealized due to fragmented management, overlapping mandates, and inadequate coordination among existing institutions. The current regulatory framework, split between the Kenya Fisheries Service (KeFS) and KFMA, has led to inefficiencies and gaps in service delivery.

395. The establishment of KeFDA will address these challenges by:

i. Streamlining governance: KeFDA will consolidate the functions of KeFS and KFMA under a single authority, ensuring cohesive policy implementation and resource allocation.

ii. Enhancing sector coordination: By bringing together regulatory, marketing, and development functions, KeFDA will provide a unified approach to managing the fisheries sector.

iii. Promoting sustainable practices: KeFDA will align its operations with international fisheries instruments, such as the FAO Code of Conduct for Responsible Fisheries, to ensure sustainable exploitation of fisheries resources.

iv. Unlocking aquaculture potential: KeFDA will prioritize the development of aquaculture as a key driver of economic growth, leveraging Kenya's favourable climatic conditions and water resources.

396. The mandate of KeFDA shall be to promote, regulate, and develop the fisheries sector in Kenya through sustainable management of fisheries resources, effective marketing strategies, and the promotion of aquaculture. KeFDA will operate as a state corporation under the Ministry of Agriculture, Livestock, Fisheries, and Cooperatives, with the following core objectives: to ensure sustainable exploitation and conservation of fisheries resources; to promote the development of aquaculture as a key pillar of the blue economy; to enhance the value addition and marketing of fish and fish products; to provide technical and financial support to fishers, fish farmers, and other stakeholders; and to enforce compliance with national and international fisheries regulations.

397. KeFDA will be structured into specialized directorates, each responsible for specific functions currently under KeFS and KFMA. The proposed directorates and their functions are as follows:

i. Directorate of Fisheries Management will develop and implement policies for the sustainable management of fisheries resources; monitor and control fishing activities to prevent overfishing and illegal fishing; conduct research and data collection to inform fisheries management decisions; and promote community-based fisheries management initiatives.

ii. Directorate of Aquaculture Development will develop and implement strategies for the growth of aquaculture; provide technical support and training to fish farmers; facilitate access to quality fish feeds, fingerlings, and other inputs; and promote public-private partnerships in aquaculture development.

iii. Directorate of Marketing and Value Addition will develop and implement marketing strategies for fish and fish products; establish and manage

iv. fish storage, processing, and cold chain facilities; promote value addition and export of fish products; and facilitate market access for small-scale fishers and fish farmers.

v. Directorate of Compliance and Enforcement will enforce compliance with fisheries laws and regulations; combat illegal, unreported, and unregulated (IUU) fishing; conduct surveillance and patrols in fishing zones and landing sites; and collaborate with other law enforcement agencies to ensure compliance.

vi. Directorate of Research and Development will conduct research on fish stocks, aquaculture technologies, and climate change impacts; develop innovative solutions for sustainable fisheries management; collaborate with academic and research institutions to advance fisheries science; and disseminate research findings to stakeholders.

vii. Directorate of Finance and Administration will manage the financial resources of KeFDA; develop and implement internal controls and accountability mechanisms; provide administrative support to other directorates; and facilitate capacity building for KeFDA staff.

398. KeFDA will operate in accordance with international fisheries instruments, including the FAO Code of Conduct for Responsible Fisheries—KeFDA will promote responsible fishing practices and sustainable resource management. United Nations Sustainable Development Goals (SDGs)—KeFDA will contribute to SDG 14 (Life Below Water) by conserving marine and inland fisheries resources. Port State Measures Agreement (PSMA)—KeFDA will implement measures to combat IUU fishing in line with the PSMA. Convention on International Trade in Endangered Species (CITES)—KeFDA will ensure that trade in fish and fish products complies with CITES regulations.

399. The establishment of KeFDA is a strategic intervention that will transform the fisheries sector in Kenya. By consolidating the functions of KeFS and KFMA, KeFDA will provide a unified and efficient framework for managing fisheries resources, promoting aquaculture, and enhancing the marketing of fish products. This will unlock the sector's potential to contribute KES 100 billion annually to the national economy, create employment opportunities, and improve food security.

400. The KFMA Board respectfully requests Parliament to consider this memorandum and enact legislation for the establishment of KeFDA. We believe that this initiative will position Kenya as a leader in sustainable fisheries management and aquaculture development in the region.

3.5.2 Lake Victoria Aquaculture Association (LVAA)

401. The Bill introduces substantial reforms to the governance framework for fisheries and aquaculture, including the establishment of new institutional structures and regulatory requirements that will have a direct bearing on aquaculture investments and operations across the country.

402. The analysis acknowledges that an ideal African aquaculture law must prioritize sustainability, equitable access, and stakeholder participation, ensuring long-term

resource management while supporting livelihoods and food security. Nonetheless, keen scrutiny of the current Bill raises the following critical concerns:

403. On Core legal and regulatory weaknesses of the Fisheries Development and Management Bill, 2023, the Bill fully replicates the Fisheries Management and Development Act of 2016, with little substantial progress or variation. This duplication signifies the Ministry's lack of policy imagination and commitment toward comprehensive sectoral reform. Given the significant shifts in aquaculture over the past decade, driven by climate change, innovation, and regional integration, the reintroduction of nearly identical legislative text fails to address current and future needs. The opportunity to reset the regulatory foundation for aquaculture has been lost due to a copy-paste approach.

404. The Bill lacks specific provisions for targeted development measures to address aquaculture's unique challenges and opportunities. While Section 30 enables the Director-General to promote development through various measures, these broadly apply to all fisheries sectors rather than tailored to aquaculture's distinct needs. In particular, the Bill omits: specific incentives for aquaculture investment and expansion; targeted research and technology transfer programs for aquaculture; specialized extension services for aquaculture producers; and dedicated credit facilities or risk-sharing mechanisms for aquaculture operations.

405. These omissions may limit the Bill's effectiveness in driving aquaculture development, particularly for small and medium-scale producers who often face significant barriers to entry and growth. Further, this limited recognition represents a missed opportunity to position aquaculture as a strategic growth sector rather than simply another regulated activity. Without explicit recognition of aquaculture's development potential, there's a risk that implementation will focus disproportionately on compliance rather than promotion.

406. The Bill seems to operate in a policy vacuum. There is no reference to a national aquaculture development policy or an overarching strategy that informs its regulatory framework. Sound legislative processes dictate that laws should be driven by policy. In this case, the lack of a guiding policy framework renders the Bill directionless, reactive, and susceptible to inconsistencies in implementation. It becomes impossible to discern the government's long-term vision for aquaculture, including whether the intent is regulation, development, commercialization, or merely administrative control.

407. The Bill perpetuates an outdated view of aquaculture as a sub-sector of capture fisheries rather than recognizing it as a distinct economic pillar. This subordination is evident in the generic institutional structures and standardized licensing requirements. Globally, aquaculture is acknowledged as a rapidly growing, independent sector with specific regulatory, investment, and innovation needs. A separate Aquaculture Development and Regulation Act, distinct from capture fisheries, should be enacted to fully support its growth, aligning with international best practices and regional commitments under the African Union Blue Economy Strategy.

408. Aquaculture is a constitutionally devolved function. However, the Bill's centralization of authority, particularly in Sections 7-29 and 33-37, fails to meaningfully incorporate county governments into decision-making. This creates fertile ground for jurisdictional friction, duplication of functions, and regulatory confusion. A genuinely progressive Bill should reflect a cooperative and coordinated framework, enabling counties to take the lead in localized aquaculture development while being guided by a harmonized national policy.

409. The division of responsibilities between national and county levels, while constitutionally necessary, creates potential coordination challenges that could hamper coherent sector development. Section 34 allows counties to develop fisheries management plans, and Section 65 assigns counties responsibility for monitoring aquaculture activities, but the Bill provides limited mechanisms for harmonizing these approaches across counties. This fragmentation could lead to inconsistent development approaches, creating an uneven playing field for aquaculture operators in different counties. Without effective coordination mechanisms, the sector may develop in a patchwork fashion rather than through a coherent national strategy.

410. The Bill fails to place research and development (R&D) at the core of aquaculture transformation. While Section 27 establishes a Fisheries Research and Development Fund, there is no specific allocation or framework aimed at aquaculture-related innovation. Given the sector's dependence on adaptive breeding, disease control, feed efficiency, and climate resilience, R&D must be integrated as a strategic priority. Legislative acknowledgment of R&D funding, incubator programs, and innovation partnerships (particularly with universities and the private sector) is crucial for sectoral progress.

411. The Bill emphasizes compliance and control mechanisms but overlooks support for innovation and investment incentives. Sections 114-123 impose layered licensing, registration, and inspection processes without exceptions for pilot projects or incubation schemes. Furthermore, there is no provision for aquaculture research incubation or the promotion of technological innovation.

412. Sections 84, 86, and 123 create a consistent licensing system for all aquaculture activities, regardless of scale or environmental risk. Furthermore, the annual renewal process outlined in Section 122 adds to bureaucracy and impedes long-term investment planning.

413. Part XIII (Sections 136-152) grants inspectors extensive enforcement powers, such as warrantless entry (Section 140) and administrative proceedings without thorough judicial review (Sections 182-183). These provisions pose legal and operational risks for investors and small operators.

414. Although the Kenya Fisheries Service (Sections 7-29) and the Fish Marketing Authority (Sections 198-207) are established, decision-making remains overly centralized in the hands of the Cabinet Secretary and Director-General. Sections 33-37 do not sufficiently clarify the roles between the county and national levels, leading to potential jurisdictional overlap.

415. The Bill lacks incentives for innovation, investment zones specific to aquaculture, and frameworks for capacity building. The Fish Levy Trust Fund (Section 28) is poorly structured and offers no dedicated support for R&D or disease management in Aquaculture. Further, sections 65-70 address fish health, the Bill does not establish a national disease response mechanism, aquatic animal health protocols, or designated quarantine and disease zones.

416. Section 119 enables the Director-General to make licensing decisions without consulting the public. Section 83 permits the discretionary publication of information without requiring transparency or stakeholder involvement in spatial planning or regulatory reforms.

417. The following measures should be considered as legislative amendments or accompanying policy actions to address these core structural deficits:

i. Draft a standalone Aquaculture Development and Regulation Bill, separate from the FMD Bill, with specific investment, innovation, commercialization, and environmental protection provisions. Additionally, define the roles and responsibilities for government agencies and stakeholders.
ii. Mandate the creation and release of a National Aquaculture Policy and Strategic Plan before or simultaneously with any regulatory framework. Additionally, ensure that aquaculture policies align with broader national development goals, including food security, economic growth, and environmental sustainability.
iii. Establish clear regulations for aquaculture development, including site selection, water quality standards, and disease management to minimize environmental impacts.
iv. Legislate precise R&D funding mechanisms supported by law, including aquaculture incubators and grants.
v. Establish a Devolution Coordination Mechanism (Intergovernmental Coordination Framework) featuring a statutory intergovernmental forum to align county and national strategies regarding Aquaculture.
vi. Provide secure tenure rights to aquaculture operators, ensuring long-term investment and sustainable practices. This program should focus on the needs of small-scale aquaculture producers by providing access to credit, technology, and training.

418. The Sections Review of the Fisheries Management and Development Bill, 2023 highlights key policy, institutional, and regulatory issues affecting aquaculture. Under Policy Issues, it notes that an overemphasis on conservation vs. economic growth (Part V, Sections 30–53, and Part VIII, Sections 61–74) may result in strict conservation measures that limit aquaculture expansion and innovation. These measures could impose additional costs through enhanced environmental compliance requirements. Further, the focus on ecological sustainability and community access (Sections 5, 63, 64) could restrict operational expansion due to increased compliance demands and community negotiations.

419. The provision for subsistence fishing exemptions (Section 85) risks market distortion if subsistence fishers shift to commercial activities without oversight, potentially leading to unfair competition. A precautionary approach in aquaculture (Sections 66, 70) mandates environmental impact assessments and restricts drug/chemical use, which could delay operations and elevate compliance costs.

420. In addition, the need for harmonization with county plans (Sections 33–37) requires county fisheries management plans to align with national policies, which might result in bureaucratic delays. Transboundary collaboration requirements (Section 73) impose obligations to align with neighboring states' aquaculture policies, possibly complicating operations in shared water bodies.

421. On Institutional Framework Concerns, the establishment of Kenya Fisheries Service (KFS) (Sections 7–29) creates a centralized authority that requires new relationships, and over-reliance on the Director-General for approvals might lead to bureaucratic delays. Furthermore, the creation of the Kenya Fisheries Council (Section 6) introduces a high-level advisory body that will shape aquaculture policy but may lack sufficient industry representation. On the establishment of the Fish Marketing Authority (Sections 198–207), while providing necessary marketing infrastructure, FMA's control over trade may restrict private-sector pricing autonomy and market strategies.

422. The review further outlines Relations between County and National Government (Sections 33–37), the dual regulatory oversight requiring compliance with both jurisdictions could lead to conflict between county-level plans and national directives, resulting in regulatory inconsistency. Regarding Observer Programme Implementation (Sections 147–152), the mandatory deployment of observers could increase operational costs and create logistical challenges for aquaculture operations. In terms of Coordination Between Levels of Government (Sections 33–37, 65), the lack of clear coordination mechanisms between national and county governments may result in confusion and compliance difficulties.

423. Under Licensing and Operational Requirements, the section on Commercial Aquaculture Licensing (Sections 61, 84(1)(d), 113–123) highlights that complex mandatory licensing with various prerequisites and conditions may deter investment and delay project launches. The area of Environmental Compliance (Sections 48, 62, 68, 119(2)-(3)) is marked by more stringent environmental impact assessment requirements for aquaculture establishments, adding to start-up costs and timeframes.

424. For Aquaculture Site Inspection (Section 121), mandatory pre-approval inspections with associated fees add to establishment costs. The stipulations on License Validity and Renewal (Section 122), a 10-year license term with annual renewal requirements creates both stability and regular administrative burden. Further, the Permit Conditions (Sections 118, 122) entail extensive requirements covering facility construction, species control, and safety standards, thereby increasing compliance complexity.

425. In the area of Operational Regulations and Compliance, the review points out that Fish Disease Management (Sections 65–67, 70, 122(2)) imposes strict compliance for disease prevention and control, empowering county governments to enforce stock destruction and other stringent measures. Furthermore, on Waste Management Obligations (Section 68), mandatory practices may necessitate facility redesigns, with the cost of treating or securing waste potentially straining small to medium-sized enterprises. For Escaped Fish Management (Section 69), the law imposes liability for fish escapement along with immediate reporting requirements, and the associated strict penalties could disproportionately affect smaller operators.

426. On use of chemicals and pharmaceuticals (Section 70, 122(2)(i)), restrictions on use of drugs, chemicals, antibiotics with prior approval required, potentially limit productivity and innovation. Further, on record keeping (Section 122(2)(p)), extensive record keeping obligations add administrative burden. Additionally, data reporting and confidentiality (Part IX sections 75-83), indicates that a mandatory disclosure of sensitive operational data risk intellectual property security.

427. Under species and breeding controls, the review notes that on introduction of exotic/Gm Species (Section 66), a written permission required with environmental assessment prerequisites potentially limit innovation. Further on fish transfer regulations (Section 54-56, 66), restrictions on movement of fish, eggs fingerlings between establishments adds operational complexities. On information requirements (Section 71), mandatory collection and reporting of data on wild and GM species creates additional administrative requirements.

428. Further, in the area of marketing and trade provisions, on fish marketing framework (Section 57, 198-207) indicates that new structured marketing system through fish marketing authority potentially limits market autonomy. On quality and safety standards (Section 58-60), comprehensive quality control and safety requirements increase monitoring and compliance cost. In addition, export restrictions (Section 54-55) notes that regulated export of live fish with additional compliance requirement potentially restricts market access.

429. On various clause on penalties for compliance indicates that significant fines (up to 5 million) and imprisonment terms for infractions could cripple businesses financially. Furthermore, administrative proceedings (Section 182-183), notes possibility of summary administrative proceedings for violations without full judicial oversight.

430. On the financial and administrative concerns, the allocation of the Fish Levy Trust Fund under Section 28, indicates that the proposed allocation of funds to counties could either support or burden aquaculture development depending on implementation. High penalties on multiple sections were also noted, with the impact being that severe financial penalties for non-compliance were creating disproportionate risks, especially for smaller operators. Additionally, the cost of compliance on multiple sections was highlighted, with the impact being the cumulative cost of meeting multiple regulatory requirements potentially affecting business viability.

431. On critical issues concerns based on the review of the bill, it was noted that the bill introduces a significant regulatory burden by imposing multiple new licensing, reporting, and compliance requirements. These obligations are expected to increase administrative challenges and operating costs for aquaculture enterprises. In addition, dual oversight arising from overlapping national and county jurisdiction may create confusion and result in conflicting regulatory requirements, making it difficult for stakeholders to comply efficiently.

432. Furthermore, the proposed environmental assessment requirements are more stringent and could delay project approvals while also increasing start-up costs for new entrants into the sector. Moreover, the bill grants broad enforcement powers, including extensive inspection rights and the imposition of significant penalties. This increases the operational risks faced by businesses, especially those unable to keep up with frequent inspections and tight compliance expectations.

433. With respect to operational restrictions, the bill introduces new limitations on species selection, use of chemicals, feed types, and aquaculture management practices. These constraints could reduce flexibility and innovation in farming operations. In addition, product and market controls, such as mandated quality standards and marketing restrictions, may limit market access for some producers, particularly those operating at a smaller scale or with limited technical capacity.

434. Lastly, the introduction of disproportionate penalties poses another concern. The severity of the penalties may disproportionately affect smaller operators who lack the resources to establish the necessary compliance infrastructure, thereby putting their operations at risk of closure or financial strain.

435. On recommendations, it was noted that to address the above concerns, several strategic measures are proposed;

i. Streamline Licensing Processes: Efforts should be made to introduce fast-track approvals for low-risk aquaculture activities. It is also important to clearly delineate the licensing authority between county and national governments to avoid duplication and inefficiencies. Furthermore, the implementation of digital licensing platforms can help reduce bureaucratic delays and improve service delivery.

ii. Balance Conservation and Commercial Needs: The bill should exempt closed-system aquaculture from certain restrictions applicable in marine protected areas, given their limited environmental impact. It should also allow for the conditional use of growth-enhancing drugs under strict veterinary oversight. Additionally, a tiered regulatory approach, based on operation size and environmental impact, would help ensure fair and proportional regulation across the industry.

iii. Mitigate Financial Burdens: Financial barriers can be addressed by providing subsidies or tax incentives to support the development of waste management infrastructure. Moreover, penalties for small and medium-sized enterprises (SMEs) should be capped based on revenue thresholds to ensure proportionality.

Clearer compensation mechanisms should also be established for the destruction of aquaculture stock due to disease outbreaks.

iv. Enhance Data Protections: Confidentiality safeguards should be strengthened to protect proprietary aquaculture data from unnecessary exposure. In this regard, disclosure requirements should be limited strictly to information essential for regulatory compliance, thereby respecting commercial sensitivities.

v. Clarify Institutional Roles: There is a need to establish clear procedures and timelines for intergovernmental coordination to avoid overlaps and gaps in regulatory responsibilities. In addition, the inclusion of aquaculture industry representatives in both the Kenya Fisheries Council and the Fish Marketing Authority will enhance stakeholder engagement. Furthermore, specific appeal mechanisms should be defined to help resolve conflicts between national and county regulations effectively.

vi. Implement Phased Compliance: To ease the transition, existing operations should be allowed adequate time to meet new regulatory requirements. Moreover, compliance schedules should be graduated based on the size and capacity of the enterprise, ensuring that smaller operators are not unduly burdened.

vii. Support Technical Capacity Development: Resources from the Fish Levy Trust Fund should be allocated towards building compliance capacity. This includes developing industry-specific guidance documents and providing training to ensure all stakeholders are adequately informed about the new requirements.

viii. Governance and Policy Framework: It is essential to establish a clear and comprehensive legal framework for aquaculture that defines the roles and responsibilities of all government agencies and stakeholders. In addition, investment in data collection, monitoring, and research will support evidence-based decision-making in fisheries and aquaculture management. To conclude, transparency and accountability should be promoted through guaranteed public access to relevant information and the creation of effective dispute resolution mechanisms.

436. It was further noted that to effectively support aquaculture, the following measures should be integrated into the legal and policy framework. Firstly, in terms of infrastructure development, the government must invest in rural infrastructure (roads, water, electricity, digital connectivity, and social services) to unlock the aquaculture potential in underserved areas. Moreover, establishing a modern legal framework is essential. An appropriate legal regime should streamline licensing, acknowledge devolved roles, and minimize duplication while clearly distinguishing between aquaculture and capture fisheries.

437. In addition, there is a need for the promotion of research and development (R&D). This requires increased funding and the establishment of national aquaculture research centers focusing on species selection, disease control, and climate adaptation. Furthermore, the

integration of monitoring and evaluation (M&E) systems is vital. Robust M&E systems are necessary to track performance, identify biosecurity threats, and assess policy impact.

438. Land and water access must be addressed through the implementation of clear legal mechanisms and incentives that facilitate access to these critical resources for aquaculture. Alongside this, private sector enablement should be prioritized by enacting measures to attract private investment, mitigate risks associated with innovations, and create favorable conditions for value chain development.

439. In terms of stakeholder involvement, community engagement must be institutionalized by embedding public participation mechanisms in policy development and implementation, thereby acknowledging community rights and knowledge systems. Finally, public-private partnerships (PPPs) should be encouraged in research, extension services, infrastructure, and market development through clearly defined legal provisions.

440. On comparative Lessons from South Africa, it was noted that South Africa's Aquaculture Development Bill (2023) provides a targeted and strategic approach to aquaculture regulation. Its strengths encompass tiered licensing systems, transformation targets, aquaculture development zones (ADZs), aquatic disease control protocols, and participatory institutional structures. Therefore, Kenya can improve its legislation by adopting these mechanisms to promote inclusive, investment-friendly, and innovative aquaculture governance.

441. On recommendations based on best practices from South Africa, it was noted that Kenya should establish a comprehensive Aquaculture Development Act that emphasizes sector growth and sustainability. Further, an introduction of tiered licensing systems with streamlined procedures for low-risk or small-scale aquaculture is recommended. Additionally, the establishment of Aquaculture Development Zones (ADZs) with government-funded infrastructure and environmental clearance would provide significant support to the sector. Public consultation should be mandated in licensing, policy planning, and spatial mapping processes.

442. Furthermore, establishing a national aquatic animal health authority equipped with surveillance, laboratory, and quarantine capabilities is crucial. Counties should also be empowered by utilizing intergovernmental coordination forums and implementing devolved regulatory timelines. In line with this, the Fish Levy Trust Fund should be revised to designate funding for innovation, training, and biosecurity systems. Lastly, enforcement powers must be limited while ensuring due process safeguards and including investor protection provisions.

443. In conclusion, it was noted that the Fisheries Management and Development Bill, 2023 represents a necessary modernization of Kenya's blue economy governance. However, in its current form, it risks deterring investment, stifling innovation, and overwhelming practitioners with excessive regulation. By adopting a more enabling legal framework inspired by South Africa's approach, Kenya can unlock the full potential of its aquaculture sector in alignment with Vision 2030 and the AU Blue Economy Strategy.

3.5.3 Lake Naivasha Basin Landscape Association (LANABLA)

Clause 2

444. Define the terms to read: - Fisheries: Means all activities relating to the management and utilization of fish resources and its environment starting from preproduction, production, processing until marketing and includes a place where fish is caught for commercial purposes.

Standing committee: Means an advisory or regulatory committee focused on maintaining and improving the quality standards of fish and fishery products.

Technical Committee: Means a committee tasked with formulating and overseeing the implementation of quality and safety standards for fish and fishery products.

Justification: The terms should be defined to make it easier to understand the intent and scope of legislation.

Committee Observation:

The amendment may not be adopted as fishery is already defined in the Bill.

Clause 11(1)(c)

445. Insert the words "one whom shall be a representative of the BMU at the National Level" immediately after public officers to read: - Five members, not being public officers, one whom shall be a representative of the BMU at the National Level openly appointed by the Cabinet Secretary for their long-term knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;

Justification: To articulate the issues of fisherfolks.

Committee Observation:

The amendment has been adopted with necessary modifications to provide for the category of members who shall not be public officers.

Clause 34(1)

446. Delete "May" and replace with "Shall" to read: - Each County shall develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in the Fourth Schedule to the Constitution.

Justification: To make it mandatory for counties to develop the fisheries management plans.

Committee Observation:

The amendment was adopted for purposes of ensuring there is sustainable fisheries management at the county level.

Clause 37

447. Insert the following 7 sub-sections immediately after sub section 37(2) to read: -

"(3) A Beach Management Unit under this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108).

(4) A Beach Management Unit registered in accordance with this section may apply to the County Director of Fisheries for permission to participate in the conservation and management of a fishery:

(5) Provided no such application shall be made where there is an existing prior agreement or license in relation to that fishery.

(6) An application made in accordance with this section shall be in the prescribed form and shall provide-

(a) a list of the members of the association and its address;
(b) the Constitution of the association;
(c) the association's financial regulations;
(d) the area of fishery for which the association proposes to undertake conservation and management;
(e) the association's proposals concerning-
(i) use of fishery resources;
(ii) methods of conservation of biodiversity;
(iii) methods of monitoring and protecting wildlife and plant populations and enforcing such protection; and
(f) necessary. any other consideration the Director may deem

(7) Where the Director grants permission in accordance with this section, he/she may impose such conditions as it may deem fit including the development of fisheries co-management plan in accordance with this Act.

(8) The Director shall enter into Co-Management Agreement with BMU in respect to the fisheries co- management plan.

(9) There shall be a Beach Management Unit Network in a Fishery where more than one BMU share a common resource. The Umbrella Beach Management Unit in this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108)."

Justification: BMUs need to be legally registered and its network anchored in the law. Further, there is need to formalize and strengthen co-management working relationship between National government, county government and BMUs.

Committee Observation:

The amendments have been adopted with necessary modifications, further regulations are to be made for effective implementation of the provisions.

Clause 42

448. Insert a sub section immediately before sub section 42 (3) to read:- The Cabinet secretary shall develop regulations and Management plans to give guidelines on mesh Size for specific water bodies and fish species in the fresh water fisheries.
Justification: This shall ensure that mesh size shall take into consideration the characteristics of each fisheries thus ensuring its sustainable utilization.

Committee Observation:

The amendment has been adopted.

Clause 50 (1)

449. Insert a subsection above Sec 50(1) to read: - The Cabinet Secretary may, on the recommendation of the Director-General provide guidelines for: -

(a)Fish landing stations
(b) designated fishing ports, and
(c) protected fish breeding grounds"

Justification: There is lack of guidelines for the establishment of fish landing stations, designated fishing ports, and protected fish breeding grounds.

Committee Observation:

The amendment has been adopted with necessary modification to provide for fish landing stations and designated fishing ports.

Clause 58 (2)

450. Insert a clause immediately after Sec. 58(2) to read: Sec. 58(3) the standing committee and a technical committee shall be composed of: -

(a) Kenya Fisheries Service
(b) Kenya Marine and Fisheries Research Institute
(c) Kenya Bureau of Standards
(d) County Government
(e) Ministry of Agriculture, Livestock and Fisheries
(f) Ministry of water and sanitation
(g) Ministry of Health

Justification: It removes the ambiguity in establishing the committees.

Committee Observation:

The proposal was not accepted as different technical experts and agencies may be required at different times.

Clause 67 (2)

451. Delete "May" and replace with "Shall" to read: - The Director-General shall seize, hold, quarantine, disinfect or destroy any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and shall take such measures where it is determined that the species are diseased or highly invasive.

Justification: To make it mandatory for Director General to ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya.

Committee Observation:

The amendment was adopted to ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya for proposition of protection and conservation.

Clause 88 (1) (g)

452. Insert the following words immediately after previous "two years for artisanal, four years for semi-industrial and 6 years for industrial" to read:- within the previous two years for artisanal, four years for semi-industrial and 6 years for industrial, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, any relevant international conservation and management measures or any international agreement and has not complied with a judgment or administrative determination unless, in respect of a vessel there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new owner(s), and the new owner(s) do not have a history of engaging in illegal, unreported or unregulated fishing;

Justification: The length of punishment following a conviction is disproportionately long. Amend to ensure that the penalties imposed are commensurate with the gravity of the infraction. Further, reduce the length of punishment to two years for artisanal offenses, 4 years for semi-industrial and 6 years for industrial as it seems reasonable as a measure of enforcing discipline and will help deter repeat offenses.

Committee Observation:

The amendment was not adopted for purpose of deterring the prohibited activities.

Clause 90 (6)

453. Amend to insert "not less than thirty-five thousand and" to read: A person who contravenes subsection (3), (4) or (5) commits an offense and shall be liable on conviction to a fine not less than thirty-five thousand and not exceeding three hundred and fifty thousand or to a term of imprisonment not exceeding three years or to both.

Justification: For sustainability purposes, there's a need for minimum threshold to deter any repeat offenders.

Committee Observation:

The provision as per the Bill is sufficient.

Clause 98 (1)

454. Amend to abolish the fish marketing authority and instead establish a directorate in Kenya Fisheries Service to play this role so as to remove the duplication of roles, bureaucracy and wastage of resources.

Committee Observation:

The Committee has proposed to transfer the functions of the Fish Marketing Authority have been transferred to the Service.

Clause 124 (3)

455. Amend to read: A person who contravenes subsection (1) commits an offense and shall be liable on conviction to a fine not less than Fifty Thousand and not exceeding five hundred thousand or to a term of imprisonment not exceeding five years or to both.

Justification: For sustainability purposes, there's a need for a minimum threshold to deter any repeat offenders.

Committee Observation:

The provision as per the Bill is sufficient.

Clause 163 (1)

456. Insert "Except for Perishable items listed in Section 166(1)" immediately after items seized. To read: - Where a person is released without being charged or where prosecution is not instituted within thirty days after a person is charged, all items seized "Except for Perishable items listed in Section 166(1)" shall be returned to the person.

Justification: To account for items such as fish which might cause the state to incur unnecessary cost

Committee Observation:

The amendment is not necessary.

Clause 165 (1)

457. Insert the words immediately after this Act "shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered" to read: - Any item seized pursuant to this Act shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered into the custody of the Director-General.

Justification: Not all seized items are deemed to be under the custody of director general.

Committee Observation:

The amendment is not necessary.

Clause 165 (2)

458. Insert "inform of seizure notice signed by both parties" to read: - A written seizure notice signed by both parties shall be given to the person from whom any article or item was

seized or to any other person whom the fisheries inspector believes is the owner or person otherwise entitled to possession of the article or item seized and the grounds for such seizure shall be stated in the receipt.

Justification: For the notice to be signed by both parties to serve as seizure evidence.

Committee Observation:

The amendment is not necessary.

Clause 166 (2) (b)

459. Delete the words "in such other manner as he deems fit" and replace with the words: "In accordance to the applicable laws" to read: - Provided that if, after making all reasonable efforts, the Director-General is unable to sell the fish or other thing, or where such fish or other things are unfit for sale, he may dispose of the same in accordance to the applicable laws, including by destruction.

Justification: This removes biasness in how the DG disposes the seized items.

Committee Observation:

The amendment is not necessary.

Clause 178 (1)

460. Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- All fish found on board any fishing vessel, vehicle, aircraft or items which has been used in the commission of an offence under this Act shall unless the contrary is proved, be presumed to have been caught during the commission of that offence.

Justification: Mode of carriers are not inclusive and only focuses on fishing vessel.

Committee Observation:

The amendment is not necessary.

Clause 178 (2)

461. Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- All fish found on board any fishing vessel, vehicle, aircraft or items in respect of which false or misleading information or no information has been provided prior to the vessel's entry into port as required pursuant to this Act, shall unless the contrary is proved, be presumed to have been caught during the commission of an offence or during illegal, unreported or unregulated fishing activities.

Justification: Mode of carriers are not inclusive and only focuses on fishing vessel.

Committee Observation

The amendment is not necessary.

Clause 195

462. Delete words: "going on or remaining aboard any fishing vessel in the Kenyan fishery waters" and replace with "engaging in any fishing related activities within Kenya and Kenyan fishery waters" to read:- Where a person has been convicted of an offence against this Act, the court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person be banned from engaging in any fishing related activities within Kenya and Kenyan fishery water waters.

Justification: Anyone offences convicted under with illegal, unreported and unregulated fishing activities should be banned from engaging in any fishing related activities.

Committee Observation:

The proposal may be too punitive to entirely ban a person from engaging in any fishing related activities.

PART IV

4.0 COMMITTEE OBSERVATIONS AND FINDINGS

Upon its consideration of the Fisheries Management and Development Bill, 2023, the Committee made the following observations:

1. The Committee notes that fisheries management and development is a shared function between the national government and county government. The Fourth Schedule mandates the national government with the protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular fishing, hunting and gathering. Part 2 of the Fourth Schedule to the Constitution mandates Counties with function of agriculture, including fisheries.
2. The Fisheries sector in Kenya is governed under the Fisheries Management and Development Act, 2016, though key sections were declared unconstitutional in April 2023 for inadequate public participation, limiting its effectiveness. The orders granted by the court enabled the continued operation of various authorities and agencies established through the Act pending the hearing and determination of the Appeal. Consequently, the Fisheries Management and Development Bill (National Assembly Bills No. 29 of 2023) was published on 16th June, 2023 and read a first time on the Floor of the House on 6th July, 2023
3. The Committee observes that the Bill is largely aligned with the principles of sustainable resource management as enshrined in the Constitution of Kenya, particularly Articles 42 and 69 which provide for the right to a clean and healthy environment and the sustainable utilization of natural resources. However, the Committee notes that there is need for greater clarity in the delineation of functions between the National and County Governments in accordance with the Fourth Schedule of the Constitution, so as to avoid duplication or conflict in licensing, enforcement, and revenue collection within the fisheries sector.
4. The Bill introduces enhanced monitoring, control and surveillance mechanisms aimed at addressing illegal, unreported and unregulated (IUU) fishing. However, the effectiveness of these provisions will largely depend on the availability of adequate funding, strengthened inter-agency coordination, deployment of appropriate surveillance technology, and sustained capacity building at both the national and county levels to ensure proper implementation and enforcement.
5. The Committee observes that the Bill provides an enabling framework for private sector participation and aquaculture development, consistent with national development priorities under Kenya Vision 2030. Nevertheless, stakeholders emphasized the need for clear investment incentives, transparent and streamlined licensing procedures, and adequate safeguards to protect small-scale fishers from possible displacement or unfair competition by large commercial operators.

6. The Committee observes that the Bill establishes revenue collection frameworks through licensing and fisheries-related levies; however, clarity is required regarding revenue-sharing between the National and County Governments, the allocation of revenues towards conservation and local development initiatives, and the establishment of robust transparency and accountability mechanisms to ensure proper management and utilization of the funds.

7. In compliance with Article 118 of the Constitution and relevant Standing Orders of the National Assembly, the Committee conducted extensive public participation forums across multiple regions, including Turkana, Kisumu, Naivasha and Coast counties. The submissions reflected divergent stakeholder views, with significant emphasis on legal clarity, cost implications of licensing fees, and the need for interventions that bolster local economic empowerment. The Committee observes that public participation was instrumental in highlighting regional nuances within the fisheries sector, particularly the distinct needs of inland and marine fisheries, as well as the emerging role of aquaculture.

8. A recurring theme in stakeholder submissions was the issue of double licensing, where fishers incur separate license fees from both National and County Governments. The Committee observes that the Bill lacks clear mechanisms to prevent double taxation and does not provide a mutual recognition framework between levels of government. Additionally, stakeholders opposed the proposed fee increases and highlighted the need for procedural safeguards, including mandatory public participation before fee revisions, to ensure fairness and transparency.

9. There was strong consensus among stakeholders for statutory recognition of Beach Management Units as key community governance structures in fisheries management. Stakeholders highlighted that BMUs play an essential role in local resource oversight, reporting, and community compliance. The Committee observes that the Bill's current reliance on regulations to establish and govern BMUs is insufficient and that statutory entrenchment would provide legitimacy and sustainability to their operations, particularly in cross-county water bodies such as Lake Turkana.

10. The Committee observes that the Bill's provisions on closed seasons and breeding zones are overly permissive, lacking mandatory criteria and clear scientific benchmarks. Stakeholders emphasized the need for mandatory closed seasons that are informed by robust scientific data and require advance notice and stakeholder engagement. Inadequate definitions of key terms such as breeding zones were noted as undermining enforceability, particularly in inland and marine ecosystems.

11. There is need for clearer regulatory frameworks for aquaculture. The Bill inadequately addresses environmental safeguards and modern aquaculture practices, which are critical for sustainable growth of the sector. The Committee observed the need for explicit provisions for Environmental Impact Assessments (EIAs), environmental protection bonds, and stronger enforcement measures to address escapement, pollution, and chemical use in aquaculture operations.

12. The Committee observes that the Bill is silent on accessibility for Persons with Disabilities (PWDs), language inclusivity, and capacity-building requirements for fishers prior to licensing. Stakeholder proposals underlined the importance of translating the Bill into Kiswahili and Braille to enhance accessibility, and recommended mandatory civic education and professional training as prerequisites for licensing.

13. The Committee observes that Kenya is bound by regional agreements and obligations—particularly those relating to shared fisheries resources and management frameworks—and that the Bill does not sufficiently reflect these obligations. In particular, stakeholder engagements highlighted the need for improved cooperation with regional bodies and alignment with protocols on sustainable exploitation, conservation, and enforcement.

14. The Committee also observed the need for an enhanced role for the Kenya Coast Guard Service in enforcement and monitoring, consistent with the powers conferred under section 8 and 9 of the Kenya Coast Guard Service Act, Cap. 200 and more efficient coordination between the Kenya Coast Guard Service and MCS unit established in the Bill for better protection of fishers and Kenya fishery waters.

15. Committee observed a lack of clear mechanisms for appeals and dispute resolution arising from regulatory decisions under the Bill. Stakeholders recommended the establishment of an independent tribunal or appeal structure to ensure that grievances arising from licensing, enforcement, and regulatory interpretations are addressed fairly, efficiently and in accordance with the rule of law.

PART V

5.0 COMMITTEE RECOMMENDATION

The Committee having considered the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) recommends that the House APPROVES the Bill with the amendments contained in the SCHEDULE OF AMENDMENTS forming PART SIX of this report.

SIGNED.....DATE.....3/3/2026.....

HON. BOWEN KANGOGO, CBS, MP

(CHAIRPERSON)

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION.

THE NATIONAL ASSEMBLY
PAPERS LAID
DATE: 04 MAR 2026 DAY. KSED
TABLED BY: HON. BOWEN KANGOGO, MP CHAIRPERSON
CLERK-AT-THE-TABLE: V. WAMBUI

PART VI

6.0 SCHEDULE OF AMENDMENTS

In view of the observations made, the Committee proposes the following amendments to the Bill-

CLAUSE 2

THAT, clause 2 of the Bill be amended—

(a) by deleting the definition of "Authority";
(b) by deleting the definition of "Board of Directors";
(c) by deleting the definition of "Council";
(d) by deleting the definition of the word "authorized officer" and substituting therefor the following new definition—

"authorized officer" means a fisheries officer, fish inspector, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 17;

(e) by deleting the definition of the word "foreign fishing vessel" and substituting therefor the following new definition—

"Foreign fishing vessel" means a fishing vessel not registered in Kenya;"

(f) by deleting the definition of the word "subsistence fishing" and substituting therefor the following new definition—

"subsistence fishing" means local or non-commercial fisheries, oriented not primarily for recreation but for sourcing of fish for consumption by the fishers, their dependents or community;"

(g) by deleting the definition of the word "surveillance" appearing first in time

(h) in the definition of the word "territorial waters" by deleting the words "and includes the territorial sea";
(i) by deleting the definition of the word "transshipment" and substituting therefor the following new definition—

"Transshipment" means the direct transfer of any quantity of fish onboard from one vessel to another vessel regardless of the location of the event, without the fish being recorded as landed."

(j) by inserting the following new definitions in their proper alphabetical sequence—

"commercial fishing" means fishing for sale, barter, or trade;

"control" means the specification of the terms and conditions under which resources can be harvested.

"County Director" means the County Director responsible for matters relating to fisheries in the respective county;

"County Executive Committee Member" means the County Executive Committee Member responsible for matters relating to fisheries in the respective county;

"Director-General of the Institute" means the Director General of the Institute appointed under section 27S;

"Fund" means the Fish Levy Development Fund established pursuant to Section 27;

"Institute" means the Kenya Marine and Fisheries Research Institute established under 27A;

"Board of the Institute" means the Kenya Marine and Fisheries Research Institute established under section 27C;

"marine park" means a protected marine area where no fishing, construction work or any disturbance is allowed unless with written permission under the Wildlife Conservation and Management Act;

"exclusive economic zone" shall have the same meaning as assigned to it under the Maritime Zones Act ;

"fish inspector" is any person appointed for the purposes of inspections in fish safety and quality or aquaculture or monitoring, control and surveillance activities; and

"fish landing station" means a designated coastal or inland shore area gazetted by the Cabinet Secretary where fishing vessels anchor to unload, sell or process their catch;

"Monitoring" means the collection, measurement and analysis of fishing activity including, but not limited to catch, species composition, fishing effort, bycatch, discards, area of operations.

Justification

The amendments provide for definition of terms that had been excluded and further aligns the terminology with best practices and in accordance with the devolved nature of functions as related to fisheries.

CLAUSE 4

THAT, clause 4 of the Bill appearing second in time be amended —

(a) by renumbering the existing provision as clause 5(1); and

(b) in sub-clause (2) by—

(i) deleting paragraph (q) and substituting the following new paragraph—

(q)ensuring effective co-operation between the National and county governments, coastal states, fishing states and competent organizations in the sustainable development, management, utilization and conservation of fisheries and other aquatic resources;

(ii) inserting the following new paragraph immediately after paragraph (q)—

(qa) the promotion of the blue-economy sector;

Justification

The amendment takes cognizance of the role of county Government in matters relating to fisheries and further expands the scope of the Bill to deal with matters related to Blue Economy.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 5—

National Blue Economy strategy.

5A. (1) The Cabinet Secretary shall within one year of the commencement of this Act and every five years thereafter following public participation formulate a blue economy strategy.

(2) The Cabinet Secretary shall submit annual reports to Parliament on the implementation of the Blue Economy strategy including implementation of international agreements and obligations.

Justification

Blue is a key pillar in fisheries hence the need for a national strategy with regards to blue economy.

PART II

THAT, the Bill be amended by deleting PART II

Justification

The Fisheries Advisory Council is deleted in line with government directive on reduction of state corporations.

CLAUSE 8

THAT, the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Functions of the Service.

8. The functions of the Service shall be—

(a) ensure the appropriate conservation, development of standards on management, sustainable use, development and protection of fisheries resources;

(b) formulate and monitor the implementation of policies regarding the conservation, management and utilization of all fisheries resources within the scope of this Act;

(c) develop standards for the management of all fisheries and aquaculture activities and fishing related activities within the scope of this Act;

(d) develop guidelines for the preparation of fisheries specific management plans for the Kenya fishery waters;

(e) provide education to create public awareness and support for fisheries conservation, management, development and sustainable use;

(f) set and meet goals for fisheries conservation, management, development and sustainable use;

(g) in consultation with the Kenya Marine and Fisheries Research Institute, approve and coordinate research activities in relation to matters falling within the scope of this Act;

(h) collect and analyze data in relation to resources and activities falling within the scope of this Act;

(i) identify manpower requirements and recruit manpower at all levels for the Service;

(j) liaise as appropriate with agencies and persons, including stakeholders, industry, government agencies, regional and international organizations and experts, whether local or foreign, on matters falling within the scope of this Act;

(k) act on behalf of the government, subject to the Treaty Making and Ratification Act in relation to any domestic or international agreement relating to fishing, fishing related activities or any matter falling within the scope of this Act, to which Kenya is or may become a party;

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(l) administer and co-ordinate international protocols, conventions and treaties regarding fisheries in all its

aspects in consultation with the Cabinet Secretary pursuant to the Treaty Making and Ratification Act;

(m) subject to the Public Health Act and the Food, Drugs and Substance Act, control and regulate fish safety and quality;

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Cap.254.

(n) raise revenue through levies, fees, investments and other means in accordance with this Act and the Constitution, including solicitation by public appeal or otherwise, and accept and receive subscriptions, donations, devices and bequests, whether of movable or immovable property and whether absolute or unconditional for the general or special purposes of the Service or subject to any trust raise revenue through levies, fees;

(o) undertake the development of appropriate fisheries infrastructure, that relates to its mandate under this Act and the Constitution;

(p) facilitate investment in commercial fisheries, in collaboration with relevant agencies, persons or bodies, including Government departments;

(q) promote development and introduction of appropriate technologies in aquaculture production, processing and preservation in collaboration with relevant agencies, county governments and stakeholders;

(r) identify and promote construction of any works deemed necessary for the sustainable protection, development and economic utilization of fisheries resources;

(s) develop, implement and co-ordinate a national fish marketing strategy;

(t) ensure that fish and fishery products from Kenya enjoy market access at local, national, regional and international levels as premier products and, to this end, that the products and markets are developed and diversified;

(u) in collaboration with county governments and relevant stakeholders identify opportunities and promote all aspects of fisheries marketing;

(v) arrange and enter into joint ventures or any other forms of investment arrangement for purposes of performing any of its functions;

(w) co-ordinate fish quality assurance and operations of the marine and coastal fisheries, aquaculture and inland and riverine fisheries;

(x) co-ordinate and or undertake monitoring, control and surveillance of all activities within the scope of

this Act in consultation with county governments and relevant stakeholders;

(y) promote the sustainable use of fish by preventing, deterring and eliminating to the extent possible trade in illegal, unreported and unregulated fishing; and

(z) perform such other duties and functions consistent with the provisions of this Act as may be necessary to carry out the objectives and provisions of this Act.

Justification

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service. Further aligns the functions of the Service with roles assigned to the two levels of Government.

CLAUSE 9

THAT, clause 9(1) of the Bill be amended in—

(a) paragraph (b) by inserting the words "marketing" immediately after the word "development"; and
(b) paragraph (d) by deleting the words "the Fish Marketing Authority established under section 204 and other agencies" and substituting therefor the words "relevant stakeholders".

Justification

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

CLAUSE 10

THAT, the Bill be amended by deleting clause and substituting therefor the following new clause—

Membership of the Board.

10.(1) The members of the Board shall consist of—

(a) a chairperson appointed through a transparent and competitive process by the President;
(b) the Principal Secretary responsible for matters relating to fisheries or a representative appointed in writing;

(c) the Principal Secretary responsible for matters relating to finance or a representative appointed in writing;
(d) the Principal Secretary responsible for matters relating to defence or a representative appointed in writing;
(e) the Attorney-General or a representative appointed in writing;
(f) a person nominated by the Council of governors and appointed by the Cabinet Secretary;
(g) three other persons, not being public officers, with knowledge and experience in the conservation, management, development and sustainable use of fisheries resources appointed by the Cabinet Secretary; and
(h) the Director-General, who shall be an ex-officio member of the Board with no right to vote.

(2)The members of the Board shall at their first meeting after appointment, elect a vice-chairperson from amongst their numbers provided that the Chairperson and Vice- Chairperson shall not be of the same gender.

(3)The Cabinet Secretary shall in making appointments under subsections (1)(g) have regard to the principle of gender parity, age, regional and ethnic balance and shall, to the extent possible, ensure an equitable representation from different sub-sectors of the fisheries sector.

(4)A person shall be qualified to be appointed under subsection (1)(a),(f) and (g) if such person—

(a) holds a degree from a university recognized in Kenya in—

(i) natural resource or environmental management, development or science;
(ii) fisheries studies, including fisheries governance, management, development or science;
(iii) marine affairs;
(iv) port management;
(v) aquatic science; or
(vi) a field related to the functions of the Board;

(b)has served in a senior management position for at least five years; and

(c)meets the requirements of Chapter Six of the Constitution

(5)The chairperson and member of the Board appointed under section subsection (1) (a),(f) and (g) shall hold office for a term of three years and shall be eligible for reappointment for one further term of three years.

(6) The appointment of the Chairperson and members of the Board shall be by name and by notice in the Gazette.

Justification

The amendment aligns with the provision of State Corporation Act on representative of Board to include the Attorney-General or their representative. Further the amendment seeks to provide for representation of the County Governments in the Board of the Service. Noting the functions given to the Service have a direct and indirect impact on the functions of the County Governments.

CLAUSE 11

THAT, clause 11of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2)Where a vacancy occurs in the membership of the Board under section 10(1), the appointing authority shall appoint a new member in accordance with the provisions of this Act.

Justification

The amendment is general cleanup of the provision and align with the drafting style and format of the House.

CLAUSE 12

THAT, clause 12 of the Bill be amended—

(a) in sub-clause (1)by deleting the words "subsection (5)" and substituting with the words "subsection (4)";
(b) in sub-clause (2)by deleting the word "Chair" and substituting with the word "Chairperson";
(c) in sub-clause (3)(a) by deleting the words "subsection (a)" and substituting with the words "subsection (2)";

Justification

The amendment seeks to correct a cross-referencing error and align the grammar in the provision.

CLAUSE 13

THAT, clause 13 of the Bill be amended—

(a) in sub-clause (3)(a) by deleting the words "Deputy Chairperson" wherever it appear and substituting therefor the words "Vice Chairperson" ; and
(b) by deleting sub-clause(10).

Justification

Amendment seeks to align with the drafting style and format of the House by subsequently providing for a schedule on the Conduct of business and affairs of the Board.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 13—

Conduct of business and affairs of the Board.

13 A. (1) The conduct and regulation of the business of the Board shall be as provided in the First Schedule.

(2) Except as provided in the First Schedule, the Board may regulate its own procedure and the procedure of any committee constituted. under the Act.

Justification

Amendment seeks to align with the drafting style and format of the House by providing for a schedule on the Conduct of business and affairs of the Board.

CLAUSE 14

THAT, clause 14 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2)A person shall be qualified to be appointed under subsection (1) if such person—

(a) holds a post graduate degree from a university recognized in Kenya in—

(i) natural resource or environmental management, development or science;
(ii) fisheries studies, including fisheries governance, management, development or science;
(iii) aquatic science; or
(iv) any other related field;

(b)has at least ten years' experience in a senior management position in a public or private institution; and

(c)meets the requirements of Chapter Six of the Constitution.

Justification.

The amendment seeks to enable persons who have management experience in private institutions to be also qualified to be appointed as the Director-General and further seeks to require a person to be compliant with Chapter Six of the Constitution to be eligible for appointment.

CLAUSE 15

THAT, clause 15(2) of the Bill be amended by deleting the words "the Fish Marketing Authority established under section 204 and other agencies" and substituting therefor the words "relevant stakeholders".

Justification

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 15—

Corporation Secretary.

15A. (1) There shall be a Corporation Secretary who corporation shall be competitively recruited and appointed by the Board on such terms as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

(2)A person qualifies for appointment as the Corporation Secretary if that person—

(a)holds a bachelor's degree in law from a university recognized in Kenya;

(b)is an Advocate of the High Court of Kenya;

(c)has at least five years' experience as a corporation secretary or a similar governance role;

(d)is a member in good standing of the Institute of Certified Public Secretaries of Kenya; and

(e)meets the requirements of Chapter Six of the Constitution.

(3)The Corporation Secretary shall be the Secretary to the Board and shall—

(a) in consultation with the Chairperson of the Board, issue notices for meetings of the Board;
(b) assist the members of the Board in their duties and responsibilities;
(c) ensure the timely preparation and circulation of documents and minutes of the Board;
(d) be the custodian of the seal of the Institute and account to the Board for its use;

(e) ensure that members of the Board are aware of all relevant laws affecting the Institute;
(f) except in exceptional circumstances, ensure that Board papers are circulated in advance of any meeting; and
(g) perform any other function that may be assigned by the Board.

Justification

In line with Board governance management and reforms there is need for introduction of Corporation Secretary to act as the Secretary to the Board in line with the State Corporations Act and Companies Act and Mwongozo Code which is the code of governance for state corporations.

CLAUSE 16

THAT, clause 16 of the Bill be amended by deleting the words "First Schedule" wherever it appears and substituting therefor the words "Second Schedule".

Justification

The amendment corrects a cross-referencing error.

CLAUSE 17

THAT, the Bill be amended by deleting clause 17 and substituting therefor the following new clause—

Authorized officers.

17. (1) The Cabinet Secretary may, on the recommendation of the Director-General and by notice in the *Gazette* appoint an authorized officer for purposes of this Act.

(2) A person appointed under subsection (1), shall perform such functions as the Board may specify.

(3)Notwithstanding subsection (1), a County Executive Committee Member may within their respective county and in consultation with the County Director responsible for fisheries, appoint a county fisheries officers for purposes of performance of functions assigned to counties under this Act.

Justification

Fisheries being a devolved function, the amendment only seeks to provide for the appointment of authorized officers at the county level that is county fisheries officers.

CLAUSE 18

THAT, the Bill be amended by deleting clause 18.

Justification

The position of honorary fisheries officers are unnecessary and no such officers have been appointed since enactment of the Act, hence proposal to delete the provision.

CLAUSE 19

THAT, clause 19(2) of the Bill be amended in paragraph (b)by deleting the expression "2013" .

Justification

The amendment seeks to align the title of the Act with new Cap number issued.

CLAUSE 20

THAT, clause 20 of the Bill be amended –

(a) in sub-clause (2) by deleting the word "First schedule" and substituting therefor the word "Second Schedule".
(b) by deleting sub-clause (3) and inserting the following new sub-clause—

(3) The principal function of the inter-agency MCS Unit shall be to ensure coordinated and effective interagency enforcement of and compliance with this Act, including cooperation of the Service and the Kenya Coast Guard Service established under the Kenya Coast Guard Service Act in the protection of maritime resources including fisheries, fishers and Kenya fishery waters.

Justification

Section 8(1)(j) of the Kenya Coast Guard Service Act (Cap. 200) provides that the Service shall, be deployed in the territorial waters including for the protection of maritime resources including fisheries. Further section 9(2)(b) gives the Kenya Coast Guard Service the power stop, enter, board, inspect or search any structure, place, vessel or aircraft engaged in or suspected to be engaged in any unlawful activity.

The amendment seeks to include in the inter-agencies MCS a representative of Kenya Coast Guard Service in order to enhance the protective given in the Kenya fishery waters and fishers by inclusion of the Service.

CLAUSE 21

THAT, clause 21 of the Bill be amended in sub-clause (4) by deleting the expression "2012"

Justification

The amendment seeks to align the title of the Public Finance Management Act with new Cap number issued, that is Cap.412A.

CLAUSE 24

THAT, clause 24 of the Bill be amended in sub-clause (2) by deleting the expression "2015"

Justification

The amendment seeks to align the title of the Public Audit Act with new Cap number issued, that is Cap.412B.

CLAUSE 25

THAT, clause 25(1) of the Bill be amended in paragraph (b) by deleting the words "subsection 26(2)" and substituting therefor the words "subsection 24(2)".

Justification

The amendment seeks to correct a cross-referencing error.

CLAUSE 26

THAT, Bill be amended by deleting clause 26.

Justification

The amendment aligns with the provision on establishment of the Fish Levy Development Fund which has similar objects as the Fisheries Research and Development Fund. The Fisheries Research and Development Fund is yet to be established since the enactment of the Fisheries Management and Development Act in 2016 hence the proposal to delete the provision and transfers its purpose to the Development Fund.

CLAUSE 27

THAT, Bill be amended by deleting clause 27 and substituting therefor the following new sub-clause—

Fish Levy Development Fund.

27. (1)There is established a fund to be known as the Fish Levy Development Fund which shall be the successor of the Fish Levy Trust Fund.

(2)The Fund is a body corporate with perpetual succession and a common seal and shall have power, in its corporate name, to sue and to be sued and, in the exercise and performance of its powers and functions, to do and permit all such things as may lawfully be done or permitted by a body corporate in furtherance of its objects.

(3)The purpose of the Fund shall be to—

(a) provide for the sustainable management, conservation and development of fisheries resources and the blue economy;
(b) provide funding for activities geared towards management, governance, development, fish stock assessments, research, capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource; and
(c) such other purposes as may be provided for the implementation of this Act.

(4)The Fund shall be administered by a five-member Board of Trustees to be appointed by the Cabinet Secretary by a notice in the *Gazette* on such terms and conditions as the Cabinet Secretary may prescribe, upon the advice of the Salaries and Remuneration Commission.

(5) A person is qualified for appointment as a member of the Board of Trustees if that person —

(a) has a post-graduate degree from a university is recognized in Kenya in fisheries science, marine science, law, economics or natural resource management; and
(b) meets the requirements of chapter Six of the Constitution.

(6)The Fund shall have Chief Executive Officer who shall be appointed by the Board of Trustees on such terms and conditions of service as the Cabinet Secretary responsible for matters relating to public service on the advice of the Salaries and Remuneration Commission may determine.

(7)The Chief Executive Officer shall be the accounting officer of the Fund and, subject to the directions of the Fund, shall be responsible for the management of the affairs of the Fund.

(8)The Fund may appoint such officers and other staff as may be necessary for the exercise and performance of its functions, upon such terms and conditions as the Cabinet Secretary responsible for matters relating to public service on the advice of the Salaries and Remuneration Commission may determine.

(9)The monies of the Fund shall consist of—

(a) Funds appropriated by the National Assembly from the national budget for the purposes of the Fund;
(b) Funds received by the Fund from donations, grants, and bequests from other sources;

(c) the proceeds of the levy imposed under subsection (10); and
(d) funds payable into the Fund under any Act.

(10)The Cabinet Secretary may, by Regulations following public consultation prescribe a levy to be paid by persons engaged in fishing or fishing related activities, the proceeds of which shall be paid into the Fund established under section 27.

(11)The Levy collected under subsection (10) shall be appropriated as follows—

(a) twenty per centum shall be applied for research and innovation in blue economy and fisheries allocated to the Kenya Marine and Fisheries Research Institute;
(b) twenty per centum shall be applied for fish stock assessment allocated to the Kenya Marine and Fisheries Research Institute;
(c) twenty per centum shall be applied for Monitoring, Control and Surveillance allocated to the Kenya Fisheries Service;
(d) five per centum shall be applied to the fisheries observer program allocated to the Kenya Fisheries Service;
(e) five per centum shall be applied to blue economy fisheries management and governance allocated to the State Department responsible blue economy and fisheries; and
(f) twenty per centum shall be applied for capacity building, scholarships, awards and urgent mitigation to ensure sustainability of the blue economy and fisheries resource and shall be administered by the Fund; and
(g) ten per centum shall be applied for the administration of the Fund.

Justification

The amendment restructures the Fish Levy Trust Fund into the Fish Levy Development Fund and further provides for the manner in which the Levy will be distributed for purposes of accountability.

INSERTION OF NEW PART

THAT, the Bill be amended by inserting the following new Part immediately after Part IV

PART IVA—KENYA MARINE AND FISHERIES RESEARCH INSTITUTE

Establishment of the Kenya Marine and Fisheries Research Institute

27A. There is established an institute to be known as the Kenya Marine and Fisheries Research Institute, which shall be a

Marine Fisheries Research Institute. Cap.511.

successor of the Kenya Marine and Fisheries Research Institute specified under paragraph 4 of the Fourth Schedule to the Science Technology and Innovation Act.

(2) The Institute may establish research centres, innovation and incubation hubs within the counties in Kenya.

(3) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;
(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
(c) borrowing money;
(d) entering into contracts; and
(e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

Functions of the Institute.

27B. (1) The Institute shall be the lead government agency in marine and fisheries research and development and shall—

(a) develop research and development programmes and technologies for the sustainable development of forestry and allied natural resources;
(b) conduct national and regional expert training courses in marine, fisheries and the blue economy;
(c) disseminate research findings to support fisheries and blue economy development in the country; and
(d) establish partnerships and cooperate with other research organizations and institutions of higher learning in joint research and training.

(2) Without prejudice to the generality of subsection (1), the Institute shall—

(a) conduct research in order to generate scientific data and information in marine and freshwater fisheries, aquaculture, socioeconomics, environmental and ecological studies, and marine research including chemical and physical oceanography and hydrography, marine geology, minerology, bio-prospecting, and energy, for sustainable development of the blue economy;
(b) participate in the development and monitoring of national standards for fisheries and blue economy;
(c) collect and disseminate scientific information on fisheries and other aquatic resources and related natural products;

(d) study and identify suitable species for culture including development, adoption and transfer of rearing technology and procedure;
(e) assess, map, control and develop procedures for the control of invasive fish species;
(f) carry out socio-economic research on aspects relevant to fisheries, marine and other aquatic resources;
(g) Offer training facilities to aquatic scientists;
(h) conduct research on fish quality control, post-harvest preservation and value addition technologies;
(i) conduct research on blue economy;
(j) collaborate with other organizations and institutions of higher learning in competitive capacity development for exploitation of the blue economy;
(k) develop and promote technologies for upscaling commercial aquaculture and industrial fishing;
(l) maintain a database for scientific blue economy research information;
(m) undertake policy research in marine, fisheries and blue economy resources;
(n) transfer of scientific knowledge and appropriate technologies in the blue economy, marine and freshwater fisheries and aquaculture including information on appropriate fishing methods and gears to relevant stakeholders for the promotion of sustainable conservation and management of fishing in Kenya;
(o) conduct capacity development on fisheries resources including community participation and outreach programmes;
(p) conduct research and develop models and methodologies of blue economy carbon trading, quantification, financing and fish marketing in collaboration with relevant stakeholders;
(q) promote local, regional and international collaboration and partnerships in research in blue economy including marine and freshwater fisheries and aquaculture;
(r) report annually to the Cabinet Secretary on matters related to marine and fisheries research and development; and
(s) perform such other functions as may be assigned to it by this Act or any other written law.

(3) The Institute, in consultation with the Ministry responsible for matters related to education, may establish a forestry research graduate school, to facilitate research components of master's and doctorate levels academic programmes on marine, fisheries, aquaculture and blue economy.

Board of the Institute.

27C. The management of the Institute shall vest in a Board of the Institute which shall consist of—

(a) a chairperson appointed in an open, transparent and competitive process by the President;

(b) the Principal Secretary responsible for matters relating to fisheries and blue economy or a representative appointed in writing;
(c) the Principal Secretary responsible for matters relating to finance or a representative appointed in writing;
(d) the Attorney-General or a representative appointed in writing;
(e) the Director-General of the Kenya Fisheries Service or a representative appointed in writing;
(f) the Director-General of the National Commission for Science, Technology and Innovation or a representative appointed in writing;
(g) four other persons, not being public officers, with skills relevant to the Institute's functions, appointed by the Cabinet Secretary; and
(h) the Director-General, who shall be an ex-officio member of the Board with no right to vote.

Qualifications for appointment as a member of the Board of the Institute.

27D. (1) A person is qualified for appointment under subsection 27C (a) and (g) if that person—

(a) has a post graduate degree in a relevant field from a university recognized in Kenya;
(b) has proven management or other relevant professional experience;
(c) has served in a senior management position for at least six years; and
(d) meets the requirements of Chapter Six of the Constitution.

(2) The appointment of the Chairperson and members of the Board of the Institute shall be by name and by notice in the *Gazette*.

Tenure of office of members of the Board of the Institute.

27E. (1) The Chairperson and member of the Board appointed under section 27C (a) and(g) shall hold office for a term of three years and shall be eligible for reappointment for one other term of three years.

(2) The members of the Board shall be appointed at different times so that their terms of office expire at different intervals.

Remuneration of members of the Board of the Institute.

27F. A member of the Board of the Institute shall be paid such allowances or other remuneration as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.

Vacancy in the Board of the Institute.

27G. (1) The office of the chairperson or member of the Board of the Institute shall become vacant if the holder—

(a) dies;

(b) is absent from three consecutive meetings of the Board of the Institute without reasonable cause;
(c) resigns from office by notice in writing addressed to the appointing authority;
(d) is unable to perform the functions of the office arising out of physical or mental infirmity;
(e) is negligent or incompetent in the performance of his or her functions;
(f) is adjudged or otherwise declared bankrupt by a competent court;
(g) violates Chapter Six of the Constitution; or
(h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.

(2) Where a vacancy occurs in the membership of the Board of the Institute under subsection (1), the appointing authority shall appoint a new member in accordance with the provisions of this Act.

Functions of the Board of the Institute.

27H. The Board of the Institute shall—

(i) review, approve and oversee the implementation of research programs, strategies, policies and plans of the Institute;
(ii) consider and approve the budget of the Institute;
(iii) facilitate the mobilization of resources for the Institute.
(iv) approve the organizational structure and other human resources management policies, guidelines, procedures and manuals of the Institute;
(v) monitor and evaluate the performance and ensure the sustainability of the Institute;
(vi) formulate policies for the administration and management of the graduate school;
(vii) enhance the corporate image of the Institute and ensure effective communication with stakeholders; and
(viii) carry out any other function for the purposes of promoting and facilitating the objects of the Institute.

Powers of the Board of the Institute.

27I. The Board of the Institute shall have all the powers necessary for the proper performance of the functions of the Institute and, in particular, the Board shall have the powers to—

(a) acquire immovable and movable property and funds of the Institute in a manner and for the purposes which shall promote the interests of the Institute;
(b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Institute;
(c) receive on behalf of the Institute, fees, donations, endowments, gifts, grants or other moneys and make disbursements therefrom in accordance with the law;

(d) invest any moneys of the Institute not immediately required in furtherance of its objects; and

(e) do any other thing which is necessary or convenient to be done in connection with or incidental to its functions.

Procedure of the Board of the Institute.

27J. (1) The business and affairs of the Board of the Institute shall be conducted in accordance with the First Schedule.

(2) Notwithstanding subsection (1), the Board may regulate its own procedure.

Delegation by the Board of the Institute.

27K. The Board of the Institute may, by resolution, either generally or in any particular case, delegate to any committee of the Board of the Institute or to any member, officer, or employee of the Institute, exercise of any of its powers or the performance of any of its functions.

Committees of the Board of the Institute.

27L. (1) The Board of the Institute may, establish committees for the effective discharge of its functions.

(2) The Board of the Institute may, by resolution, either generally or in any particular case, delegate to a committee of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board of the Institute.

(3) The Board of the Institute may co-opt into the membership of a committee established under subsection (1), any person whose knowledge and skills are considered necessary for the effective discharge of the functions of the Institute for a specified period of time.

(4) Subject to any specific or general direction of the Board, any committee established under subsection (1) may regulate its own procedure.

(5) Any person co-opted into a committee under subsection (3) may attend the meetings of the committee and participate in its deliberations but shall not vote at such meeting.

Director-General.

27M. (1) There shall be a Director-General of the Institute who shall be competitively recruited and appointed by the Board of the Institute.

(2) A person qualifies for appointment as the Director-General of the Institute, if that person—

(a) holds a Doctorate degree from a university recognized in Kenya in—

(viii) fisheries;

(ix) aquaculture;

(x) aquatic sciences;

(xi) marine sciences;

(xii) environmental science;

(xiii) economics in natural resources, fisheries, and environment; or

(vii)any other related courses or equivalent from a recognized institution;

(b) has at least fifteen years' professional experience in research in matters related to fisheries, marine and blue economy, five of which shall be at a senior management level;

(c) is a member of a relevant professional body in good standing; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General of the Institute shall be responsible to the Board for—

(a) implementation of the decisions of the Board;

(b) the day-to-day management of the Institute;

(c) overall responsibility for the objectives, policy direction, administration and programs of the Institute;

(d) preparation of the strategic plan, annual plan, budget and audited accounts of the Institute for the approval of the Board; and

(e) perform such other duties as may be assigned by the Board.

(4) The Director-General of the Institute shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(5) The Director-General of the Institute may be removed from office for—

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct;

(c) incompetence or negligence of duty; or

(d) any other ground that would justify the removal from office under the terms and conditions of service and under any written law.

(6) Where the question of the removal of the Director-General of the Institute under subsection (5) arises, the Board of the Institute shall—

(a) inform the Director General in writing of the reasons for the intended removal; and

(b) give the Director-General the opportunity to be heard in accordance with the principles of fair administrative action prescribed under Article 47 of the Constitution and the Fair Administrative Action Act.

Cap. 7L.

Corporation Secretary of the Institute.

27N. (1) There shall be a Corporation Secretary of the Institute who shall be appointed by the Board of the Institute on such terms as the Board of the Institute may, on the advice of the Salaries and Remuneration Commission, determine.

(2) A person qualifies for appointment as the Corporation Secretary under subsection (1) if that person—

(a) holds a degree in law from a university recognized in Kenya;
(b) has at least five years' experience as a corporation secretary or a similar governance role;
(c) is a member in good standing of the Institute of Certified Public Secretaries of Kenya; and
(d) meets the requirements of Chapter Six of the Constitution.

(3) The Corporation Secretary of the Institute shall, subject to the direction of the Board of the Institute —

(h) assist the members of the Board of the Institute in their duties and responsibilities;
(i) ensure the timely preparation and circulation of documents and minutes of the Board of the Institute;
(j) be the custodian of the seal of the Institute and account to the Board of the Institute for its use;
(k) ensure that members of the Board are aware of all relevant laws affecting the Institute;
(l) except in exceptional circumstances, ensure that Board of the Institute papers are circulated in advance of any meeting; and
(m) perform any other function that may be assigned by the Board of the Institute.

Officers and staff of the Institute.

27O. The Board of the Institute may appoint such officers and other staff of the Institute as are necessary for the proper and effective performance of the functions of the Institute, upon such terms and conditions of service as the Board of the Institute, on the recommendation of the Salaries and Remuneration Commission, may determine.

Protection from personal liability.

27P. Nothing done by a member of the Board of the Institute or by any person working under the instructions of the Board of the Institute shall, if done in good faith for the purpose of executing the powers, functions or duties of the Institute under the Constitution or this Act, render such member or officer personally liable for any action, claim or demand.

Funds of the Institute.

27Q. The funds of the Institute shall include—

(a) such sums as may be appropriated by National Assembly for the purposes of the Institute;

(b) such monies as may accrue or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
(c) gifts, grants or donations made to the Institute; and
(d) such amounts from any public funds that may be created by law for the purposes of the promotion of any and all of the objects and functions of the Institute.

Annual estimates for the Institute.

27R. (1) At least two months before the end of each financial year, the Board of the Institute shall cause to be prepared estimates of the revenue and expenditure of the Institute for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute in the financial year for the fulfilment of its functions.

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

(4) No expenditure shall be incurred for the purposes of the Institute except in accordance with the annual estimates submitted under subsection (3), or in pursuance of an authorization of the Board of the Institute.

Investment of the surplus funds.

27S. (1) The Board of the Institute may invest any surplus funds of the Institute which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board of the Institute may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Institute.

Award to inventor or innovator.

27T. (1) Where the rights to any invention or innovation have been vested to the Institute, the Board of the Institute may award to the inventor or innovator such bonus as it may deem fit or make provision for financial participation by the inventor or innovator in the profits derived from the invention or innovation.

(2) The Institute may apply for a patent in respect of any invention or innovation contemplated in subsection (1) and shall for purposes of the Copyright Act, and the Industrial Property Act, be regarded as the assignee of the inventor or innovator of the invention or innovation.

Cap. 130.
Cap. 509.

Discoveries, inventions, etc. to vest in the Institute.

27U. (1) All rights in any discoveries, inventions, innovation, improvements and intellectual property rights in respect of processes, products, apparatus and machines made for or on behalf of the Institute shall vest in the Institute.

(2) Without prejudice to the generality of subsection (1), the Institute and any other entity shall jointly own any discoveries, inventions, innovation, improvements and intellectual property rights pursuant to a funding agreement between the Institute and any other entity

Fees and other charges for services or facilities offered by the Institute.

27V. The Cabinet Secretary shall, in consultation with the Board of the Institute, prescribe the fees and other charges payable for any service or facility offered by the Institute

Justification

The amendment seeks to establish the Kenya Marine and Fisheries Research Institute under the Act. The Institute is currently housed in a Schedule to the Science, Technology and Innovation Act. Establishing the Institute in the Act with the creation of direct link to its sectoral Ministry will enhance the governance and management of the Institute. The new Part also contains a more streamlined and expanded mandate of the Institute, including the provision of on blue economy research and blue economy carbon trading development. This will further contribute to effective capacity building and knowledge transfer to relevant stakeholder to promote sustainability and growth in the blue economy sector.

CLAUSE 33

THAT, clause 33 of the Bill be amended—

(a) in sub-clasue (1) by deleting the word "may" and substituting therefor the word "shall";

(b)by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(2) In developing the management measures and plans, under subsection (1), the county governments shall—

(a) take into consideration, to the extent possible, elements of national fisheries management plan; and

(b) ensure that such measures are consistent with the provisions of this Act, including its objective and principles, and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act.

Justification

The amendment ensures the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments. The amendment also makes it mandatory for counties to develop the fisheries management plans.

CLAUSE 34

THAT, clause 34 of the Bill be amended in paragraph (a)by deleting the words "section 39" a and substituting therefor the words "section 38"

Justification

The amendment corrects a cross-referencing error.

CLAUSE 35

THAT, clause 35 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1)Where there is any conflict between the national and county management plans, the national management plan shall prevail.

Justification

Under Article 62 (3) the Constitution of Kenya, all rivers lakes, other water bodies, the territorial sea, the exclusive economic zone and sea bed all constitute public land that vests and is held by the national government and as such where the management plans conflict in respect to these resources the national government should prevail. Additionally, under Article 191 (3)(b) and 191 (3)(c)(vi) the national government laws should prevail in this instance.

CLAUSE 36

THAT, clause 36 of the Bill be amended—

(a) in sub-clause (1) by inserting the words "in consultation with the Council of County Governors" immediately after the word "regulations";
(b) by inserting the following new sub-clause immediately after sub-clause (1)—

(1A) Each County Executive Committee Member shall establish beach management units within its jurisdiction and provide for their remuneration ensuring structured community participation in fisheries management.

(c) in sub-clause (3) by inserting the following new paragraphs immediately after paragraph (f)—

(g)remuneration of beach management units; and

(h)conflict management between inter and intra-county beach management units.

Justification

The amendment provides for clarity on the establishment of the BMUs in the respective County Government and payment of BMUs.

CLAUSE 38

THAT, clause 38(1) of the Bill be amended by deleting the word "Board" and substituting therefor the words "Cabinet Secretary".

Justification

The amendment seeks to provide for declaration of designated fisheries to be by the Cabinet Secretary which is in line with role of the CS in declaration of designated fisheries in other provisions of the Act.

CLAUSE 39

THAT, clause 39 of the Bill be amended in sub-clause (1) by deleting the opening statement and substituting therefor the following new opening statement—

(1) The Director-General shall in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary and in consultation with county governments, by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery—

Justification

Imposition of fisheries management measures may affect functions of county government hence the need to consult before imposition of the same and provide mandatory fishery managements measure including imposition of closed seasons.

CLAUSE 41

THAT, clause 41 of the Bill be amended by—

(a) in sub-clause (1)(l) by inserting the words "fishing methods" immediately after the word "gear";
(b) inserting the following new clause immediately after clause (5)—

(5A) The Cabinet Secretary shall develop guidelines to provide mesh size for specific water bodies and fish species in fresh water bodies.

Justification

The amendment seeks to enable the CS by regulation, to provide for the regulation of emerging fishing methods and also develop guidelines to provide mesh size for specific water bodies and fish species in fresh water bodies.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 41—

Incentives for fishing gear.

41A. (1) The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to finance, introduce incentives—

(a)for locally produced and imported fishing gear; and

(b)to expand private investment in production and manufacture of fish gear.

(2) The incentives under subsection (1) shall apply to—

(a)importers of fishing gear; and

(b)private investors to expand investment in production and manufacture of fishing gear.

(3)The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to finance, prescribe incentives and make regulations for the production and manufacture of fishing gear.

Justification

The amendment to provide for subsidies for the manufacture of fishing gear. Majority of fishers who engage in use of banned fishing gear are unable to afford the appropriate gear. This provision will make the fishing gears more accessible and affordable hence help to curb use of illegal fishing gears.

CLAUSE 44

THAT, clause 44 of the Bill be amended by—

(a) in sub-clause (1) by inserting the words "in Kenya" immediately after the words "threatened with extinction"; and
(b) in sub-clause (2) by inserting the words "or fish products" immediately after the words "species of fish".

Justification

The amendment provides for clarity, the declaration of endangered fish is with regards to Kenya in addition to those declared in international agreement. Further prohibit the sale of fish products emanating from endangered species.

CLAUSE 48

THAT, clause 48(5) of the Bill be amended by deleting the expression "1999".

Justification

The amendment seeks to align the title of the Environmental Management and Co-ordination Act with the new Cap number issued.

CLAUSE 49

THAT, the Bill be amended by deleting clause 49 and substituting therefor the word—

Fish landing stations, etc.

49. (1)The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by the Board establish by a notice in the Gazette—

(a)fish landing stations;
(b)designated fishing ports; and
(c)protected fish breeding grounds,

Provided in the case of fish landing stations the Cabinet Secretary shall consult the county governments in the respective area of jurisdiction.

(2)Notwithstanding subsection (1), any designated fishing port which immediately before the commencement of this Act, was gazetted or declared as a designated fishing port set out in the Third Schedule shall be deemed to be a designated fishing port under this Act.

(3)No person other than a sport fisherman shall land any fish at any point except at a fish landing station or port.

(4)A person who contravenes the provisions of subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both in the case of fish landing stations or to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both in case of designated fishing ports.

Justification

The amendment seeks to provide for consultation with the relevant county government before the Cabinet Secretary establishes of fish landing stations. Noting in most instances management of the station will require collaboration with the county governments.

CLAUSE 53

THAT, clause 53 of the Bill be amended–

(a) in sub-clause (1) by deleting the word "live";

(b) by inserting the following new sub-clause immediately after sub-clause (5)—

(6) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding three years, or to both.

Justification

The deletion is of the word "live" is for clarity as the definition of "fish" includes live fish. The addition of a fine is to enable enforcement.

CLAUSE 54

THAT, clause 54 of the Bill be amended in sub-clause (1) by deleting the word "live.

Justification

The deletion is of the word "live" is for clarity purposes as the definition of "fish" includes live fish.

CLAUSE 56

THAT, clause 56 of the Bill be amended in the opening statement by deleting the words "Fish Marketing Authority" and substituting therefor the words "relevant stakeholders".

Justification

This is consequential amendment as the Kenya Fish Marketing Authority established in Part XVIII has been deleted in line with the Cabinet Directive on reforms of State Corporations.

CLAUSE 58

THAT, clause 58 of the Bill be amended by deleting the expression "2013".

Justification

The amendment seeks to align the title of the Act with new Cap number issued.

CLAUSE 61

THAT, clause 61 of the Bill be amended by—

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) The Cabinet Secretary shall, in consultation with the Service and County Governments, prepare a national aquaculture development plan for promoting the sustainable development of aquaculture in Kenya in accordance with the principles and objectives of this Act.

(b) inserting the following new sub-clause immediately after sub-clause (4)—

(5) Each County Government may develop a county aquaculture development plan taking into consideration the national development plan.

Justification

The amendment seek to provide for the development of the national aquaculture development plan by the Cabinet Secretary in consultation with the County Governments and further provide for development county aquaculture development plan, noting that inland aquaculture is regulated by counties.

CLAUSE 63

THAT, clause 63 of the Bill be amended in sub-clause (1) by deleting the words "three hundred thousand" and substituting therefor the words "one million".

Justification

The amendment seeks to enhance the fine to deter persons who undertake aquaculture activities from depriving local communities from traditional access to fisheries.

CLAUSE 64

THAT, clause 64 of the Bill be amended in sub-clause (3) by deleting the words "local fisheries authority" and substituting therefor the words "respective county government".

Justification

The amendment provides for clarification on the role of enforcement which is by the respective county government. Under the Constitution functions of defunct local authorities was devolved to County Governments.

CLAUSE 66

THAT, clause 66 of the Bill be amended in sub-clause (2) by deleting the word "may" and substituting therefor the words "shall".

Justification

To make it mandatory for Director General to ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 67—

Environmental protection bond for

67A. (1)A person wishing to engage in commercial aquaculture shall provide a bond or some other form of financial security in this section called an environmental protection bond to the National Environment

commercial aquaculture

and Management Authority sufficient to cover the costs associated with the implementation of the environmental and rehabilitation obligations of the holder under this Act including waste management.

(2) An environmental protection bond required under subsection (1) shall be in a form and for an amount as may be prescribed in regulations by the Cabinet Secretary having regard to the particular characteristics of the nature and size of the commercial aquaculture activities.

Justification

The amendment seeks to provide for an environmental protection bond for persons undertaking commercial aquaculture as measure for mitigating against negative impacts to the environment as a result of the activities.

CLAUSE 68

THAT, clause 68 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new sub-clause—

(3) Each person engaged in commercial aquaculture in Kenya shall, within twelve hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility over which the person exercises management or control or to other equipment, that may lead to the escape of hatchery reared aquaculture stock, notify the Director-General and the County Director of the escape or damage, including the following—

(a) the species of fish affected;
(b)the date or an estimate of the date on which the escape or damage took place;
(c) the number and biomass or an estimate of the number and biomass of the fish that have escaped; and

(d) the age or developmental stage of the fish at the time of their escape and details of the circumstances in which the escape or damage took place,

and, within seven days after becoming aware of such escape or damage, notify the Director-General and the County Director in writing of the action taken to deal with it.

Justification

The amendment seeks to provide for notification of escapement to the Director-General as well as the County Director in instances of escapement noting that regulation of commercial aquaculture is primarily by county governments.

CLAUSE 69

THAT, clause 69 of the Bill be amended in sub-clause (3) by deleting the word "Director-General" and substituting therefor the word "County Director".

Justification

To align to the provisions of the Fourth Schedule to the Constitution which has devolved agriculture including animal disease control; and fisheries are functions to counties.

CLAUSE 73

THAT, clause 73 of the Bill be amended –

(a) in sub-clause (1) by inserting the words "in consultation with county governments" immediately after the word "may"; and
(b) by inserting the following new paragraph immediately after paragraph (g)—

(ga) environmental protection bonds for commercial aquaculture activities including amounts to be paid;

(gb)providing for the methodology for calculating license and permits fees for aquaculture activities including exemptions or reduced fees for aquaculture operators below prescribed production levels;

(gc)providing for single permit agreement for aquaculture operators, for movement, harvesting and processing and related operational activities;

(gd) provide for the categorization of aquaculture establishments based on production capacity for purpose of differentiated licenses.

Justification

To provide for a consultative process between the National and county governments in the regulatory making process and provide for regulations on environment protection bond for commercial aquaculture. The amendment seeks to also provide for categorization of aquaculture establishments based on production for purposes of differentiated licenses and also provide for single permit to for purposes of encouraging and easing investment in the sector.

CLAUSE 79

THAT, clause 79 of the Bill be amended in–

(a) sub-clause (1) by deleting the words "The Cabinet Secretary in consultation with the Director-General" and substituting therefor the words "The Cabinet Secretary or County Executive Committee Member in consultation with the Director-General or County Director as the case may be"; and

(b) sub-clause (3) by deleting the words "The Director-General" and substituting therefor the words "The Director-General or County Director as the case may be".

Justification

The amendment seeks to provide for the role of the County Governments in handling confidential information.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 80—

Registers of licenses and authorizations.

80A. (1) The County Director shall establish and maintain a County register of licenses and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary.

(2) The register established under subsection (1) shall include —

(a) information on applications for licenses and authorizations under this Act;

(b) information on each license and authorization issued, renewed, suspended or cancelled under this Act, including the activity, date and duration;

(c) information on each licensed or authorized person;

(d) information on the relevant vessel, facility, and/or licensed or authorized activity;

(e) any record of non-compliance with the license or authorization; and

(f) any record of action taken as a result of non such other information that may be prescribed or required by the County Director.

Justification

County Governments also need to have in place a register of licenses and authorizations.

CLAUSE 81

THAT, clause 81 of the Bill be amended by inserting the words "or County-Director as the case maybe " immediately after the word "Director-General".

Justification

The amendment provides for the role of the County Director in providing information under the Act.

CLAUSE 82

THAT, the Bill be amended by deleting clause 82 and substituting therefor the following new clause—

Information available to the public.

82. The Director-General and County Director shall make information available to the public and as necessary disseminate relevant information to stakeholders for purposes of fisheries conservation, management and development, including regional and international organizations, except for such information that may be designated confidential in accordance with section 79.

Justification

The amendment corrects a cross-referencing error and provides for the role of the County Director in managing information under the Act.

CLAUSE 83

THAT, clause 83 of the Bill be amended by—

(a) in sub-clause (1) by deleting the expression "90(3)" and substituting therefor the expression "85(1)"; and
(b) by inserting the following new sub-clause immediately after sub-clause (5)

(6) Any requirement for registration under this section shall be with respect to undertake fishing or related activities and shall not be construed as registration of the vessel and no registration fee for the vessel shall be payable under this Act in respect of a vessel registered under the Merchant Shipping Act.

Justification

The amendment seeks to align the title of the Act with new Cap number issued. The amendment also clarifies that registration is for fishing activities and not the vessel which are regulated under the Merchant Shipping Act.

CLAUSE 85

THAT, clause 85 of the Bill be amended in sub-clause (1) by deleting the words "Board, on the recommendation of the".

Justification

The amendment clarifies the role of the Director-General in issuance of of licenses and provides for operational efficiency.

CLAUSE 86

THAT, clause 86 of the Bill be amended in—

(a) sub-clause (1) by deleting the expression "134" and substituting therefor the expression "133"; and
(b) sub-clause (2) by deleting the expression "134" and substituting therefor the expression "133".

Justification

The amendment corrects a cross-referencing error.

CLAUSE 87

THAT, clause 87(1) of the Bill be amended by deleting the expression "134" appearing in paragraph (j) and substituting therefor the expression "133".

Justification

The amendment corrects a cross-referencing error.

CLAUSE 88

THAT, clause 88(1) of the Bill be amended in paragraph (d) by deleting the words "or fishing" appearing in subparagraph (iv) and substituting therefor the words "or fishing related activities".

Justification

The amendment seeks to expand the information required under fishing plans to include information on where fishing related activities will take place which is important for regulation.

CLAUSE 89

THAT, clause 89 of the Bill be amended in—

(a) sub-clause (2)(b) by deleting the expression "134" appearing in subparagraph (i) and substituting therefor the expression "133"; and
(b) sub-clause (6) by inserting the words "shillings" immediately after the words "thousand".

Justification

The amendment corrects a cross-referencing error and further clarifies the amount is in shillings.

CLAUSE 90

THAT, clause 90 of the Bill be amended in sub-clause (1) by deleting the words "the Employment Act 2007" and substituting therefor the words "applicable labour laws and any other laws governing safety at sea."

Justification

The amendment seeks to provide that where persons are employed by persons issued with licenses under the Act that employment should be in compliance with relevant labour laws and laws relating to safety at sea.

CLAUSE 91

THAT, the Bill be amended by deleting clause 91 and substituting therefor the following new clause—

Period of validity of licenses and authorizations.

91. (1)A license issued pursuant to this Act shall, unless otherwise provided, be valid for a maximum period of one calendar year and may be renewable, subject to any fisheries management decision taken in accordance with this Act and the terms and conditions set out in the license

(2) An authorization issued pursuant to subsection83 (5) shall be valid for a period prescribed by the Director-General

Justification

The amendment clarifies on the validity period of licenses issued under the Act.

CLAUSE 92

THAT, clause 92(1) of the Bill be amended in paragraph (b) by inserting the words "or the county government" immediately after the word "Director-General".

Justification

Fees and charges may be imposed by Counties hence the need for the same to be published.

CLAUSE 96

THAT, clause 96 of the Bill be amended—

(a) renumber clause 96 as clause 97(1);

(b) inserting the following new sub-clauses immediately after sub-clause (1)—

(2) An applicant for a license who is aggrieved by a decision not to grant or renew any license or authorization under this Act, or to a person who holds a license or authorization who is aggrieved by a decision to suspend or cancel such license or authorization may appeal to the County Director within thirty days of receiving notification of such decision, and may further appeal to the County Executive Committee Member within thirty days of receiving notification of the County Director's decision.

(2) A person aggrieved by a decision of the Cabinet Secretary or County Executive Committee Member may appeal to the Tribunal within thirty days of receipt of the decision.

Justification

The amendment enables persons aggrieved with decision of the Cabinet Secretary or County Executive Committee Member to the Fisheries Tribunal as a means of aiding access to justice.

CLAUSE 99

THAT, clause 99(1) of the Bill be amended—

(a) in paragraph (a) by—

(i) deleting the word "log" and substituting therefor the word "logbook";
(ii) inserting the following new subparagraph immediately after subparagraph (v)—

(va)by catches of non-target species;

(b) in paragraph (c) by deleting the words "subparagraph (a), (b), (c) and (d)" and substituting therefor the words "subparagraph (a), (b) and (c)"

Justification

The amendment is a cleanup of the provision and enhances the reporting requirements for industrial fishing vessels to include catches of non-target species.

CLAUSE 105

THAT, the Bill be amended by deleting clause 105 and substituting therefor the following new clause—

Conditions for recreational fishing vessels.

105. (1) Licenses issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions—

(a)the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the County Director.

(b)on receipt of an application for registration of a recreational fishing vessel, the County Director shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the County Director shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration; and

(c)such other requirements as may be prescribed or required by the County Director.

Justification

Recreational fishing is a function devolved to county governments hence requirements should be issued by the County Director.

CLAUSE 111

THAT, clause 111 of the Bill be amended in sub-clause (1) by deleting the opening statement and substituting therefor the following new opening statement—

(1)Each license to operate a fish processing establishment shall be issued by the respective county government subject to the following conditions in addition to any other conditions required pursuant to this Act—

Justification

The amendment clarifies, the respective County Governments shall be responsible for issuing fish processing licenses in accordance with the conditions set forth in the Act. Trade regulation, including the issuance of trade licenses, is a fully devolved function under the Fourth Schedule of the Constitution.

CLAUSE 121

THAT, clause 121(3) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

(c)measures to be taken to minimize the escape of waste products and the pollution of land and water.

Justification

The amendment provides for pollution mitigation measures when issuing aquaculture licenses.

CLAUSE 127

THAT, clause 127 of the Bill be amended —

(a) by deleting sub-clause (1) and substituting with the following new sub-clause(1)—

> (1) The Cabinet Secretary may, on the recommendation of the Director-General, on behalf of the Government of Kenya and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities.

(b)in sub-clause (2)(a) by deleting the words "and/or" appearing in subparagraph (iv).

Justification

The amendment is a cleanup and clarifies the permit is issued on recommendation of the Director-General.

CLAUSE 128

THAT, clause 128 of the Bill be amended in paragraph (f)by deleting the expression "134" and substituting therefor the expression "133"

Justification

The amendment corrects a cross-referencing error.

CLAUSE 133

THAT, clause 133 of the Bill be amended—

(a) in sub-clause (1) by deleting the word "may" and substituting therefor the word "shall"
(b) in sub-clause (2) by inserting the words "compensation to the crew of the fishing vessel for the loss of life or damage to their belongings on board as a consequence of a fishing vessel's foundering, piracy, fire or other loss affecting the vessel" immediately before the words "and shall".

Justification

The provision makes it mandatory for the Cabinet Secretary to require for a performance bond with regards to a foreign fishing vessels and provide for compensation of fishers.

CLAUSE 134

THAT, the Bill be amended by deleting clause 134 and substituting therefor the following new clause—

Force majeure or distress.

134. (1) Nothing in this Act or Regulations made thereunder affects the entry of a vessel to port in accordance with the laws of Kenya for reasons of force majeure or distress.

(2) The Director-General may grant a vessel that falls within the provisions of this Act, entry into port for reasons of force majeure or distress, provided that—

(a) the vessel may enter port under its claim of force majeure or distress for such period of time necessary to remedy such claim; and

(b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.

Justification

To provide for clarity on conditions under which vessels may be granted access in instances of distress.

CLAUSE 135

THAT, clause 135 of the Bill be amended by deleting sub-clause (6).

Justification

For clarity and to harmonize with the new definitions of "monitoring, control and surveillance" in clause 2.

CLAUSE 139

THAT, clause 139 (1) of the Bill be amended in paragraph (a)(i) by inserting the word "Kenya" immediately before the word "fisheries"

Justification

To align with the terminology used in the Act and make reference to power to stop, enter or board vessels is with regards fishing vessels which are within Kenya fisheries water.

CLAUSE 141

THAT, clause 141(1) of the Bill is amended by inserting the word "or" immediately after the word "Act;" appearing in paragraph (a).

Justification

The amendments provides for clarity and cleans up a typographical error.

CLAUSE 144

THAT, clause 144 (1) of the Bill be amended by deleting the words "in cooperative" and substituting therefor the word "uncooperative".

Justification

This is a cleanup of a grammatical error.

CLAUSE 146

THAT, clause 146 of the Bill be amended—

(a) in sub-clause (1) by deleting the word "Board";
(b) by inserting the following new sub-clause immediately after sub-clause (2)—

(3)An observer shall on request identify himself or herself and produce proof of identification as an observer.

Justification

The observer programme does not have a Board hence the deletion further amendment requires an observer to identify themselves when required.

CLAUSE 147

THAT, clause 147 (1)of the Bill be amended in paragraph (b) by deleting the words "in accordance with such standards and procedures as may be prescribed or approved by the Board" and substituting therefor the words "or any international agreement and arrangements."

Justification

The observer programme does not have a Board hence the deletion.

CLAUSE 150

THAT, clause 150 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

(3)Where any person mentioned in sub-clause (1) is forced by circumstances to stay on board the vessel for a prolonged period of time, provide the observer, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel, at the expense of the operator.

Justification

To align with best international practices to provide where observers is forced to be on board the vessel for a prolonged period of time they be provided with food, accommodation and medical facilities.

CLAUSE 153

THAT, clause 153 (1) of the Bill be amended by deleting the words "No liability shall attach to the Service and its officers, employees or other persons acting under the authority of the Service," and substituting therefor the words "No liability shall attach to the Service or the County Government and their officers, employees or other persons acting under the authority of the Service or County Government".

Justification

To provide for protection from liability for County Government officers undertaking duties in accordance with the Act.

CLAUSE 154

THAT, clause 154 of the Bill be amended by inserting the words "or County Government as the case may be" immediately after the word "Service".

Justification

To provide for insurance for County Government authorized officers.

CLAUSE 155

THAT, clause 155(2) of the Bill be amended by inserting the words "shall" immediately after the words "member of a vessel".

Justification

The amendment is a cleanup.

CLAUSE 156

THAT, clause 156 of the Bill be amended by—

(a) in sub-clause (4) by deleting the word "four" and substituting therefor the word "one";
(b) in sub-clause (5) by inserting the following new paragraph immediately after paragraph (f)—

(g) accuracy requirements.

(c) inserting the following new sub-clause immediately after sub-clause (6)—

(6A) The Director-General may require the operator of any fishing vessel, as a condition of license or otherwise, to install, maintain and operate in accordance with such conditions as may be prescribed and such other conditions that may be required by the Director-General, remote electronic monitoring.

Justification

The amendment aligns with best practices, and ensures better monitoring, control and surveillance on reporting times of vessels.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 156—

Designation of ports.

156A. (1) The Cabinet Secretary shall designate by notice in the *Gazette*, the port or ports to which vessels engaged in fishing and fishing related activities may request entry.

(2) The Cabinet Secretary shall provide a list of ports designated pursuant to paragraph (1) to the Food and Agriculture Organization of the United Nations and to any regional fisheries management organization pursuant to applicable conservation and management measures.

Justification

The amendment aligns with Kenya international obligations, specifically the Port State Measures Agreement. (PSMA) on designation of fishing ports.

CLAUSE 158

THAT, the Bill be amended by deleting clause 158 and substituting therefor the following new clause

Vessels may be prohibited from entering port.

58. (1) An authorization to enter a port shall be denied where there is sufficient proof that a vessel seeking entry into port—

(a) has engaged in illegal, unreported and unregulated fishing, or in fishing-related activities in support of such fishing, or

(b) appears on a list of vessels which have engaged in illegal, unreported and unregulated fishing or fishing related activities in support of such fishing adopted by a regional fisheries management organization.

(2) Without prejudice to sub-clause (1), authorization for a vessel to enter a port may be given exclusively for the purpose of –

(a) inspecting the vessel; and

(b) taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring or eliminating illegal,

unreported and unregulated fishing and fishing-related activities in support of such fishing.

(3) The Director-General shall communicate any decision taken under to subsections (1) or (2) to the vessel or its representative.

(4) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not less than fifty million shillings or to imprisonment for a term not less than ten years or to both.

Justification

The amendment is a cleanup of the provision and provides clarity on circumstances vessels may be prohibited entry into ports.

CLAUSE 160

THAT, clause 160 (1) of the Bill be amended by inserting the word "foreign" immediately before the words "fishing vessels".

Justification

To provide clarity that the inspection relates to foreign vessels.

CLAUSE 166

THAT, clause 166 (1) of the Bill be amended by inserting the words "or County Director" immediately after the word "Director-General".

Justification

Provide for the powers of the County Director to exercise power of sale of seized perishable goods.

CLAUSE 179

THAT, clause 179 (1) of the Bill be amended in—

(a) sub-clause (2) by deleting the expression "127" and substituting therefor the expression "126"; and
(b) in sub-clause (3) by deleting the expression "80" and substituting therefor the expression "79".

Justification

Amendment cleans a cross-referencing error.

CLAUSE 182

THAT, clause 182 (1) be amended by deleting the word "Attorney-General" and substituting therefor the words "Director of Public Prosecution".

Justification

Prosecutorial powers are under the Director of Public Prosecution in accordance with the Article 157 of the Constitution.

PART XVIII

THAT, the Bill be amended by deleting Part XVIII and substituting therefor the following new Part—

PART XVIII—ESTABLISHMENT OF THE FISHERIES TRIBUNAL

Establishment of the Fisheries Tribunal.

198. (1) There is established a Fisheries Tribunal.

(2) The Fisheries Tribunal shall consist of the following members appointed by the Judicial Service Commission—

(a)a Chairperson who shall be an advocate of the High Court of Kenya with not less than ten years' post qualification experience;

(b)two persons one of whom shall be a registered civil engineer and the other a registered water engineer, with at least ten years' experience; and

(c)two persons who possess a degree from university recognized in Kenya and at least five years' experience in a relevant field.

(3) The Chairperson and members of the Fisheries Tribunal shall be appointed for a term of three years and shall be eligible for reappointment for one further term of three years.

(4) The Chairperson and members of the Fisheries Tribunal shall be paid such remuneration and allowances as the Judicial Service Commission may, in consultation with the Salaries and Remuneration Commission, determine.

Staff of the Tribunal.

199. The staff of the Tribunal shall be appointed, removed from office or otherwise disciplined by the Judicial Service Commission in accordance with Article 172(1)(c) of the Constitution.

Jurisdiction of the Tribunal

200. (1)The Tribunal shall exercise the powers and functions set out in this Act and in particular shall hear and determine appeals at the instance of any person directly affected by the decision or order of the Cabinet Secretary, Director-General, the Service or of any person acting under the authority of the Cabinet Secretary or the Service.

(2) In addition to the powers set out in subsection (1), the Tribunal shall have the power to hear and determine any dispute concerning fisheries and aquaculture where there is a business contract, unless the parties have otherwise agreed to an alternative dispute resolution mechanism

Justification

The Kenya Fish Marketing Authority established in Part XVIII has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

Further the amendment seeks to establish the Fisheries Tribunal in order to aid access to justice in disputes arising from the implementation of the Act.

CLAUSE 210

THAT, the Bill be amended by deleting clause 210 and substituting therefor the following new clause—

Repeals and transitional provisions.

210.(1) The Fisheries Management and Development Act is repealed.

(2). Notwithstanding the provisions of subsection (1)—

Cap. 378.

(a) Any statutory instruments issued under the provisions of the Fisheries Management and Development Act (Repealed), before the commencement of this Act shall be deemed to be statutory instruments granted by the under the provisions of this Act and shall remain in force until specifically revoked under this Act.

(b) Anything done under the provisions of the Energy Act, Fisheries Management and Development Act is (Repealed) before the commencement of this Act shall be deemed to have been done under the provisions of this Act.

(c) All property, except such property as the Cabinet Secretary may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Kenya Fish Marketing Authority shall with approval of the Cabinet Secretary vest in the Ministry responsible for blue economy and fisheries, subject to all interests, liabilities, charges, obligations and trusts affecting such property.

(d) Except as otherwise provided in subsection (1) in relation to property, all contracts, debts, obligations and liabilities of the Government

attributable to the Kenya Fish Marketing Authority immediately before the commencement of this Act shall, with the approval of the Cabinet Secretary, remain vested in the Government and may be enforced by or against the Government.

(e) All persons, being public officers, who, immediately before the commencement of this Act, are employed by the Government for the purposes of the activities of the Kenya Fish Marketing Authority, shall at the commencement of this Act be, deemed to be staff of the Ministry responsible for blue economy and fisheries, in accordance with this Act, or their deemed secondment otherwise ceases in accordance with the terms of such secondment.

(f) Where, at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the Kenya Fish Marketing Authority pursuant to disciplinary proceedings against such employee, and the penalty has not been or remains to be served by such employee, such employee shall, on his transfer to the Ministry responsible for blue economy and fisheries, serve or continue to serve such penalty to its full term as if it had been imposed by the State Department or the Service.

(g) At the commencement of this Act, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former Institute, former Service and former Fund shall vest in the Institute, the Service or the Fund respectively.

(h) All rights, obligations, powers and duties whether arising under any written law or otherwise which immediately before such day were vested in or imposed on the former Institute, former Service and former Fund shall, be deemed to be vested in or imposed on the Institute, the Service or the Fund respectively.

(i) All actions, suits or legal proceedings by or against the former Institute, former Service and former Fund shall be carried on or prosecuted by or against the Institute, the Service and the Fund respectively and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of this Act.

(j) All directions, orders and authorizations given, or licenses or permits issued or registrations made by the former Institute, former Service and former Fund and subsisting or valid immediately before the commencement day, shall be deemed to have been given, issued, or made by the Institute, the Service or the Fund respectively under this Act.

(k) The administrative directions made by the former Institute, former Service and former Fund or by the Cabinet Secretary which were in force immediately before the coming into operation of this Act shall, on and after such day, have force as if they were directions made by the Board of the Institute the Service and the Fund or the Cabinet Secretary under this Act.

(l) A contract subsisting between former Institute, former Service or former Fund and another person or entity before the commencement of this Act shall subsist between the Institute, the Service or the Fund respectively, and that person or entity.

(m) Any reference in any written law or in any document or instrument to the former Institute, former Service and former Fund shall on and after the commencement of this Act, be construed to be a reference to the Institute.

(n) The Chairperson and members of the Board of the former Institute, former Service and former Fund, shall, at the commencement of this Act, be deemed to be the Chairperson and members of the Board of the Institute, the Service or the Fund respectively, for the unexpired period of their term.

(o) In this section—

"former Institute" means the Kenya Forestry Research Institute established under the Science, Technology and Innovation Act;

"former Service" means the Kenya Fisheries Service existing immediately before the commencement of this Act; and

"former Fund" means the Fish Levy Trust Fund existing immediately before the commencement of this Act.

(p) The Director of the former Institute, former Service and former Fund shall at the commencement of this Act, assume the duties of the Director General of the Institute, the Service or the Fund respectively for the remainder of the existing term of contract.

(q) A person who, immediately before the commencement of this Act, was a member of staff of the former Institute, former Service and former Fund shall be deemed to be a member of staff of the Institute, the Service and the Fund respectively subject to such terms of service as the Board of the Institute may, on the advice of the Salaries and Remuneration Commission, determine,

Provided that a member of staff of the Institute, the Service and the Fund may exercise the option not to continue in the service of the Institute, the Service and the Fund respectively.

(r) Notwithstanding subsection (12) where at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the former Institute, former Service or former Fund pursuant to disciplinary proceedings against the employee, and the penalty has not been or remains to be served by such employee, such employee shall, on their transfer to the Institute, the Service and the Fund respectively serve or continue to serve such penalty to its full term as if it had been imposed by the Institute.

(s) Nothing in this Act shall affect the pension rights of any employee under the Pensions Act.

Justification

The amendment provides for the transitional provisions and repeal of the existing Act.

CLAUSE 211

THAT, the Bill be amended by deleting clause 211 and substituting therefor the following new clause—

Amendment to Cap. 511.

211. The Science, Technology and Innovation Act is amended in—

(a) section 16 by deleting subsection (2); and
(b) the Fourth Schedule by deleting paragraph 2

Justification

The amendment provides for consequential amendments to the Science, Technology and Innovation Act, Cap. 511 to delete the Kenya Marine and Fisheries Research Institute from the list of research institutes under that Act.

INSERTION OF NEW SCHEDULE

THAT, the Bill be amended by inserting the following new schedule—

FIRST SCHEDULE s. 13A

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Tenure of office and conduct of business of the Board

(1) The chairperson of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) Other than ex officio members, a member of the Board shall, subject to the provisions of this section, hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term of three years.

(3) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

2. Meetings of the Board

(1) The Board shall meet not less than four times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting:

Provided that the chairperson may call a special meeting of the Board at any time where he deems it expedient for the transaction of the business of the Board.

(2) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(3) The quorum for the conduct of business of the Board shall be half of the members' and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(4) The chairperson shall preside over all meetings of the Board in which he is present, but in his/her absence, the vice-chairman shall preside, and in his/her absence the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(5) At the first meeting of the Board, the members shall elect a vice-chairperson, not being a public servant, from among its members.

(6)The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(7) For purposes of this Schedule the word "Board" includes the Board of the Institute.

3. Disclosure of interests

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at the meeting of the Board at which the contract, proposed contract or matter is the subject of consideration, he/she shall, at the meeting and as soon as practicable after the commencement thereof, disclose that fact and shall be excluded at the meeting at which the contract, proposed contract or matter is being considered.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

4. Board may regulate procedure

Save as provided in this Schedule, the Board may regulate its own procedure.

Justification

The amendment provides for the conduct and affairs of the Board and the Institute.

FIRST SCHEDULE

THAT, First Schedule to the Bill be amended—

(a) by deleting the title and substituting therefor the following new title—

SECOND SCHEDULE s.16(1)

(b) in Part D by inserting the following new item—

Representative of Kenya Coast Guard Service	Member	Co-opted

Justification

Section 8(1)(j) of the Kenya Coast Guard Service Act (Cap. 200) provides that the Service shall, be deployed in the territorial waters including for the protection of maritime resources including fisheries. Further section 9(2)(b) gives the Kenya Coast Guard Service the power stop, enter, board, inspect or search any structure, place, vessel or aircraft engaged in or suspected to be engaged in any unlawful activity.

The amendment seeks to include in the inter-agencies MCS a representative of Kenya Coast Guard Service, in order to enhance the protective given in the Kenya fishery waters and fishers by inclusion of the Service.

SECOND SCHEDULE

THAT, the Second Schedule to the Bill be amended by deleting the title and substituting therefor the following new title—

THIRD SCHEDULE s.49(1)

Justification

The amendment is a clean based on re-organization of numbering of provisions.

THIRD SCHEDULE

THAT, the Bill be amended by deleting the Third Schedule.

Justification

The provision on Conduct and Affairs of the Board is proposed to be moved to the First Schedule, hence this is a cleanup.

FOURTH SCHEDULE

THAT, the Bill be amended by deleting the Fourth Schedule.

Justification

The consequential amendments to the Agriculture, Fisheries and Food Authority Act and the Kenya Agricultural and Livestock Research Act were already effected by enactment of Cap,. 378, hence the provision is superfluous and unnecessary.

ANNEX 1:

ADOPTION LIST

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - FIFTH SESSION – 2026

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

MEMBERS ATTENDANCE SCHEDULE

DATE: Sat 21st Feb 2026 START: 2:03 PM END: 4:30 PM

VENUE: GARDEN SUITE 1 & 2, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY

AGENDA: CONSIDERATION & ADOPTION OF THE COMMITTEE REPORT ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

NO.	NAME	SIGNATURE
1	Hon. Bowen Kangogo, MP, CBS – Chairperson	
2.	Hon. Kemero Maisori Marwa Kitayama, MP, CBS – Vice- Chairperson	
3.	Hon. Eng. Tandaza Kassim Sawa, MP, CBS	
4.	Hon. Buyu Rozaah Akinyi, MP, CBS	
5.	Hon. William Kamket, MP, CBS	
6.	Hon. Muiruri Stanley Muthama, MP	
7.	Hon. Eng. Nzengu Paul Musyimi, MP	
8.	Hon. Eng. Nebart Bernard Muriuki, MP	
9.	Hon. (Dr.) Osogo Bensuda Joyce Atieno, MP	
10.	Hon. Gachagua George, MP	
11	Hon. Mohamed Abdikadir Hussein, MP	
12.	Hon. Mnyazi Amina Laura, MP	
13.	Hon. Eric Wamumbi, MP	
14.	Hon. Dorothy Muthoni Ikiara, MP	
15.	Hon. Adow Mohamed Aden, MP	

Forwarded by:

Signed……Date……
Mr. Mohamed Boru
First Clerk Assistant – Committee Clerk

Approved by:

Signed……Date……
Mr. Abenayo Wasike,
Principal Clerk Assistant II/ Head of Department- Productive Sector
Directorate of Departmental Committees

ANNEX 2:

MINUTES

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FIFTH SESSION – 2026

MINUTES OF THE 6TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON SATURDAY 21ST FEBRUARY, 2026 IN THE GARDEN SUITE 1& 2, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY AT 2:00 PM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP, CBS - **Vice Chairperson**
3. Hon. Eng. Tandaza Kassim Sawa, MP, CBS
4. Hon. Buyu Rozaah Akinyi, MP, CBS
5. Hon. William Kamket, MP
6. Hon. Eng. Nzengu Paul Musyimi, MP
7. Hon. Eng. Nebart Bernard Muriuki, MP
8. Hon. Gachagua George, MP
9. Hon. Mohamed Abdikadir Hussein, MP
10. Hon. Mnyazi Amina Laura, MP
11. Hon. Dorothy Muthoni Ikiara, MP

APOLOGIES

1. Hon. Muiruri Stanley Muthama, MP
2. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP
3. Hon. Eric Wamumbi, MP
4. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE

NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1.	Mr. Mohamed Boru	First Clerk Assistant
2.	Ms. Ivy Kageha	Clerk Assistant III
3.	Dr. Benjamin Ng'imor	Principal Fiscal Analyst
4.	Ms. Lynette Otieno	Principal Legal Counsel
5.	Ms. Veron. D. Aluoch	Research Officer III
6.	Ms. Fridah Ngari	Media Relations Officer III
7.	Mr. Mohammed Said	Serjeant- At- Arms III

8. Ms. Sophia Akumu Intern

MIN.NO.DC/ BEW&I/ 027/2026: PRELIMINARIES

The Chairperson called the meeting to order at three minutes past two o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Consideration and Adoption of the Committee Report on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023)**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/028/2026: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/BEW&I/ 029/2026: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next sitting.

MIN.NO.DC/ BEW&I/030/2026: CONSIDERATION AND ADOPTION OF THE COMMITTEE REPORT ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

Committee Recommendations

The Committee having considered the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) recommends that the House APPROVES the Bill with the following amendments:

CLAUSE 2

THAT, clause 2 of the Bill be amended—

(a) by deleting the definition of "Authority";

(b) by deleting the definition of "Board of Directors";

(c) by deleting the definition of "Council";

(d) by deleting the definition of the word "authorized officer" and substituting therefor the following new definition—

"authorized officer" means a fisheries officer, fish inspector, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 17;

(e) by deleting the definition of the word "foreign fishing vessel" and substituting therefor the following new definition—

"Foreign fishing vessel" means a fishing vessel not registered in Kenya;"

(f) by deleting the definition of the word "subsistence fishing" and substituting therefor the following new definition—

"subsistence fishing" means local or non-commercial fisheries, oriented not primarily for recreation but for sourcing of fish for consumption by the fishers, their dependents or community;"

(g) by deleting the definition of the word "surveillance" appearing first in time

(h) in the definition of the word "territorial waters" by deleting the words "and includes the territorial sea";

(i) by deleting the definition of the word "transshipment" and substituting therefor the following new definition—

"Transshipment" means the direct transfer of any quantity of fish onboard from one vessel to another vessel regardless of the location of the event, without the fish being recorded as landed."

(j) by inserting the following new definitions in their proper alphabetical sequence—

"commercial fishing" means fishing for sale, barter, or trade;

"control" means the specification of the terms and conditions under which resources can be harvested.

"county fisheries officer" means an officer within a county designated by the respective county executive committee member;

"County Director" means the County Director responsible for matters relating to fisheries in the respective county;

"County Executive Committee Member" means the County Executive Committee Member responsible for matters relating to fisheries in the respective county;

"Director-General of the Institute" means the Director General of the Institute appointed under section 27S;

"Fund" means the Fish Levy Development Fund established pursuant to Section 27;

"Institute" means the Kenya Marine and Fisheries Research Institute established under 27A;

"Board of the Institute" means the Kenya Marine and Fisheries Research Institute established under section 27C;

"marine park" means a protected marine area where no fishing, construction work or any disturbance is allowed unless with written permission under the Wildlife Conservation and Management Act;

"exclusive economic zone" shall have the same meaning as assigned to it under the Maritime Zones Act ;

"fish inspector" is any person appointed for the purposes of inspections in fish safety and quality or aquaculture or monitoring, control and surveillance activities; and

"fish landing station" means a designated coastal or inland shore area gazetted by the Cabinet Secretary where fishing vessels anchor to unload, sell or process their catch;
"Monitoring" means the collection, measurement and analysis of fishing activity including, but not limited to catch, species composition, fishing effort, bycatch, discards, area of operations.

Justification

The amendments provide for definition of terms that had been excluded and further aligns the terminology with best practices and in accordance with the devolved nature of functions as related to fisheries.

CLAUSE 4

THAT, clause 4 of the Bill appearing second in time be amended —

(a) by renumbering the existing provision as clause 5(1); and

(b) in subclause (2) by—

(i) deleting paragraph (q) and substituting the following new paragraph—

(q)ensuring effective co-operation between the National and county governments, coastal states, fishing states and competent organizations in the sustainable development, management, utilization and conservation of fisheries and other aquatic resources;

(ii) inserting the following new paragraph immediately after paragraph (q)—

(qa) the promotion of the blue-economy sector;

Justification

The amendment takes cognizance of the role of county Government in matters relating to fisheries and further expands the scope of the Bill to deal with matters related to Blue Economy.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 5—

National Blue Economy strategy.

5A. (1) The Cabinet Secretary shall within one year of the commencement of this Act and every five years thereafter following public participation formulate a blue economy strategy.

(2) The Cabinet Secretary shall submit annual reports to Parliament on the implementation of the Blue Economy strategy including implementation of international agreements and obligations.

Justification

Blue is a key pillar in fisheries hence the need for a national strategy with regards to blue economy.

PART II

THAT, the Bill be amended by deleting PART II

Justification

The Fisheries Advisory Council is deleted in line with government directive on reduction of state corporations.

CLAUSE 8

THAT, the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

Functions of the Service.

8. The functions of the Service shall be—

(a) ensure the appropriate conservation, development of standards on management, sustainable use, development and protection of fisheries resources;

(b) formulate and monitor the implementation of policies regarding the conservation, management and utilization of all fisheries resources within the scope of this Act;

(c) develop standards for the management of all fisheries and aquaculture activities and fishing related activities within the scope of this Act;

(d) develop guidelines for the preparation of fisheries specific management plans for the Kenya fishery waters;

(e) provide education to create public awareness and support for fisheries conservation, management, development and sustainable use;

(f) set and meet goals for fisheries conservation, management, development and sustainable use;

(g) in consultation with the Kenya Marine and Fisheries Research Institute, approve and coordinate research activities in relation to matters falling within the scope of this Act;

(h) collect and analyse data in relation to resources and activities falling within the scope of this Act;

(i) identify manpower requirements and recruit manpower at all levels for the Service;

(j) liaise as appropriate with agencies and persons, including stakeholders, industry, government

agencies, regional and international organisations and experts, whether local or foreign, on matters falling within the scope of this Act;

(k) act on behalf of the government, subject to the Treaty Making and Ratification Act in relation to any domestic or international agreement relating to fishing, fishing related activities or any matter falling within the scope of this Act, to which Kenya is or may become a party;

Cap.4D.

(l) administer and co-ordinate international protocols, conventions and treaties regarding fisheries in all its aspects in consultation with the Cabinet Secretary pursuant to the Treaty Making and Ratification Act;

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(m) subject to the Public Health Act and the Food, Drugs and Substance Act, control and regulate fish safety and quality;

Cap.242.

Cap.254.

(n) raise revenue through levies, fees, investments and other means in accordance with this Act and the Constitution, including solicitation by public appeal or otherwise, and accept and receive subscriptions, donations, devices and bequests, whether of movable or immovable property and whether absolute or unconditional for the general or special purposes of the Service or subject to any trust raise revenue through levies, fees;

(o) undertake the development of appropriate fisheries infrastructure, that relates to its mandate under this Act and the Constitution;

(p) facilitate investment in commercial fisheries, in collaboration with relevant agencies, persons or bodies, including Government departments;

(q) promote development and introduction of appropriate technologies in aquaculture production, processing and preservation in collaboration with relevant agencies, county governments and stakeholders;

(r) identify and promote construction of any works deemed necessary for the sustainable protection, development and economic utilization of fisheries resources;

(s) develop, implement and co-ordinate a national fish marketing strategy;

(t) ensure that fish and fishery products from Kenya enjoy market access at local, national, regional and international levels as premier products and, to this end, that the products and markets are developed and diversified;

(u) in collaboration with county governments and relevant stakeholders identify opportunities and promote all aspects of fisheries marketing;

(v) arrange and enter into joint ventures or any other forms of investment arrangement for purposes of performing any of its functions;

(w) co-ordinate fish quality assurance and operations of the marine and coastal fisheries, aquaculture and inland and riverine fisheries;

(x) co-ordinate and or undertake monitoring, control and surveillance of all activities within the scope of this Act in consultation with county governments and relevant stakeholders;

(y) promote the sustainable use of fish by preventing, deterring and eliminating to the extent possible trade in illegal, unreported and unregulated fishing; and

(z) perform such other duties and functions consistent with the provisions of this Act as may be necessary to carry out the objectives and provisions of this Act.

Justification

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service. Further aligns the functions of the Service with roles assigned to the two levels of Government.

CLAUSE 9

THAT, clause 9(1) of the Bill be amended in—

(a) paragraph (b) by inserting the words "marketing" immediately after the word "development"; and
(b) paragraph (d) by deleting the words "the Fish Marketing Authority established under section 204 and other agencies" and substituting therefor the words "relevant stakeholders".

Justification

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

CLAUSE 10

THAT, the Bill be amended by deleting clause and substituting therefor the following new clause—

Membership of the Board.

10.(1) The members of the Board shall consist of—

(a) a chairperson appointed through a transparent and competitive process by the President;
(b) the Principal Secretary responsible for matters relating to fisheries or a representative appointed in writing;
(c) the Principal Secretary responsible for matters relating to finance or a representative appointed in writing;
(d) the Principal Secretary responsible for matters relating to defence or a representative appointed in writing;
(e) the Attorney-General or a representative appointed in writing;
(f) a person nominated by the Council of governors and appointed by the Cabinet Secretary;

(g) three other persons, not being public officers, with knowledge and experience in the conservation, management, development and sustainable use of fisheries resources appointed by the Cabinet Secretary; and

(h) the Director-General, who shall be an ex-officio member of the Board with no right to vote.

(2)The members of the Board shall at their first meeting after appointment, elect a vice-chairperson from amongst their numbers provided that the Chairperson and Vice- Chairperson shall not be of the same gender.

(3)The Cabinet Secretary shall in making appointments under subsections (1)(g) have regard to the principle of gender parity, age, regional and ethnic balance and shall, to the extent possible, ensure an equitable representation from different sub-sectors of the fisheries sector.

(4)A person shall be qualified to be appointed under subsection (1)(a),(f) and (g) if such person—

(a) holds a degree from a university recognized in Kenya in—

(i) natural resource or environmental management, development or science;

(ii) fisheries studies, including fisheries governance, management, development or science;

(iii) marine affairs;

(iv) port management;

(v) aquatic science; or

(vi) a field related to the functions of the Board;

(b)has served in a senior management position for at least five years; and

(c)meets the requirements of Chapter Six of the Constitution

(5)The chairperson and member of the Board appointed under section subsection (1) (a),(f) and (g) shall hold office for a term of three years and shall be eligible for reappointment for one further term of three years.

(6) The appointment of the Chairperson and members of the Board shall be by name and by notice in the Gazette.

Justification

The amendment aligns with the provision of State Corporation Act on representative of Board to include the Attorney-General or their representative. Further the amendment seeks to provide for representation of the County Governments in the Board of the Service. Noting the functions given to the Service have a direct and indirect impact on the functions of the County Governments.

CLAUSE 11

THAT, clause 11of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause—

(2)Where a vacancy occurs in the membership of the Board under section 10(1), the appointing authority shall appoint a new member in accordance with the provisions of this Act.

Justification

The amendment is general cleanup of the provision and align with the drafting style and format of the House.

CLAUSE 12

THAT, clause 12 of the Bill be amended—

(a) in subclause (1)by deleting the words "subsection (5)" and substituting with the words "subsection (4)";
(b) in subclause (2)by deleting the word "Chair" and substituting with the word "Chairperson";
(c) in subclause (3)(a) by deleting the words "subsection (a)" and substituting with the words "subsection (2)";

Justification

The amendment seeks to correct a cross-referencing error and align the grammar in the provision.

CLAUSE 13

THAT, clause 13 of the Bill be amended—

(a) in subclause (3)(a) by deleting the words "Deputy Chairperson" wherever it appear and substituting therefor the words "Vice Chairperson" ; and
(b) by deleting subclause(10).

Justification

Amendment seeks to align with the drafting style and format of the House by subsequently providing for a schedule on the Conduct of business and affairs of the Board.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 13—

Conduct of business and affairs of the Board.

13 A. (1) The conduct and regulation of the business of the Board shall be as provided in the First Schedule.

(2) Except as provided in the First Schedule, the Board may regulate its own procedure and the procedure of any committee constituted. under the Act.

Justification

Amendment seeks to align with the drafting style and format of the House by providing for a schedule on the Conduct of business and affairs of the Board.

CLAUSE 14

THAT, clause 14 of the Bill be amended by deleting subclause (2) and substituting therefor the following new subclause—

(2)A person shall be qualified to be appointed under subsection (1) if such person—

(a) holds a post graduate degree from a university recognized in Kenya in—

(i) natural resource or environmental management, development or science;

(ii) fisheries studies, including fisheries governance, management, development or science;
(iii) aquatic science; or
(iv) any other related field;

(b)has at least ten years' experience in a senior management position in a public or private institution; and

(c)meets the requirements of Chapter Six of the Constitution.

Justification.

The amendment seeks to enable persons who have management experience in private institutions to be also qualified to be appointed as the Director-General and further seeks to require a person to be compliant with Chapter Six of the Constitution to be eligible for appointment.

CLAUSE 15

THAT, clause 15(2) of the Bill be amended by deleting the words "the Fish Marketing Authority established under section 204 and other agencies" and substituting therefor the words "relevant stakeholders".

Justification

The Kenya Fish Marketing Authority established in clause 201 has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 15—

Corporation Secretary.

15A. (1) There shall be a Corporation Secretary who corporation shall be competitively recruited and appointed by the Board on such terms as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

(2)A person qualifies for appointment as the Corporation Secretary if that person—

(a)holds a bachelor's degree in law from a university recognized in Kenya;

(b)is an Advocate of the High Court of Kenya;

(c)has at least five years' experience as a corporation secretary or a similar governance role;

(d)is a member in good standing of the Institute of Certified Public Secretaries of Kenya; and

(e)meets the requirements of Chapter Six of the Constitution.

(3)The Corporation Secretary shall be the Secretary to the Board and shall—

(a) in consultation with the Chairperson of the Board, issue notices for meetings of the Board;
(b) assist the members of the Board in their duties and responsibilities;
(c) ensure the timely preparation and circulation of documents and minutes of the Board;
(d) be the custodian of the seal of the Institute and account to the Board for its use;
(e) ensure that members of the Board are aware of all relevant laws affecting the Institute;
(f) except in exceptional circumstances, ensure that Board papers are circulated in advance of any meeting; and
(g) perform any other function that may be assigned by the Board.

Justification

In line with Board governance management and reforms there is need for introduction of Corporation Secretary to act as the Secretary to the Board in line with the State Corporations Act and Companies Act and Mwongozo Code which is the code of governance for state corporations.

CLAUSE 16

THAT, clause 16 of the Bill be amended by deleting the words "First Schedule" wherever it appears and substituting therefor the words "Second Schedule".

Justification

The amendment corrects a cross-referencing error.

CLAUSE 17

THAT, the Bill be amended by deleting clause 17 and substituting therefor the following new clause—

Authorized officers.

17. (1) The Cabinet Secretary may, on the recommendation of the Director-General and by notice in the *Gazette* appoint an authorized officer for purposes of this Act.

(2) A person appointed under subsection (1), shall perform such functions as the Board may specify.

(3)Notwithstanding subsection (1), a County Executive Committee Member may within their respective county and in consultation with the County Director responsible for fisheries, appoint a county fisheries officers for purposes of performance of functions assigned to counties under this Act.

Justification

Fisheries being a devolved function, the amendment only seeks to provide for the appointment of authorized officers at the county level that is county fisheries officers.

CLAUSE 18

THAT, the Bill be amended by deleting clause 18.

Justification

The position of honorary fisheries officers are unnecessary and no such officers have been appointed since enactment of the Act, hence proposal to delete the provision.

CLAUSE 19

THAT, clause 19(2) of the Bill be amended in paragraph (b)by deleting the expression "2013" .

Justification

The amendment seeks to align the title of the Act with new Cap number issued.

CLAUSE 20

THAT, clause 20 of the Bill be amended –

(a) in subclause (2) by deleting the word "First schedule" and substituting therefor the word "Second Schedule".
(b) by deleting subclause (3) and inserting the following new subclause—

(3) The principal function of the inter-agency MCS Unit shall be to ensure coordinated and effective interagency enforcement of and compliance with this Act, including cooperation of the Service and the Kenya Coast Guard Service established under the Kenya Coast Guard Service Act in the protection of maritime resources including fisheries, fishers and Kenya fishery waters.

Justification

Section 8(1)(j) of the Kenya Coast Guard Service Act (Cap. 200) provides that the Service shall, be deployed in the territorial waters including for the protection of maritime resources including fisheries. Further section 9(2)(b) gives the Kenya Coast Guard Service the power stop, enter, board, inspect or search any structure, place, vessel or aircraft engaged in or suspected to be engaged in any unlawful activity.

The amendment seeks to include in the inter-agencies MCS a representative of Kenya Coast Guard Service in order to enhance the protective given in the Kenya fishery waters and fishers by inclusion of the Service.

CLAUSE 21

THAT, clause 21 of the Bill be amended in subclause (4)by deleting the expression "2012" .

Justification

The amendment seeks to align the title of the Public Finance Management Act with new Cap number issued, that is Cap.412A.

CLAUSE 24

THAT, clause 24 of the Bill be amended in subclause (2)by deleting the expression "2015" .

Justification

The amendment seeks to align the title of the Public Audit Act with new Cap number issued, that is Cap.412B.

CLAUSE 25

THAT, clause 25(1) of the Bill be amended in paragraph (b) by deleting the words "subsection 26(2)" and substituting therefor the words "subsection 24(2)".

Justification

The amendment seeks to correct a cross-referencing error.

CLAUSE 26

THAT, Bill be amended by deleting clause 26.

Justification

The amendment aligns with the provision on establishment of the Fish Levy Development Fund which has similar objects as the Fisheries Research and Development Fund. The Fisheries Research and Development Fund is yet to be established since the enactment of the Fisheries Management and Development Act in 2016 hence the proposal to delete the provision and transfers its purpose to the Development Fund.

CLAUSE 27

THAT, Bill be amended by deleting clause 27 and substituting therefor the following new subclause—

Fish Levy Development Fund.

27. (1)There is established a fund to be known as the Fish Levy Development Fund which shall be the successor of the Fish Levy Trust Fund.

(2)The Fund is a body corporate with perpetual succession and a common seal and shall have power, in its corporate name, to sue and to be sued and, in the exercise and performance of its powers and functions, to

do and permit all such things as may lawfully be done or permitted by a body corporate in furtherance of its objects.

(3)The purpose of the Fund shall be to—

(a) provide for the sustainable management, conservation and development of fisheries resources and the blue economy;
(b) provide funding for activities geared towards management, governance, development, fish stock assessments, research, capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource; and
(c) such other purposes as may be provided for the implementation of this Act.

(4)The Fund shall be administered by a five-member Board of Trustees to be appointed by the Cabinet Secretary by a notice in the *Gazette* on such terms and conditions as the Cabinet Secretary may prescribe, upon the advice of the Salaries and Remuneration Commission.

(5) A person is qualified for appointment as a member of the Board of Trustees if that person —

(a) has a post-graduate degree from a university is recognized in Kenya in fisheries science, marine science, law, economics or natural resource management; and
(b) meets the requirements of chapter Six of the Constitution .

(6)The Fund shall have Chief Executive Officer who shall be appointed by the Board of Trustees on such terms and conditions of service as the Cabinet Secretary responsible for matters relating to public service on the advice of the Salaries and Remuneration Commission may determine.

(7)The Chief Executive Officer shall be the accounting officer of the Fund and, subject to the directions of the Fund, shall be responsible for the management of the affairs of the Fund.

(8)The Fund may appoint such officers and other staff as may be necessary for the exercise and performance of its functions, upon such terms and conditions as the Cabinet Secretary responsible for matters

relating to public service on the advice of the Salaries and Remuneration Commission may determine.

(9)The monies of the Fund shall consist of—

(a) Funds appropriated by the National Assembly from the national budget for the purposes of the Fund;
(b) Funds received by the Fund from donations, grants, and bequests from other sources;
(c) the proceeds of the levy imposed under subsection (10); and
(d) funds payable into the Fund under any Act.

(10)The Cabinet Secretary may, by Regulations following public consultation prescribe a levy to be paid by persons engaged in fishing or fishing related activities, the proceeds of which shall be paid into the Fund established under section 27.

(11)The Levy collected under subsection (10) shall be appropriated as follows—

(a) twenty per centum shall be applied for research and innovation in blue economy and fisheries allocated to the Kenya Marine and Fisheries Research Institute;
(b) twenty per centum shall be applied for fish stock assessment allocated to the Kenya Marine and Fisheries Research Institute;
(c) twenty per centum shall be applied for Monitoring, Control and Surveillance allocated to the Kenya Fisheries Service;
(d) five per centum shall be applied to the fisheries observer program allocated to the Kenya Fisheries Service;
(e) five per centum shall be applied to blue economy fisheries management and governance allocated to the State Department responsible blue economy and fisheries; and
(f) twenty per centum shall be applied for capacity building, scholarships, awards and urgent mitigation to ensure sustainability of the blue economy and fisheries resource and shall be administered by the Fund; and
(g) ten per centum shall be applied for the administration of the Fund.

Justification

The amendment restructures the Fish Levy Trust Fund into the Fish Levy Development Fund and further provides for the manner in which the Levy will be distributed for purposes of accountability.

INSERTION OF NEW PART

THAT, the Bill be amended by inserting the following new Part immediately after Part IV

PART IVA—KENYA MARINE AND FISHERIES RESEARCH INSTITUTE

Establishment of the Kenya Marine Fisheries Research Institute.

Cap.511.

27A. There is established an institute to be known as the Kenya Marine and Fisheries Research Institute, which shall be a successor of the Kenya Marine and Fisheries Research Institute specified under paragraph 4 of the Fourth Schedule to the Science Technology and Innovation Act.

(2) The Institute may establish research centres, innovation and incubation hubs within the counties in Kenya.

(3) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing money;

(d) entering into contracts; and

(e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

Functions of the Institute.

27B. (1) The Institute shall be the lead government agency in marine and fisheries research and development and shall—

(a) develop research and development programmes and technologies for the sustainable development of forestry and allied natural resources;
(b) conduct national and regional expert training courses in marine, fisheries and the blue economy;
(c) disseminate research findings to support fisheries and blue economy development in the country; and
(d) establish partnerships and cooperate with other research organisations and institutions of higher learning in joint research and training.

(2) Without prejudice to the generality of subsection (1), the Institute shall—

(a) conduct research in order to generate scientific data and information in marine and freshwater fisheries, aquaculture, socioeconomics, environmental and ecological studies, and marine research including chemical and physical oceanography and hydrography, marine geology, minerology, bio-prospecting, and energy, for sustainable development of the blue economy;
(b) participate in the development and monitoring of national standards for fisheries and blue economy;
(c) collect and disseminate scientific information on fisheries and other aquatic resources and related natural products;
(d) study and identify suitable species for culture including development, adoption and transfer of rearing technology and procedure;
(e) assess, map, control and develop procedures for the control of invasive fish species;
(f) carry out socio-economic research on aspects relevant to fisheries, marine and other aquatic resources;
(g) Offer training facilities to aquatic scientists;
(h) conduct research on fish quality control, post-harvest preservation and value addition technologies;
(i) conduct research on blue economy;

(j) collaborate with other organizations and institutions of higher learning in competitive capacity development for exploitation of the blue economy;
(k) develop and promote technologies for upscaling commercial aquaculture and industrial fishing;
(l) maintain a database for scientific blue economy research information;
(m) undertake policy research in marine, fisheries and blue economy resources;
(n) transfer of scientific knowledge and appropriate technologies in the blue economy, marine and freshwater fisheries and aquaculture including information on appropriate fishing methods and gears to relevant stakeholders for the promotion of sustainable conservation and management of fishing in Kenya;
(o) conduct capacity development on fisheries resources including community participation and outreach programmes;
(p) conduct research and develop models and methodologies of blue economy carbon trading, quantification, financing and fish marketing in collaboration with relevant stakeholders;
(q) promote local, regional and international collaboration and partnerships in research in blue economy including marine and freshwater fisheries and aquaculture;
(r) report annually to the Cabinet Secretary on matters related to marine and fisheries research and development; and
(s) perform such other functions as may be assigned to it by this Act or any other written law.

(3) The Institute, in consultation with the Ministry responsible for matters related to education, may establish a forestry research graduate school, to facilitate research components of master's and doctorate levels academic programmes on marine, fisheries, aquaculture and blue economy.

Board of the Institute.

27C. The management of the Institute shall vest in a Board of the Institute which shall consist of—

(a) a chairperson appointed in an open, transparent and competitive process by the President;

(b) the Principal Secretary responsible for matters relating to fisheries and blue economy or a representative appointed in writing;
(c) the Principal Secretary responsible for matters relating to finance or a representative appointed in writing;
(d) the Attorney-General or a representative appointed in writing;
(e) the Director-General of the Kenya Fisheries Service or a representative appointed in writing;
(f) the Director-General of the National Commission for Science, Technology and Innovation or a representative appointed in writing;
(g) four other persons, not being public officers, with skills relevant to the Institute's functions, appointed by the Cabinet Secretary; and
(h) the Director-General, who shall be an ex-officio member of the Board with no right to vote.

Qualifications for appointment as a member of the Board of the Institute.

27D. (1) A person is qualified for appointment under subsection 27C (a) and (g) if that person—

(a) has a post graduate degree in a relevant field from a university recognised in Kenya;
(b) has proven management or other relevant professional experience;
(c) has served in a senior management position for at least six years; and
(d) meets the requirements of Chapter Six of the Constitution.

(2) The appointment of the Chairperson and members of the Board of the Institute shall be by name and by notice in the *Gazette*.

Tenure of office of members of the Board of the Institute.

27E. (1) The Chairperson and member of the Board appointed under section 27C (a) and(g) shall hold office for a term of three years and shall be eligible for reappointment for one other term of three years.

(2) The members of the Board shall be appointed at different times so that their terms of office expire at different intervals.

Remuneration of members of the Board of the Institute.

27F. A member of the Board of the Institute shall be paid such allowances or other remuneration as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.

Vacancy in the Board of the Institute.

27G. (1) The office of the chairperson or member of the Board of the Institute shall become vacant if the holder—

(a) dies;

(b) is absent from three consecutive meetings of the Board of the Institute without reasonable cause;

(c) resigns from office by notice in writing addressed to the appointing authority;

(d) is unable to perform the functions of the office arising out of physical or mental infirmity;

(e) is negligent or incompetent in the performance of his or her functions;

(f) is adjudged or otherwise declared bankrupt by a competent court;

(g) violates Chapter Six of the Constitution; or

(h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.

(2) Where a vacancy occurs in the membership of the Board of the Institute under subsection (1), the appointing authority shall appoint a new member in accordance with the provisions of this Act.

Functions of the Board of the Institute.

27H. The Board of the Institute shall—

(i) review, approve and oversee the implementation of research programs, strategies, policies and plans of the Institute;

(ii) consider and approve the budget of the Institute;

(iii) facilitate the mobilisation of resources for the Institute.

(iv) approve the organisational structure and other human resources management policies, guidelines, procedures and manuals of the Institute;

(v) monitor and evaluate the performance and ensure the sustainability of the Institute;

(vi) formulate policies for the administration and management of the graduate school;

(vii) enhance the corporate image of the Institute and ensure effective communication with stakeholders; and

(viii) carry out any other function for the purposes of promoting and facilitating the objects of the Institute.

Powers of the Board of the Institute.

27I. The Board of the Institute shall have all the powers necessary for the proper performance of the functions of the Institute and, in particular, the Board shall have the powers to—

(a) acquire immovable and movable property and funds of the Institute in a manner and for the purposes which shall promote the interests of the Institute;

(b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Institute;

(c) receive on behalf of the Institute, fees, donations, endowments, gifts, grants or other moneys and make disbursements therefrom in accordance with the law;

(d) invest any moneys of the Institute not immediately required in furtherance of its objects; and

(e) do any other thing which is necessary or convenient to be done in connection with or incidental to its functions.

Procedure of the Board of the Institute.

27J. (1) The business and affairs of the Board of the Institute shall be conducted in accordance with the First Schedule.

(2) Notwithstanding subsection (1), the Board may regulate its own procedure.

Delegation by the Board of the Institute.

27K. The Board of the Institute may, by resolution, either generally or in any particular case, delegate to any committee of the Board of the Institute or to any member, officer, or employee of the Institute, exercise of any of its powers or the performance of any of its functions.

Committees of the Board of the Institute.

27L. (1) The Board of the Institute may, establish committees for the effective discharge of its functions.

(2) The Board of the Institute may, by resolution, either generally or in any particular case, delegate to a committee of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board of the Institute.

(3) The Board of the Institute may co-opt into the membership of a committee established under subsection (1), any person whose knowledge and skills are considered necessary for the effective discharge of the functions of the Institute for a specified period of time.

(4) Subject to any specific or general direction of the Board, any committee established under subsection (1) may regulate its own procedure.

(5) Any person co-opted into a committee under subsection (3) may attend the meetings of the committee and participate in its deliberations but shall not vote at such meeting.

Director-General.

27M. (1) There shall be a Director-General of the Institute who shall be competitively recruited and appointed by the Board of the Institute.

(2) A person qualifies for appointment as the Director-General of the Institute, if that person—

(a) holds a Doctorate degree from a university recognized in Kenya in—

(i) fisheries;
(ii) aquaculture;
(iii) aquatic sciences;
(iv) marine sciences;
(v) environmental science;
(vi) economics in natural resources, fisheries, and environment; or
(vii) any other related courses or equivalent from a recognized institution;

(b) has at least fifteen years' professional experience in research in matters related to fisheries, marine and blue

economy, five of which shall be at a senior management level;

(c) is a member of a relevant professional body in good standing; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General of the Institute shall be responsible to the Board for—

(a) implementation of the decisions of the Board;

(b) the day-to-day management of the Institute;

(c) overall responsibility for the objectives, policy direction, administration and programs of the Institute;

(d) preparation of the strategic plan, annual plan, budget and audited accounts of the Institute for the approval of the Board; and

(e) perform such other duties as may be assigned by the Board.

(4) The Director-General of the Institute shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(5) The Director-General of the Institute may be removed from office for—

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct;

(c) incompetence or negligence of duty; or

(d) any other ground that would justify the removal from office under the terms and conditions of service and under any written law.

(6) Where the question of the removal of the Director-General of the Institute under subsection (5) arises, the Board of the Institute shall—

(a) inform the Director General in writing of the reasons for the intended removal; and

(b) give the Director-General the opportunity to be heard in accordance with the principles of fair administrative

action prescribed under Article 47 of the Constitution and the Fair Administrative Action Act.

Cap. 7L.

Corporation Secretary of the Institute.

27N. (1) There shall be a Corporation Secretary of the Institute who shall be appointed by the Board of the Institute on such terms as the Board of the Institute may, on the advice of the Salaries and Remuneration Commission, determine.

(2) A person qualifies for appointment as the Corporation Secretary under subsection (1) if that person—

(a) holds a degree in law from a university recognized in Kenya;
(b) has at least five years' experience as a corporation secretary or a similar governance role;
(c) is a member in good standing of the Institute of Certified Public Secretaries of Kenya; and
(d) meets the requirements of Chapter Six of the Constitution.

(3) The Corporation Secretary of the Institute shall, subject to the direction of the Board of the Institute —

(h) assist the members of the Board of the Institute in their duties and responsibilities;
(i) ensure the timely preparation and circulation of documents and minutes of the Board of the Institute;
(j) be the custodian of the seal of the Institute and account to the Board of the Institute for its use;
(k) ensure that members of the Board are aware of all relevant laws affecting the Institute;
(l) except in exceptional circumstances, ensure that Board of the Institute papers are circulated in advance of any meeting; and
(m) perform any other function that may be assigned by the Board of the Institute.

Officers and staff of the Institute.

27O. The Board of the Institute may appoint such officers and other staff of the Institute as are necessary for the proper and effective performance of the functions of the Institute, upon such terms and conditions of service as the Board of the Institute, on the recommendation of the Salaries and Remuneration Commission, may determine.

Protection from personal liability.

27P. Nothing done by a member of the Board of the Institute or by any person working under the instructions of the Board of the Institute shall, if done in good faith for the purpose of executing the powers, functions or duties of the Institute under the Constitution or this Act, render such member or officer personally liable for any action, claim or demand.

Funds of the Institute.

27Q. The funds of the Institute shall include—

(a) such sums as may be appropriated by National Assembly for the purposes of the Institute;

(b) such monies as may accrue or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;

(c) gifts, grants or donations made to the Institute; and

(d) such amounts from any public funds that may be created by law for the purposes of the promotion of any and all of the objects and functions of the Institute.

Annual estimates for the Institute.

27R. (1) At least two months before the end of each financial year, the Board of the Institute shall cause to be prepared estimates of the revenue and expenditure of the Institute for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute in the financial year for the fulfilment of its functions.

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

(4) No expenditure shall be incurred for the purposes of the Institute except in accordance with the annual estimates submitted under subsection (3), or in pursuance of an authorization of the Board of the Institute.

Investment of the surplus funds.

27S. (1) The Board of the Institute may invest any surplus funds of the Institute which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board of the Institute may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Institute.

Award to inventor or innovator.

27T. (1) Where the rights to any invention or innovation have been vested to the Institute, the Board of the Institute may award to the inventor or innovator such bonus as it may deem fit or make provision for financial participation by the inventor or innovator in the profits derived from the invention or innovation.

(2) The Institute may apply for a patent in respect of any invention or innovation contemplated in subsection (1) and shall for purposes of the Copyright Act, and the Industrial Property Act, be regarded as the assignee of the inventor or innovator of the invention or innovation.

Cap. 130.

Cap. 509.

Discoveries, inventions, etc. to vest in the Institute.

27U. (1) All rights in any discoveries, inventions, innovation, improvements and intellectual property rights in respect of processes, products, apparatus and machines made for or on behalf of the Institute shall vest in the Institute.

(2) Without prejudice to the generality of subsection (1), the Institute and any other entity shall jointly own any discoveries, inventions, innovation, improvements and intellectual property rights pursuant to a funding agreement between the Institute and any other entity

Fees and other charges for services or facilities offered by the Institute.

27V. The Cabinet Secretary shall, in consultation with the Board of the Institute, prescribe the fees and other charges payable for any service or facility offered by the Institute

Justification

The amendment seeks to establish the Kenya Marine and Fisheries Research Institute under the Act. The Institute is currently housed in a Schedule to the Science, Technology and Innovation Act. Establishing the Institute in the Act with the creation of direct link to its sctoral Ministry will enhance the governance and management of the Institute. The new Part also contains a more streamlined and expanded mandate of the Institute, including the provision of on blue economy research and blue economy carbon trading development. This will further contribute to effective capacity building and knowledge transfer to relevant stakeholder to promote sustainability and growth in the blue economy sector.

CLAUSE 33

THAT, clause 33 of the Bill be amended—

(a) in subclasue (1) by deleting the word "may" and substituting therefor the word "shall";

(b)by deleting subclause (2) and substituting therefor the following new subclause—

(2) In developing the management measures and plans, under subsection (1), the county governments shall—

(a) take into consideration, to the extent possible, elements of national fisheries management plan ; and

(b) ensure that such measures are consistent with the provisions of this Act, including its objective and principles, and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act.

Justification

The amendment ensures the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments. The amendment also makes it mandatory for counties to develop the fisheries management plans.

CLAUSE 34

THAT, clause 34 of the Bill be amended in paragraph (a)by deleting the words "section 39" a and substituting therefor the words "secction 38"

Justification

The amendment corrects a cross-referencing error.

CLAUSE 35

THAT, clause 35 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause—

(1)Where there is any conflict between the national and county management plans, the national management plan shall prevail.

Justification

Under Article 62 (3) the Constitution of Kenya, all rivers lakes, other water bodies, the territorial sea, the exclusive economic zone and sea bed all constitute public land that vests and is held by the national government and as such where the management plans conflict in respect to these resources the national government should prevail. Additionally, under Article 191 (3)(b) and 191 (3)(c)(vi) the national government laws should prevail in this instance.

CLAUSE 36

THAT, clause 36 of the Bill be amended—

(a) in subclause (1) by inserting the words "in consultation with the Council of County Governors" immediately after the word "regulations";
(b) by inserting the following new subclause immediately after subclause (1)—

(1A)Each County Executive Committee Member shall establish beach management units within its jurisdiction and provide for their remuneration ensuring structured community participation in fisheries management.

(c) in subclause (3) by inserting the following new paragraphs immediately after paragraph (f)—

(g)remuneration of beach management units; and

(h)conflict management between inter and intra-county beach management units.

Justification

The amendment provides for clarity on the establishment of the BMUs in the respective County Government and payment of BMUs.

CLAUSE 38

THAT, clause 38(1) of the Bill be amended by deleting the word "Board" and substituting therefor the words "Cabinet Secretary".

Justification

The amendment seeks to provide for declaration of designated fisheries to be by the Cabinet Secretary which is in line with role of the CS in declaration of designated fisheries in other provisions of the Act.

CLAUSE 39

THAT, clause 39 of the Bill be amended in subclause (1) by deleting the opening statement and substituting therefor the following new opening statement—

(1) The Director-General shall in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary and in consultation with county governments, by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery—

Justification

Imposition of fisheries management measures may affect functions of county government hence the need to consult before imposition of the same and provide mandatory fishery managements measure including imposition of closed seasons.

CLAUSE 41

THAT, clause 41 of the Bill be amended by—

(a) in subclause (1)(l) by inserting the words "fishing methods" immediately after the word "gear";
(b) inserting the following new clause immediately after clause (5)—

(5A) The Cabinet Secretary shall develop guidelines to provide mesh size for specific water bodies and fish species in fresh water bodies.

Justification

The amendment seeks to enable the CS by regulation, to provide for the regulation of emerging fishing methods and also develop guidelines to provide mesh size for specific water bodies and fish species in fresh water bodies.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 41—

Incentives for fishing gear.

41A. (1) The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to finance, introduce incentives—

(a)for locally produced and imported fishing gear; and

(b)to expand private investment in production and manufacture of fish gear.

(2) The incentives under subsection (1) shall apply to—

(a)importers of fishing gear; and

(b)private investors to expand investment in production and manufacture of fishing gear.

(3)The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to finance, prescribe incentives and make regulations for the production and manufacture of fishing gear.

Justification

The amendment to provide for subsidies for the manufacture of fishing gear. Majority of fishers who engage in use of banned fishing gear are unable to afford the appropriate gear. This provision will make the fishing gears more accessible and affordable hence help to curb use of illegal fishing gears.

CLAUSE 44

THAT, clause 44 of the Bill be amended by—

(a) in subclause (1) by inserting the words "in Kenya" immediately after the words "threatened with extinction"; and
(b) in subclause (2) by inserting the words "or fish products" immediately after the words "species of fish".

Justification

The amendment provides for clarity, the declaration of endangered fish is with regards to Kenya in addition to those declared in international agreement. Further prohibit the sale of fish products emanating from endangered species.

CLAUSE 48

THAT, clause 48(5) of the Bill be amended by deleting the expersion "1999".

Justification

The amendment seeks to align the title of the Environmental Management and Co-ordination Act with the new Cap number issued.

CLAUSE 49

THAT, the Bill be amended by deleting clause 49 and substituting therefor the word—

Fish landing stations, etc.

49. (1)The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by the Board establish by a notice in the Gazette—

(a)fish landing stations;

(b)designated fishing ports; and

(c)protected fish breeding grounds,

Provided in the case of fish landing stations the Cabinet Secretary shall consult the county governments in the respective area of jurisdiction.

(2)Notwithstanding subsection (1), any designated fishing port which immediately before the commencement of this Act, was gazetted or declared as a designated fishing port set out in the Third Schedule shall be deemed to be a designated fishing port under this Act.

(3)No person other than a sport fisherman shall land any fish at any point except at a fish landing station or port.

(4)A person who contravenes the provisions of subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both in the case of fish landing stations or to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both in case of designated fishing ports.

Justification

The amendment seeks to provide for consultation with the relevant county government before the Cabinet Secretary establishes of fish landing stations. Noting in most instances management of the station will require collaboration with the county governments.

CLAUSE 53

THAT, clause 53 of the Bill be amended–

(a) in subclause (1) by deleting the word "live";

(b) by inserting the following new subclause immediately after subclause (5)—

(6) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding three years, or to both.

Justification

The deletion is of the word "live" is for clarity as the definition of "fish" includes live fish. The addition of a fine is to enable enforcement.

CLAUSE 54

THAT, clause 54 of the Bill be amended in subclause (1) by deleting the word "live.

Justification

The deletion is of the word "live" is for clarity purposes as the definition of "fish" includes live fish.

CLAUSE 56

THAT, clause 56 of the Bill be amended in the opening statement by deleting the words "Fish Marketing Authority" and substituting therefor the words "relevant stakeholders".

Justification

This is consequential amendment as the Kenya Fish Marketing Authority established in Part XVIII has been deleted in line with the Cabinet Directive on reforms of State Corporations.

CLAUSE 58

THAT, clause 58 of the Bill be amended by deleting the expression "2013".

Justification

The amendment seeks to align the title of the Act with new Cap number issued.

CLAUSE 61

THAT, clause 61 of the Bill be amended by—

(a) deleting subclause (1) and substituting therefor the following new subclause—

(1) The Cabinet Secretary shall, in consultation with the Service and County Governments, prepare a national aquaculture development plan for promoting the sustainable development of aquaculture in Kenya in accordance with the principles and objectives of this Act.

(b) inserting the following new subclause immediately after subclause (4)—

(5) Each County Government may develop a county aquaculture development plan taking into consideration the national development plan.

Justification

The amendment seek to provide for the development of the national aquaculture development plan by the Cabinet Secretary in consultation with the County Governments and further provide for development county aquaculture development plan, noting that inland aquaculture is regulated by counties.

CLAUSE 63

THAT, clause 63 of the Bill be amended in subclause (1) by deleting the words "three hundred thousand" and substituting therefor the words "one million".

Justification

The amendment seeks to enhance the fine to deter persons who undertake aquaculture activities from depriving local communities from traditional access to fisheries.

CLAUSE 64

THAT, clause 64 of the Bill be amended in subclause (3) by deleting the words "local fisheries authority" and substituting therefor the words "respective county government".

Justification

The amendment provides for clarification on the role of enforcement which is by the respective county government. Under the Constitution functions of defunct local authorities was devolved to County Governments.

CLAUSE 66

THAT, clause 66 of the Bill be amended in subclause (2) by deleting the word "may" and substituting therefor the words "shall".

Justification

To make it mandatory for Director General to ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 67—

Environmental protection bond for commercial aquaculture

67A. (1)A person wishing to engage in commercial aquaculture shall provide a bond or some other form of financial security in this section called an environmental protection bond to the National Environment and Management Authority sufficient to cover the costs associated with the implementation of the environmental and rehabilitation obligations of the holder under this Act including waste management.

(2) An environmental protection bond required under subsection (1) shall be in a form and for an amount as may be prescribed in regulations by the Cabinet Secretary having regard to the particular characteristics of the nature and size of the commercial aquaculture activities.

Justification

The amendment seeks to provide for an environmental protection bond for persons undertaking commercial aquaculture as measure for mitigating against negative impacts to the environment as a result of the activities.

CLAUSE 68

THAT, clause 68 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause—

(3) Each person engaged in commercial aquaculture in Kenya shall, within twelve hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility over which the person exercises management or control or to other equipment, that may lead to the escape of

hatchery reared aquaculture stock, notify the Director-General and the County Director of the escape or damage, including the following—

(a) the species of fish affected;

(b)the date or an estimate of the date on which the escape or damage took place;

(c) the number and biomass or an estimate of the number and biomass of the fish that have escaped; and

(d) the age or developmental stage of the fish at the time of their escape and details of the circumstances in which the escape or damage took place,

and, within seven days after becoming aware of such escape or damage, notify the Director-General and the County Director in writing of the action taken to deal with it.

Justification

The amendment seeks to provide for notification of escapement to the Director-General as well as the County Director in instances of escapement noting that regulation of commercial aquaculture is primarily by county governments.

CLAUSE 69

THAT, clause 69 of the Bill be amended in subclause (3) by deleting the word "Director-General" and substituting therefor the word "County Director".

Justification

To align to the provisions of the Fourth Schedule to the Constitution which has devolved agriculture including animal disease control; and fisheries are functions to counties.

CLAUSE 73

THAT, clause 73 of the Bill be amended –

(a) in subclause (1) by inserting the words "in consultation with county governments" immediately after the word "may"; and
(b) by inserting the following new paragraph immediately after paragraph (g)—

(ga) environmental protection bonds for commercial aquaculture activities including amounts to be paid;

(gb)providing for the methodology for calculating license and permits fees for aquaculture activities including exemptions or reduced fees for aquaculture operators below prescribed production levels;

(gc)providing for single permit agreement for aquaculture operators, for movement, harvesting and processing and related operational activities;

(gd) provide for the categorization of aquaculture establishments based on production capacity for purpose of differentiated licenses.

Justification

To provide for a consultative process between the National and county governments in the regulatory making process and provide for regulations on environment protection bond for commercial aquaculture. The amendment seeks to also provide for categorization of aquaculture establishments based on production for purposes of differentiated licenses and also provide for single permit to for purposes of encouraging and easing investment in the sector.

CLAUSE 79

THAT, clause 79 of the Bill be amended in–

(a) subclause (1) by deleting the words "The Cabinet Secretary in consultation with the Director-General" and substituting therefor the words "The Cabinet Secretary or County Executive Committee Member in consultation with the Director-General or County Director as the case may be"; and

(b) subclause (3) by deleting the words "The Director-General" and substituting therefor the words "The Director-General or County Director as the case may be".

Justification

The amendment seeks to provide for the role of the County Governments in handling confidential information.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 80—

Registers of licenses and authorizations.

80A. (1) The County Director shall establish and maintain a County register of licenses and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary.

(2) The register established under subsection (1) shall include —

(a) information on applications for licenses and authorizations under this Act;

(b) information on each license and authorization issued, renewed, suspended or cancelled under this Act, including the activity, date and duration;

(c) information on each licensed or authorized person;

(d) information on the relevant vessel, facility, and/or licensed or authorized activity;

(e) any record of non-compliance with the license or authorization; and

(f) any record of action taken as a result of non such other information that may be prescribed or required by the County Director.

Justification

County Governments also need to have in place a register of licenses and authorizations.

CLAUSE 81

THAT, clause 81 of the Bill be amended by inserting the words "or County-Director as the case maybe " immediately after the word "Director-General".

Justification

The amendment provides for the role of the County Director in providing information under the Act.

CLAUSE 82

THAT, the Bill be amended by deleting clause 82 and substituting therefor the following new clause—

Information available to the public.

82. The Director-General and County Director shall make information available to the public and as necessary disseminate relevant information to stakeholders for purposes of fisheries conservation, management and development, including regional and international organizations, except for such information that may be designated confidential in accordance with section 79.

Justification

The amendment corrects a cross-referencing error and provides for the role of the County Director in managing information under the Act.

CLAUSE 83

THAT, clause 83 of the Bill be amended by—

(a) in subclause (1) by deleting the expression "90(3)" and substituting therefor the expression "85(1)"; and
(b) by inserting the following new subclause immediately after subclause (5)

(6) Any requirement for registration under this section shall be with respect to undertake fishing or related activities and shall not be construed as registration of the vessel and no registration fee for the vessel shall be payable under this Act in respect of a vessel registered under the Merchant Shipping Act.

Justification

The amendment seeks to align the title of the Act with new Cap number issued. The amendment also clarifies that registration is for fishing activities and not the vessel which are regulated under the Merchant Shipping Act.

CLAUSE 85

THAT, clause 85 of the Bill be amended in subclause (1) by deleting the words "Board, on the recommendation of the".

Justification

The amendment clarifies the role of the Director-General in issuance of of licenses and provides for operational efficiency.

CLAUSE 86

THAT, clause 86 of the Bill be amended in—

(a) subclause (1) by deleting the expression "134" and substituting therefor the expression "133"; and
(b) subclause (2) by deleting the expression "134" and substituting therefor the expression "133".

Justification

The amendment corrects a cross-referencing error.

CLAUSE 87

THAT, clause 87(1) of the Bill be amended by deleting the expression "134" appearing in paragraph (j) and substituting therefor the expression "133".

Justification

The amendment corrects a cross-referencing error.

CLAUSE 88

THAT, clause 88(1) of the Bill be amended in paragraph (d) by deleting the words "or fishing" appearing in subparagraph (iv) and substituting therefor the words "or fishing related activities".

Justification

The amendment seeks to expand the information required under fishing plans to include information on where fishing related activities will take place which is important for regulation.

CLAUSE 89

THAT, clause 89 of the Bill be amended in—

(a) subclause (2)(b) by deleting the expression "134" appearing in subparagraph (i) and substituting therefor the expression "133"; and

(b) subclause (6) by inserting the words "shillings" immediately after the words "thousand".

Justification

The amendment corrects a cross-referencing error and further clarifies the amount is in shillings.

CLAUSE 90

THAT, clause 90 of the Bill be amended in subclause (1) by deleting the words "the Employment Act 2007" and substituting therefor the words "applicable labour laws and any other laws governing safety at sea."

Justification

The amendment seeks to provide that where persons are employed by persons issued with licenses under the Act that employment should be in compliance with relevant labour laws and laws relating to safety at sea.

CLAUSE 91

THAT, the Bill be amended by deleting clause 91 and substituting therefor the following new clause—

Period of validity of licenses and authorizations.

91. (1)A license issued pursuant to this Act shall, unless otherwise provided, be valid for a maximum period of one calendar year and may be renewable, subject to any fisheries management decision taken in accordance with this Act and the terms and conditions set out in the license

(2) An authorization issued pursuant to subsection83 (5) shall be valid for a period prescribed by the Director-General

Justification

The amendment clarifies on the validity period of licenses issued under the Act.

CLAUSE 92

THAT, clause 92(1) of the Bill be amended in paragraph (b) by inserting the words "or the county government" immediately after the word "Director-General".

Justification

Fees and charges may be imposed by Counties hence the need for the same to be published.

CLAUSE 96

THAT, clause 96 of the Bill be amended—

(a) renumber clause 96 as clause 97(1);

(b) inserting the following new subclauses immediately after subclause (1)—

(2) An applicant for a license who is aggrieved by a decision not to grant or renew any license or authorization under this Act, or to a person who holds a license or authorization who is aggrieved by a decision to suspend or cancel such license or authorization may appeal to the County Director within thirty days of receiving notification of such decision, and may further appeal to the County Executive Committee Member within thirty days of receiving notification of the County Director's decision.

(2) A person aggrieved by a decision of the Cabinet Secretary or County Executive Committee Member may appeal to the Tribunal within thirty days of receipt of the decision.

Justification

The amendment enables persons aggrieved with decision of the Cabinet Secretary or County Executive Committee Member to the Fisheries Tribunal as a means of aiding access to justice.

CLAUSE 99

THAT, clause 99(1) of the Bill be amended—

(a) in paragraph (a) by—

(i) deleting the word "log" and substituting therefor the word "logbook";
(ii) inserting the following new subparagraph immediately after subparagraph (v)—

(va)by catches of non-target species;

(b) in paragraph (c) by deleting the words "subparagraph (a), (b), (c) and (d)" and substituting therefor the words "subparagraph (a), (b) and (c)"

Justification

The amendment is a cleanup of the provision and enhances the reporting requirements for industrial fishing vessels to include catches of non-target species.

CLAUSE 105

THAT, the Bill be amended by deleting clause 105 and substituting therefor the following new clause—

Conditions for recreational fishing vessels.

105. (1) Licenses issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions—

(a)the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the County Director.

(b)on receipt of an application for registration of a recreational fishing vessel, the County Director shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the County Director shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration; and

(c)such other requirements as may be prescribed or required by the County Director.

Justification

Recreational fishing is a function devolved to county governments hence requirements should be issued by the County Director.

CLAUSE 111

THAT, clause 111 of the Bill be amended in subclause (1) by deleting the opening statement and substituting therefor the following new opening statement—

> (1)Each license to operate a fish processing establishment shall be issued by the respective county government subject to the following conditions in addition to any other conditions required pursuant to this Act—

Justification

The amendment clarifies, the respective County Governments shall be responsible for issuing fish processing licenses in accordance with the conditions set forth in the Act. Trade regulation, including the issuance of trade licenses, is a fully devolved function under the Fourth Schedule of the Constitution.

CLAUSE 121

THAT, clause 121(3) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

> (c)measures to be taken to minimize the escape of waste products and the pollution of land and water.

Justification

The amendment provides for pollution mitigation measures when issuing aquaculture licenses.

CLAUSE 127

THAT, clause 127 of the Bill be amended —

(a) by deleting subclause (1) and substituting with the following new subclause(1)—

> (1) The Cabinet Secretary may, on the recommendation of the Director-General, on behalf of the Government of Kenya and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities.

(b)in subclause (2)(a) by deleting the words "and/or" appearing in subparagraph (iv).

Justification

The amendment is a cleanup and clarifies the permit is issued on recommendation of the Director-General.

CLAUSE 128

THAT, clause 128 of the Bill be amended in paragraph (f)by deleting the expression "134" and substituting therefor the expression "133"

Justification

The amendment corrects a cross-referencing error.

CLAUSE 133

THAT, clause 133 of the Bill be amended—

(a) in subclause (1) by deleting the word "may" and substituting therefor the word "shall"

(b) in subclause (2) by inserting the words "compensation to the crew of the fishing vessel for the loss of life or damage to their belongings on board as a consequence of a fishing vessel's foundering, piracy, fire or other loss affecting the vessel" immediately before the words "and shall".

Justification

The provision makes it mandatory for the Cabinet Secretary to require for a perfomance bond with regards to a foreign fishing vessels and provide for compensation of fishers.

CLAUSE 134

THAT, the Bill be amended by deleting clause 134 and substituting therefor the following new clause—

Force majeure or distress.

134. (1) Nothing in this Act or Regulations made thereunder affects the entry of a vessel to port in accordance with the laws of Kenya for reasons of force majeure or distress.

(2) The Director-General may grant a vessel that falls within the provisions of this Act, entry into port for reasons of force majeure or distress, provided tha—

(a) the vessel may enter port under its claim of force majeure or distress for such period of time necessary to remedy such claim; and

(b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.

Justification

To provide for clarity on conditions under which vessels may be granted access in instances of distress.

CLAUSE 135

THAT, clause 135 of the Bill be amended by deleting subclause (6).

Justification

For clarity and to harmonize with the new definitions of "monitoring, control and surveillance" in clause 2.

CLAUSE 139

THAT, clause 139 (1) of the Bill be amended in paragraph (a)(i) by inserting the word "Kenya" immediately before the word "fisheries"

Justification

To align with the terminology used in the Act and make reference to power to stop, enter or board vessels is with regards fishing vessels which are within Kenya fisheries water.

CLAUSE 141

THAT, clause 141(1) of the Bill is amended by inserting the word "or" immdeiately after the word "Act;" appearing in paragraph (a).

Justification

The amendments provides for clarity and cleans up a typographical error.

CLAUSE 144

THAT, clause 144 (1) of the Bill be amended by deleting the words "in cooperative" and substituting therefor the word "uncooperative".

Justification

This is a cleanup of a grammatical error.

CLAUSE 146

THAT, clause 146 of the Bill be amended—

(a) in subclause (1) by deleting the word "Board";
(b) by inserting the following new subclause immediately after subclause (2)—

(3)An observer shall on request identify himself or herself and produce proof of identification as an observer.

Justification

The observer programme does not have a Board hence the deletion further amendment requires an observer to identify themselves when required.

CLAUSE 147

THAT, clause 147 (1)of the Bill be amended in paragraph (b) by deleting the words "in accordance with such standards and procedures as may be prescribed or approved by the Board" and substituting therefor the words "or any international agreement and arrangements."

Justification

The observer programme does not have a Board hence the deletion.

CLAUSE 150

THAT, clause 150 of the Bill be amended by inserting the following new subclause immediately after subclause (2)—

(3)Where any person mentioned in subclause (1) is forced by circumstances to stay on board the vessel for a prolonged period of time, provide the observer, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel, at the expense of the operator.

Justification

To align with best international practices to provide where observers is forced to be on board the vessel for a prolonged period of time they be provided with food, accommodation and medical facilities.

CLAUSE 153

THAT, clause 153 (1) of the Bill be amended by deleting the words "No liability shall attach to the Service and its officers, employees or other persons acting under the authority of the Service," and substituting therefor the words "No liability shall attach to the Service or the County Government and their officers, employees or other persons acting under the authority of the Service or County Government".

Justification

To provide for protection from liability for County Government officers undertaking duties in accordance with the Act.

CLAUSE 154

THAT, clause 154 of the Bill be amended by inserting the words "or County Government as the case may be" immediately after the word "Service".

Justification

To provide for insurance for County Government authorized officers.

CLAUSE 155

THAT, clause 155(2) of the Bill be amended by inserting the words "shall" immediately after the words "member of a vessel".

Justification

The amendment is a cleanup.

CLAUSE 156

THAT, clause 156 of the Bill be amended by—

(a) in subclause (4) by deleting the word "four" and substituting therefor the word "one";
(b) in subclause (5) by inserting the following new paragraph immediately after paragraph (f)—

(g) accuracy requirements.

(c) inserting the following new subclause immediately after subclause (6)—

(6A) The Director-General may require the operator of any fishing vessel, as a condition of license or otherwise, to install, maintain and operate in accordance with such conditions as may be prescribed and such other conditions that may be required by the Director-General, remote electronic monitoring.

Justification

The amendment aligns with best practices, and ensures better monitoring, control and surveillance on reporting times of vessels.

INSERTION OF NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 156—

Designation of ports.

156A. (1) The Cabinet Secretary shall designate by notice in the *Gazette*, the port or ports to which vessels engaged in fishing and fishing related activities may request entry.

(2) The Cabinet Secretary shall provide a list of ports designated pursuant to paragraph (1) to the Food and Agriculture Organisation of the United Nations and to any regional fisheries management organisation pursuant to applicable conservation and management measures.

Justification

The amendment aligns with Kenya international obligations, specifically the Port State Measures Agreement. (PSMA) on designation of fishing ports.

CLAUSE 158

THAT, the Bill be amended by deleting clause 158 and substituting therefor the following new clause

Vessels may be prohibited from entering port.

58. (1) An authorization to enter a port shall be denied where there is sufficient proof that a vessel seeking entry into port—

(a) has engaged in illegal, unreported and unregulated fishing, or in fishing-related activities in support of such fishing, or

(b) appears on a list of vessels which have engaged in illegal, unreported and unregulated fishing or fishing related activities in support of such fishing adopted by a regional fisheries management organization.

(2) Without prejudice to subclause (1), authorization for a vessel to enter a port may be given exclusively for the purpose of –

(a) inspecting the vessel; and

(b) taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring or eliminating illegal, unreported and unregulated fishing and fishing-related activities in support of such fishing.

(3) The Director-General shall communicate any decision taken under to subsections (1) or (2) to the vessel or its representative.

(4) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not less than fifty million shillings or to imprisonment for a term not less than ten years or to both.

Justification

The amendment is a cleanup of the provision and provides clarity on circumstances vessels may be prohibited entry into ports.

CLAUSE 160

THAT, clause 160 (1)of the Bill be amended by inserting the word "foreign" immediately before the words "fishing vessels".

Justification

To provide clarity that the inspection relates to foreign vessels.

CLAUSE 166

THAT, clause 166 (1) of the Bill be amended by inserting the words "or County Director" immediately after the word "Director-General".

Justification

Provide for the powers of the County Director to exercise power of sale of seized perishable goods.

CLAUSE 179

THAT, clause 179 (1) of the Bill be amended in—

(a) subclause (2) by deleting the expression "127" and substituting therefor the expression "126"; and
(b) in subclause (3) by deleting the expression "80" and substituting therefor the expression "79".

Justification

Amendment cleans a cross-referencing error.

CLAUSE 182

THAT, clause 182 (1) be amended by deleting the word "Attorney-General" and substituting therefor the words "Director of Public Prosecution".

Justification

Prosecutorial powers are under the Director of Public Prosecution in accordance with the Article 157 of the Constitution.

PART XVIII

THAT, the Bill be amended by deleting Part XVIII and substituting therefor the following new Part—

PART XVIII—ESTABLISHMENT OF THE FISHERIES TRIBUNAL

Establishment of the Fisheries Tribunal.

198. (1) There is established a Fisheries Tribunal.

(2) The Fisheries Tribunal shall consist of the following members appointed by the Judicial Service Commission—

(a)a Chairperson who shall be an advocate of the High Court of Kenya with not less than ten years' post qualification experience;

(b)two persons one of whom shall be a registered civil engineer and the other a registered water engineer, with at least ten years' experience; and

(c)two persons who possess a degree from university recognized in Kenya and at least five years' experience in a relevant field.

(3) The Chairperson and members of the Fisheries Tribunal shall be appointed for a term of three years and shall be eligible for reappointment for one further term of three years.

(1) The Chairperson and members of the Fisheries Tribunal shall be paid such remuneration and allowances as the Judicial Service Commission may, in consultation with the Salaries and Remuneration Commission, determine.

Staff of the Tribunal.

199. The staff of the Tribunal shall be appointed, removed from office or otherwise disciplined by the Judicial Service Commission in accordance with Article 172(1)(c) of the Constitution.

Jurisdiction of the Tribunal

200. (1)The Tribunal shall exercise the powers and functions set out in this Act and in particular shall hear and determine appeals at the instance of any person directly affected by the decision or order of the Cabinet Secretary, Director-General, the Service or of any person acting under the authority of the Cabinet Secretary or the Service.

(2) In addition to the powers set out in subsection (1), the Tribunal shall have the power to hear and determine any dispute concerning fisheries and aquaculture where there is a business contract, unless the parties have otherwise agreed to an alternative dispute resolution mechanism

Justification

The Kenya Fish Marketing Authority established in Part XVIII has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

Further the amendment seeks to establish the Fisheries Tribunal in order to aid access to justice in disputes arising from the implementation of the Act.

CLAUSE 210

THAT, the Bill be amended by deleting clause 210 and substituting therefor the following new clause—

Repeals and transitional provisions.

210.(1) The Fisheries Management and Development Act is repealed.

(2). Notwithstanding the provisions of subsection (1)—

Cap. 378.

(a) Any statutory instruments issued under the provisions of the Fisheries Management and Development Act (Repealed), before the commencement of this Act shall be deemed to be statutory instruments granted by the under the provisions of this Act and shall remain in force until specifically revoked under this Act.

(b) Anything done under the provisions of the Energy Act, Fisheries Management and Development Act is (Repealed) before the

commencement of this Act shall be deemed to have been done under the provisions of this Act.

(c) All property, except such property as the Cabinet Secretary may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Kenya Fish Marketing Authority shall with approval of the Cabinet Secretary vest in the Ministry responsible for blue economy and fisheries, subject to all interests, liabilities, charges, obligations and trusts affecting such property.

(d) Except as otherwise provided in subsection (1) in relation to property, all contracts, debts, obligations and liabilities of the Government attributable to the Kenya Fish Marketing Authority immediately before the commencement of this Act shall, with the approval of the Cabinet Secretary, remain vested in the Government and may be enforced by or against the Government.

(e) All persons, being public officers, who, immediately before the commencement of this Act, are employed by the Government for the purposes of the activities of the Kenya Fish Marketing Authority, shall at the commencement of this Act be, deemed to be staff of the Ministry responsible for blue economy and fisheries, in accordance with this Act, or their deemed secondment otherwise ceases in accordance with the terms of such secondment.

(f) Where, at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the Kenya Fish Marketing Authority pursuant to disciplinary proceedings against such employee, and the penalty has not been or remains to be served by such employee, such employee shall, on his transfer to the Ministry responsible for blue economy and fisheries, serve or continue to serve such penalty to its full term as if it had been imposed by the State Department or the Service.

(g) At the commencement of this Act, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former Institute, former Service and former Fund shall vest in the Institute, the Service or the Fund respectively.

(h) All rights, obligations, powers and duties whether arising under any written law or otherwise which immediately before such day were vested in or imposed on the former Institute, former Service and former Fund shall, be deemed to be vested in or imposed on the Institute, the Service or the Fund respectively.

(i) All actions, suits or legal proceedings by or against the former Institute, former Service and former Fund shall be carried on or prosecuted by or against the Institute, the Service and the Fund respectively and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of this Act.

(j) All directions, orders and authorizations given, or licenses or permits issued or registrations made by the former Institute, former Service and former Fund and subsisting or valid immediately before the commencement day, shall be deemed to have been given, issued, or made by the Institute, the Service or the Fund respectively under this Act.

(k) The administrative directions made by the former Institute, former Service and former Fund or by the Cabinet Secretary which were in force immediately before the coming into operation of this Act shall, on and after such day, have force as if they were directions made by the Board of the Institute the Service and the Fund or the Cabinet Secretary under this Act.

(l) A contract subsisting between former Institute, former Service or former Fund and another person or entity before the commencement of this Act shall subsist between the Institute, the Service or the Fund respectively, and that person or entity.

(m) Any reference in any written law or in any document or instrument to the former Institute, former Service and former Fund shall on and after the commencement of this Act, be construed to be a reference to the Institute.

(n) The Chairperson and members of the Board of the former Institute, former Service and former Fund, shall, at the commencement of this Act, be deemed to be the Chairperson and members of the Board of the Institute, the Service or the Fund respectively, for the unexpired period of their term.

(o) In this section—

"former Institute" means the Kenya Forestry Research Institute established under the Science, Technology and Innovation Act;

"former Service" means the Kenya Fisheries Service existing immediately before the commencement of this Act; and

"former Fund" means the Fish Levy Trust Fund existing immediately before the commencement of this Act.

(p) The Director of the former Institute, former Service and former Fund shall at the commencement of this Act, assume the duties of the Director General of the Institute, the Service or the Fund respectively for the remainder of the existing term of contract.

(q) A person who, immediately before the commencement of this Act, was a member of staff of the former Institute, former Service and former Fund shall be deemed to be a member of staff of the Institute, the Service and the Fund respectively subject to such terms of service as the Board of the Institute may, on the advice of the Salaries and Remuneration Commission, determine,

Provided that a member of staff of the Institute, the Service and the Fund may exercise the option not to continue in the service of the Institute, the Service and the Fund respectively.

(r) Notwithstanding subsection (12) where at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the former Institute, former Service or former Fund pursuant to disciplinary proceedings against the employee, and the penalty has not been or remains to be served by such employee, such employee shall, on their transfer to the Institute, the Service and the Fund respectively serve or continue to serve such penalty to its full term as if it had been imposed by the Institute.

(s) Nothing in this Act shall affect the pension rights of any employee under the Pensions Act.

Justification

The amendment provides for the transitional provisions and repeal of the existing Act.

CLAUSE 211

THAT, the Bill be amended by deleting clause 211 and substituting therefor the following new clause—

Amendment to Cap. 511.

211.The Science, Technology and Innovation Act is amended in—

(a) section 16 by deleting subsection (2); and
(b) the Fourth Schedule by deleting paragraph 2

Justification

The amendment provides for consequential amendments to the Science, Technology and Innovation Act, Cap. 511 to delete the Kenya Marine and Fisheries Research Institute from the list of research institutes under that Act.

INSERTION OF NEW SCHEDULE

THAT, the Bill be amended by inserting the following new schedule—

FIRST SCHEDULE s. 13A

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Tenure of office and conduct of business of the Board

(1) The chairperson of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) Other than ex officio members, a member of the Board shall, subject to the provisions of this section, hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term of three years.

(3) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

2. Meetings of the Board

(1) The Board shall meet not less than four times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting:

Provided that the chairperson may call a special meeting of the Board at any time where he deems it expedient for the transaction of the business of the Board.

(2) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(3) The quorum for the conduct of business of the Board shall be half of the members' and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(4) The chairperson shall preside over all meetings of the Board in which he is present, but in his/her absence, the vice-chairman shall preside, and in his/her absence the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(5) At the first meeting of the Board, the members shall elect a vice-chairperson, not being a public servant, from among its members.

(6)The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(7) For purposes of this Schedule the word "Board" includes the Board of the Institute.

3. Disclosure of interests

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at the meeting of the Board at which the contract, proposed contract or matter is the subject of consideration, he/she shall, at the meeting and as soon as practicable after the commencement thereof, disclose that fact and shall be excluded at the meeting at which the contract, proposed contract or matter is being considered.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

4. Board may regulate procedure

Save as provided in this Schedule, the Board may regulate its own procedure.

Justification

The amendment provides for the conduct and affairs of the Board and the Institute.

FIRST SCHEDULE

THAT, First Schedule to the Bill be amended—

(a) by deleting the title and substituting therefor the following new title—

SECOND SCHEDULE s.16(1)

(b) in Part D by inserting the following new item—

Representative of Kenya Coast Guard Service	Member	Co-opted

Justification

Section 8(1)(j) of the Kenya Coast Guard Service Act (Cap. 200) provides that the Service shall, be deployed in the territorial waters including for the protection of maritime resources including fisheries. Further section 9(2)(b) gives the Kenya Coast Guard Service the power stop, enter, board, inspect or search any structure, place, vessel or aircraft engaged in or suspected to be engaged in any unlawful activity.

The amendment seeks to include in the inter-agencies MCS a representative of Kenya Coast Guard Service, in order to enhance the protective given in the Kenya fishery waters and fishers by inclusion of the Service.

SECOND SCHEDULE

THAT, the Second Schedule to the Bill be amended by deleting the title and substituting therefor the following new title—

THIRD SCHEDULE s.49(1)

Justification

The amendment is a clean based on re-organization of numbering of provisions.

THIRD SCHEDULE

THAT, the Bill be amended by deleting the Third Schedule.

Justification

The provision on Conduct and Affairs of the Board is proposed to be moved to the First Schedule, hence this is a cleanup.

FOURTH SCHEDULE

THAT, the Bill be amended by deleting the Fourth Schedule.

Justification

The consequential amendments to the Agriculture, Fisheries and Food Authority Act and the Kenya Agricultural and Livestock Research Act were already effected by enactment of Cap,. 378, hence the provision is superfluous and unnecessary.

MIN.NO.DC/ BEW&I/031/2026 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at thirty minutes past four o'clock. The next meeting will be held on notice.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....23/02/2026.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FIFTH SESSION – 2026

MINUTES OF THE 5TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON SATURDAY 21ST FEBRUARY, 2026 IN THE GARDEN SUITE 1& 2, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY AT 10:30 AM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP, CBS - **Vice Chairperson**
3. Hon. Eng. Tandaza Kassim Sawa, MP, CBS
4. Hon. Buyu Rozaah Akinyi, MP, CBS
5. Hon. William Kamket, MP
6. Hon. Eng. Nzengu Paul Musyimi, MP
7. Hon. Eng. Nebart Bernard Muriuki, MP
8. Hon. Gachagua George, MP
9. Hon. Mohamed Abdikadir Hussein, MP
10. Hon. Mnyazi Amina Laura, MP
11. Hon. Dorothy Muthoni Ikiara, MP

APOLOGIES

1. Hon. Muiruri Stanley Muthama, MP
2. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP
3. Hon. Eric Wamumbi, MP
4. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE

NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1.	Mr. Mohamed Boru	First Clerk Assistant
2.	Ms. Ivy Kageha	Clerk Assistant III
3.	Dr. Benjamin Ng'imor	Principal Fiscal Analyst
4.	Ms. Lynette Otieno	Principal Legal Counsel
5.	Ms. Veron. D. Aluoch	Research Officer III
6.	Ms. Fridah Ngari	Media Relations Officer III
7.	Mr. Mohammed Said	Serjeant- At- Arms III

8.	Ms. Sophia Akumu	Intern

STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES

1.	Ms. Betsy Muthoni Njagi	Principal Secretary- SDBE&F
2.	Mr. Davies Makilla	DFBE- SDBE&F
3.	Mr. Leonard Bett	DCSC- SDBE&F
4.	Ms. Lucy Okungu	Ag. DG- KeFS
5.	Ms. Ilga Wanza Musembi	Legal- SDBE&F
6.	Ms. Joan Wamboe	SA- SDBE&F
7.	Dr. Jacob Ochiewo	Director SE- SDBE&F
8.	Dr. Christopher M. Auma	Director FWS- KMFRI
9.	Mr. Mahongah Wala Joseph	Ag Director of Fisheries- SDBE&F
10.	Dr. James M. Wamalwa	Director Oceans and Coastal Systems- KMFRI
11.	Dr. Jonathan Mungai	Director Aquaculture- KMFRI
12.	Dr. Mikah O. Nyaberi	CEO- KFIC
13.	Ms. Daisy Muriuki	Director Fisheries- Fish Quality- KeFS
14.	Dr. Simon Macharia	Director of Fisheries- Aquaculture- KeFS
15.	Mr. Jared Agano	Ag.Director Fisheries- Capture Fisheries- KeFS
16.	Mr. Samuel Njoroge Karanja	Ag CEO- Fish Levy Trust Fund
17.	Ms. Caroline Mukiira	Corp. Secretary & Director Legal- KMFRI
18.	Ms. Monica Nkatha	F&AO- Kenya Fishery Industries Corporation
19.	Mr. Nicholus M. Kagundu	Ass. Dir. Fisheries & Blue Economy- SDBE&F

COUNCIL OF GOVERNORS (CoG)

1.	Mr. Kizito Wangalwa	Director- CoG
2.	Ms. Barbra Awuor	Technical Lead Blue Economy- CoG
3.	Mr. Tom Kataka	Legal Officer- CoG

MIN.NO.DC/ BEW&I/ 022/2026: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Meeting to consider Committee Observations on the Fisheries Management and Development Bill, 2023**

5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/023/2026: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/BEW&I/ 024/2026: CONSIDERATION OF COMMITTEE OBSERVATIONS

Committee Observations

Upon its consideration of the Fisheries Management and Development (National Assembly Bill No. 29 of 2023, 2023, the Committee made the following observations:

1. The Committee notes that fisheries management and development is a shared function between the national government and county government. The Fourth Schedule mandates the national government with the protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular fishing, hunting and gathering. Part 2 of the Fourth Schedule to the Constitution mandates Counties with function of agriculture, including fisheries.

2. The Committee observes that the Bill is largely aligned with the principles of sustainable resource management as enshrined in the Constitution of Kenya, particularly Articles 42 and 69 which provide for the right to a clean and healthy environment and the sustainable utilization of natural resources. However, the Committee notes that there is need for greater clarity in the delineation of functions between the National and County Governments in accordance with the Fourth Schedule of the Constitution, so as to avoid duplication or conflict in licensing, enforcement, and revenue collection within the fisheries sector.

3. The Bill introduces enhanced monitoring, control and surveillance mechanisms aimed at addressing illegal, unreported and unregulated (IUU) fishing. However, the effectiveness of these provisions will largely depend on the availability of adequate funding, strengthened inter-agency coordination, deployment of appropriate surveillance technology, and sustained capacity building at both the national and county levels to ensure proper implementation and enforcement.

4. The Committee observes that the Bill provides an enabling framework for private sector participation and aquaculture development, consistent with national development priorities under Kenya Vision 2030. Nevertheless, stakeholders emphasized the need for clear investment incentives, transparent and streamlined

licensing procedures, and adequate safeguards to protect small-scale fishers from possible displacement or unfair competition by large commercial operators.

5. The Committee observes that the Bill establishes revenue collection frameworks through licensing and fisheries-related levies; however, clarity is required regarding revenue-sharing between the National and County Governments, the allocation of revenues towards conservation and local development initiatives, and the establishment of robust transparency and accountability mechanisms to ensure proper management and utilization of the funds.

6. In compliance with Article 118 of the Constitution and relevant Standing Orders of the National Assembly, the Committee conducted extensive public participation forums across multiple regions, including Turkana, Kisumu, Naivasha and Coast counties. The submissions reflected divergent stakeholder views, with significant emphasis on legal clarity, cost implications of licensing fees, and the need for interventions that bolster local economic empowerment. The Committee observes that public participation was instrumental in highlighting regional nuances within the fisheries sector, particularly the distinct needs of inland and marine fisheries, as well as the emerging role of aquaculture.

7. A recurring theme in stakeholder submissions was the issue of double licensing, where fishers incur separate license fees from both National and County Governments. The Committee observes that the Bill lacks clear mechanisms to prevent double taxation and does not provide a mutual recognition framework between levels of government. Additionally, stakeholders opposed the proposed fee increases and highlighted the need for procedural safeguards, including mandatory public participation before fee revisions, to ensure fairness and transparency.

8. There was strong consensus among stakeholders for statutory recognition of Beach Management Units as key community governance structures in fisheries management. Stakeholders highlighted that BMUs play an essential role in local resource oversight, reporting, and community compliance. The Committee observes that the Bill's current reliance on regulations to establish and govern BMUs is insufficient and that statutory entrenchment would provide legitimacy and sustainability to their operations, particularly in cross-county water bodies such as Lake Turkana.

9. The Committee observes that the Bill's provisions on closed seasons and breeding zones are overly permissive, lacking mandatory criteria and clear scientific benchmarks. Stakeholders emphasized the need for mandatory closed seasons that are informed by robust scientific data and require advance notice and stakeholder engagement. Inadequate definitions of key terms such as breeding zones were noted as undermining enforceability, particularly in inland and marine ecosystems.

10. There is need for clearer regulatory frameworks for aquaculture. The Bill inadequately addresses environmental safeguards and modern aquaculture practices, which are critical for sustainable growth of the sector. The Committee observed the need for explicit provisions for Environmental Impact Assessments (EIAs), environmental protection bonds, and stronger enforcement measures to address escapement, pollution, and chemical use in aquaculture operations.

11. The Committee observes that the Bill is silent on accessibility for Persons with Disabilities (PWDs), language inclusivity, and capacity-building requirements for fishers prior to licensing. Stakeholder proposals underlined the importance of translating the Bill into Kiswahili and Braille to enhance accessibility, and recommended mandatory civic education and professional training as prerequisites for licensing.

12. The Committee observes that Kenya is bound by regional agreements and obligations—particularly those relating to shared fisheries resources and management frameworks—and that the Bill does not sufficiently reflect these obligations. In particular, stakeholder engagements highlighted the need for improved cooperation with regional bodies and alignment with protocols on sustainable exploitation, conservation, and enforcement.

13. The Committee also observed the need for an enhanced role for the Kenya Coast Guard Service in enforcement and monitoring, consistent with the powers conferred under section 8 and 9 of the Kenya Coast Guard Service Act, Cap. 200 and more efficient coordination between the Kenya Coast Guard Service and MCS unit established in the Bill for better protection of fishers and Kenya fishery waters.

14. Committee observed a lack of clear mechanisms for appeals and dispute resolution arising from regulatory decisions under the Bill. Stakeholders recommended the establishment of an independent tribunal or appeal structure to ensure that grievances arising from licensing, enforcement, and regulatory interpretations are addressed fairly, efficiently and in accordance with the rule of law.

MIN.NO.DC/ BEW&I/026/2026 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at thirty minutes past four o'clock. The next meeting will be held on the same day at two o'clock.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....23/02/2026.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FIFTH SESSION – 2026

MINUTES OF THE 4TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON FRIDAY 20TH FEBRUARY, 2026 IN THE GARDEN SUITE 1& 2, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY AT 2:30 PM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP, CBS - **Vice Chairperson**
3. Hon. Eng. Tandaza Kassim Sawa, MP, CBS
4. Hon. Buyu Rozaah Akinyi, MP, CBS
5. Hon. William Kamket, MP
6. Hon. Eng. Nzengu Paul Musyimi, MP
7. Hon. Eng. Nebart Bernard Muriuki, MP
8. Hon. Gachagua George, MP
9. Hon. Mohamed Abdikadir Hussein, MP
10. Hon. Mnyazi Amina Laura, MP
11. Hon. Dorothy Muthoni Ikiara, MP

APOLOGIES

1. Hon. Muiruri Stanley Muthama, MP
2. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP
3. Hon. Eric Wamumbi, MP
4. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE

NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1.	Mr. Mohamed Boru	First Clerk Assistant
2.	Ms. Ivy Kageha	Clerk Assistant III
3.	Dr. Benjamin Ng'imor	Principal Fiscal Analyst
4.	Ms. Lynette Otieno	Principal Legal Counsel
5.	Ms. Veron. D. Aluoch	Research Officer III
6.	Ms. Fridah Ngari	Media Relations Officer III
7.	Mr. Mohammed Said	Serjeant- At- Arms III

8.	Ms. Sophia Akumu	Intern

STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES

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3.	Mr. Leonard Bett	DCSC- SDBE&F
4.	Ms. Lucy Okungu	Ag. DG- KeFS
5.	Ms. Ilga Wanza Musembi	Legal- SDBE&F
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14.	Dr. Simon Macharia	Director of Fisheries- Aquaculture- KeFS
15.	Mr. Jared Agano	Ag.Director Fisheries- Capture Fisheries- KeFS
16.	Mr. Samuel Njoroge Karanja	Ag CEO- Fish Levy Trust Fund
17.	Ms. Caroline Mukiira	Corp. Secretary & Director Legal- KMFRI
18.	Ms. Monica Nkatha	F&AO- Kenya Fishery Industries Corporation
19.	Mr. Nicholus M. Kagundu	Ass. Dir. Fisheries & Blue Economy- SDBE&F

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1.	Mr. Kizito Wangalwa	Director- CoG
2.	Ms. Barbra Awuor	Technical Lead Blue Economy- CoG
3.	Mr. Tom Kataka	Legal Officer- CoG

MIN.NO.DC/ BEW&I/ 017/2026: PRELIMINARIES

The Chairperson called the meeting to order at thirty- three minutes past two o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Meeting with the State Department for Blue Economy and Fisheries and the Council of Governors to Consider the Fisheries**

Management and Development Bill (National Assembly Bill No. 29 of 2023)

5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/018/2026: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/BEW&I/ 019/2026: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next sitting.

MIN.NO.DC/ BEW&I/020/2026: MEETING WITH THE STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES AND THE COUNCIL OF GOVERNORS TO CONSIDER THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

The Principal Secretary State Department for Blue Economy and Fisheries Ms. Betsy Muthoni Njagi together with the Director Council of Governors Mr. Kizito Wangalwa, appeared before the Committee and deliberated on the areas of disparity on the Fisheries **Management and Development Bill (National Assembly Bill No. 29 of 2023)** as follows:

1. REGULATIONS OF FISHING GEAR

Stakeholder Submissions

i. Mombasa region opposed to bans on monofilament & beach seines
ii. Opposition to blanket gear bans, different types of gears necessary for different regions.
iii. Preference for management plans and a clear legal definition of fishing gear definition
iv. Provide for the regulation of emerging methods
v. Request for tax incentives and subsidies for legal gear
vi. Naivasha residents proposed regulation of illegal cage nets
vii. There was concern raised in Baringo on the issues of electric fishing
viii. Need for preservation of tradition fishing

Observations

i. There is a need for a clear definition of prohibited fishing gear.
ii. Regulation of finishing gear is necessary for conservation. However, there is a need for sensitization on and reduction of the cost of production of legal fishing gear.

Areas for Determination and consideration

i. Replace bans with co-developed management plans
ii. Mandate research before restrictions
iii. Subsidise gear changes
iv. Provide for the regulation of emerging fishing methods and fishing gear
v. Mandate research before restrictions
vi. Subsidise fishing gear

Amendment/ Observation

It may not be possible to provide County specific fishing gear however Clause 41 may be amended to provide for subsidies and continuous training on matters related to fishing gear as follows—

Incentives for fishing gear

(1) The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to finance, introduce incentives—

(a)for locally produced and imported fishing gear; and

(b)to expand private investment in production and manufacture of fish gear.

(2) The incentives contemplated under subsection (1) shall apply to—

(a)importers of fishing gear; and

(b)private investors to expand investment in production and manufacture of fishing gear.

The Committee noted that Kenya Marine and Fisheries research institute established under the Science and Technology (Amendment) Act may need to be transitioned into the Fisheries Bill.

3)The Cabinet Secretary shall, in consultation with the Cabinet Secretary responsible for matters relating to finance, prescribe incentives and make regulations for the production and manufactured of fishing gear.

Clause 41 (1)(l) may be amended to address issue of emerging fishing gears and methods-

(l)such other emerging gears and fishing methods as may be prescribed or prohibited by regulations established under this Part.

2. CLOSED SEASONS AND BREEDING ZONES (CONSERVATION)

Stakeholder Submissions

i. Support for mandatory closed seasons however consider county specific closed seasons
ii. Define and demarcate breeding zones
iii. Consult BMUs on mangrove planting
iv. In Naivasha it was proposed that riparian issues be integrated.

Observations

i. The provision of the Bill's permissive wording weakens conservation (Clause 39)
ii. Lacks clear criteria or frequency. The Bill should clearly provide for criteria to address County specific issues.
iii. Undefined terms undermine enforcement.
iv. The Bill should define breeding zones scientifically and provide for participation of BMUs in the process establishing or demarcating breeding zones.

Areas for Determination and conservation

i. Make closed seasons mandatory under specified criteria
ii. Define breeding zones
iii. Require advance notice and participation

Amendments

Amend **clause 39** of the Bill to provide for mandatory closed seasons–

Justification: To provide role of the County Governments in prescribing measures for conservation of inland fisheries.

Committee Observation:

The amendment was adopted as the imposition of fisheries management measures may affect functions of county government hence the need to consult before imposition of the same.

3. LANDING SITES

Stakeholder Submissions

i. Protect landing sites with title deeds to safeguard against encroachment
ii. Issue titles for the landing site to avoid domination by private investors
iii. Reclaim blocked access roads
iv. Build cold storage and processing hubs
v. Compensation for fishers lost at sea

Observations

i. The Bill defines designated fishing ports but not 'landing sites', there is a need for clarity on landing sites (clause 49 and second schedule)
ii. Silent on compensation and safety

iii. There also need for clarity in the role of NG and CG in determination and management of landing sites.

Areas for Determination and Consideration

i. Insert a clause on gazettement and protection of landing sites, or amend clause 49
ii. Marine disaster response protocols
iii. Compensation fund for fishers

Amendments

Amend clause 49 of the Bill to provide for mandatory–

Clause 49 (1) be amended by deleting the word "may" substituting therefor the word "shall" as follows—

50. (1) The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by the Board establish by a notice in the Gazette —

(a) designated fishing ports, and

(b) protected fish breeding grounds.

(1A) The County Executive Committee Member may, on recommendation of the County Director by a notice in a Gazette establish fish landing stations in their area of jurisdiction.

Justification: Based on their implementation powers as regards fisheries, counties are constitutionally enabled to establish fish landing stations as the situation or circumstances may warrant.

In addition, this proposal is anchored in Gazette Notice No. 116 of 9th August 2013 issued by the Transition Authority, which assigned the development and management of fish landing sites and jetties to County Governments.

Committee Observation:

The amendment was adopted with modification. The Committee was of the view consultation with the relevant county government before the Cabinet Secretary establishes of fish landing stations was important for fish landing stations. Noting in most instances management of the station will require collaboration with the county governments.

Amend Clause 133 to make the performance bond mandatory-

(a) in subclause (1) by deleting the word "may" and substituting therefor the word "shall"

(b) in subclause (2) by inserting the words "compensation to the crew of the fishing vessel for the loss of life or damage to their belongings on board as a consequence of a fishing vessel's foundering, piracy, fire or other loss affecting the vessel" immediately before the words "and shall".

Justification

The provision makes it mandatory for the Cabinet Secretary to require for a perfomance bond with regards to a for foreign fishing vessels and provide for compensation of fishers.

Committee Observation:

The amendment was adopted

4. DEVOLUTION AND GOVERNANCE

Stakeholder Submissions

(i) Some stakeholders submitted that there was need to devolve fisheries management to counties and provide for intercounty coordination.

(ii) Share the Director-General's powers with counties

(iii) Need to clarify on the role of the CS particularly as regards certain licensing procedures. Foreign fishing vessels etc.

(iv) Establish an independent tribunal for grievances

Observation

- Over-centralisation may be unconstitutional
- Need clarity on the role of CG vis-à-vis NG in fisheries management as provided in the Fourth Schedule to the Constitution
- There is need to clearly define an appeals mechanism for decisions made pursuant to the Act.

Areas for Determination and consideration

- Define the division of functions in the Bill
- Consider establishing a Fisheries Tribunal or defining clear appeals or review mechanisms
- Provide joint committees or coordination mechanisms

Amendments

(Ministry and COG to advice on roles of DG vis-à-vis counties on licensing)

Clause 127(1) Fisheries access for foreign fishing vessel to be on the recommendation of the Director General.

127.(1) The Cabinet Secretary may, on the recommendation of the Director-General, and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities.

(2)(b) Permission under subsection (1) may be given pursuant to—.

(b) an access right granted by the Cabinet Secretary, taking into account the provisions of subsections (1) and (2) and in consultation **on the recommendation** of the Director-General, in accordance with such conditions as he may require and as may be prescribed, including the—

Justification: Correcting a typographical error. To align with the proposed deletion of the provisions relating to the Fisheries Advisory Council.

Committee Observation:

The amendment was adopted with modifications as it is a clean up. However there is not clarity that the permit to foreign fishing vessels is issued by the Cabinet Secretary on recommendation of the Director-General of KFS.

Delete Clause 198- 207 and Insert New Clause

(Establishment of the Fisheries Tribunal)

198. (1) There is established a Fisheries Tribunal.

(2) The Fisheries Tribunal shall consist of the following members appointed by the Judicial Service Commission—

(a)a Chairperson who shall be an advocate of the High Court of Kenya with not less than ten years' post qualification experience;

(b)two persons one of whom shall be a registered civil engineer and the other a registered water engineer, with at least ten years' experience; and

(c)two persons who possess a degree from university recognized in Kenya and at least five years' experience in a relevant field.

(3) The Chairperson and members of the Fisheries Tribunal shall be appointed for a term of three years and shall be eligible for reappointment for one further term of three years.

(4) The Chairperson and members of the Fisheries Tribunal shall be paid such remuneration and allowances as the Judicial Service Commission may, in consultation with the Salaries and Remuneration Commission, determine.

Staff of the Water Tribunal

199. The staff of the Tribunal shall be appointed, removed from office or otherwise disciplined by the Judicial Service Commission in accordance with Article 172(1)(c) of the Constitution.

Jurisdiction of the Tribunal

200. (1)The Tribunal shall exercise the powers and functions set out in this Act and in particular shall hear and determine appeals at the instance of any person directly affected by the decision or order of the Cabinet Secretary, Director-General, the Service or of any person acting under the authority of the Cabinet Secretary or the Service.

(2) In addition to the powers set out in subsection (1), the Tribunal shall have the power to hear and determine any dispute concerning fisheries and aquaculture where there is a business contract, unless the parties have otherwise agreed to an alternative dispute resolution mechanism.

Justification: In line with Cabinet directive dissolving the Fish Marketing Authority.

Committee Observation:

The Kenya Fish Marketing Authority established in Part XVIII has been deleted in line with the Cabinet Directive on reforms of State Corporations. The Amendment seeks to align the provision with the Directive by deleting the reference to the Authority and subsequent transfer of marketing function to the Kenya Fisheries Service.

5. AQUACULTURE (CAGED FARMING)

Stakeholder Submissions

(i) Some stakeholders proposed that there be a separate Act to regulate aquaculture

(ii) Stricter controls on caged farming pollution and introduction of new species.

(iii) Environmental bond before licensing

(iv) Training and capacity building

Observations

- EIA obligations need to be explicitly provided for in Part VIII on Aquaculture
- Clauses 68 and 69 deal with matters related to escapement of aquaculture and the use of prohibited, unauthorised drugs and chemicals. However, there is a need for stronger enforcement provisions.
- Clause 63 prohibits the deprivation of local communities' traditional access to fisheries

Areas for Determination and Consideration

- Create a dedicated Part on aquaculture with safeguards or a standalone Act
- Require EIA and bonds
- Make provision for training and capacity building in aquaculture (KFS, FLTF)

Amendments

Amend Clause 67 to provide for environment protection bond for persons undertaking commercial aquaculture by inserting a new Clause 67A–

Environment protection bond for commercial aquaculture

67A. (1)A person wishing to engage in commercial aquaculture shall provide a bond or some other form of financial security in this section called an environmental protection bond sufficient to cover the costs associated with the implementation of the environmental and rehabilitation obligations of the holder under this Act including waste management.

(2) An environmental protection bond required under subsection (1) shall be in a form and for an amount as may be prescribed in regulations by the Cabinet Secretary having regard to the particular characteristics of the nature and size of the commercial aquaculture activities.

Justification

The amendment seeks to provide for an environmental protection bond for persons undertaking commercial aquaculture as measure for mitigating against negative impacts to the environment as a result of the activities.

Amend Clause 63(2) to enhance the fine where a person undertaking aquaculture activities deprives communities of traditional access to fisheries from three hundred thousand to one million shillings–

(2)A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to a term of imprisonment not exceeding three years or to both, and in addition shall restore to the local community its traditional access.

Justification

The amendment seeks to enhance the fine to deter persons who undertake aquaculture activities from depriving local communities from traditional access to fisheries.

Amend clause 73 to enable the Cabinet Secretary make Regulations on-

(ga)Environmental protection bonds for commercial aquaculture activities including amounts to be paid;

Justification

To provide for a consultative process between the National and county governments in the regulatory making process and provide for regulations on environment protection bond for commercial aquaculture. The amendment seeks to also provide for categorization of aquaculture establishments based on production for purposes of differentiated licences and also provide for single permit to for puposes of encouraging and easing investment in the sector.

Committee Observation:

These Amendments were adopted

6. INCLUSION, TRAINING AND ACCESSIBILITY

Stakeholder Submissions

(i) Translate Bill to Kiswahili & Braille

(ii) Civic education

(iii) Training before licensing

(iv) Youth scholarships

(v) Waive fees for PWDs

(vi) Retain the FLTF for loan facilities and training needs

Observations

- The Bill is silent on PWDs, language accessibility and training obligations
- Cabinet directive of FLTF and other bodies was established

Areas for Determination and Consideration

i. Mandate training

ii. Consider some waivers for PWDs and marginalised groups

iii. Mechanism to transition the role of Fish Levy Trust fund or possibly retain.

Amendments

Bill be amended by deleting clause 27 and substituting therefor the following new subclause—

Fish Levy Development Fund.

27. (1)There is established a fund to be known as the Fish Levy Development Fund which shall be the successor of the Fish Levy Trust Fund.

(2)The Fund is a body corporate with perpetual succession and a common seal and shall have power, in its corporate name, to sue and to be sued and, in the exercise and performance of its powers and functions, to do and permit all such things as may lawfully be done or permitted by a body corporate in furtherance of its objects.

(3)The purpose of the Fund shall be to—

(a) provide for the sustainable management, conservation and development of fisheries resources and the blue economy;

(b) provide funding for activities geared towards management, governance, development, fish stock assessments, research, capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource; and

(c) such other purposes as may be provided for the implementation of this Act.

(4)The Fund shall be administered by a five-member Board of Trustees to be appointed by the Cabinet Secretary by a notice in the *Gazette* on such terms and conditions as the Cabinet Secretary may prescribe, upon the advice of the Salaries and Remuneration Commission.

(5) A person is qualified for appointment as a member of the Board of Trustees if that person —

(a) has a post-graduate degree from a university is recognized in Kenya in fisheries science, marine science, law, economics or natural resource management; and

(b) meets the requirements of chapter Six of the Constitution.

(6)The Fund shall have Chief Executive Officer who shall be appointed by the Board of Trustees on such terms and conditions of service as the Cabinet Secretary responsible for matters relating to public service on the advice of the Salaries and Remuneration Commission may determine.

(7)The Chief Executive Officer shall be the accounting officer of the Fund and, subject to the directions of the Fund, shall be responsible for the management of the affairs of the Fund.

(8)The Fund may appoint such officers and other staff as may be necessary for the exercise and performance of its functions, upon such terms and conditions as the Cabinet Secretary responsible for matters relating to public service on the advice of the Salaries and Remuneration Commission may determine.

(9)The monies of the Fund shall consist of—

(a) Funds appropriated by the National Assembly from the national budget for the purposes of the Fund;

(b) Funds received by the Fund from donations, grants, and bequests from other sources;

(c) the proceeds of the levy imposed under subsection (10); and

(d) funds payable into the Fund under any Act.

(10)The Cabinet Secretary may, by Regulations following public consultation prescribe a levy to be paid by persons engaged in fishing or fishing related activities, the proceeds of which shall be paid into the Fund established under section 27.

(11)The Levy collected under subsection (10) shall be appropriated as follows—

(a) twenty per centum shall be applied for research and innovation in blue economy and fisheries allocated to the Kenya Marine and Fisheries Research Institute;

(b) twenty per centum shall be applied for fish stock assessment allocated to the Kenya Marine and Fisheries Research Institute;

(c) twenty per centum shall be applied for Monitoring, Control and Surveillance allocated to the Kenya Fisheries Service;

(d) five per centum shall be applied to the fisheries observer program allocated to the Kenya Fisheries Service;

(e) five per centum shall be applied to blue economy fisheries management and governance allocated to the State Department responsible blue economy and fisheries; and

(f) twenty per centum shall be applied for capacity building, scholarships, awards and urgent mitigation to ensure sustainability of the blue economy and fisheries resource and shall be administered by the Fund; and

(g) ten per centum shall be applied for the administration of the Fund.

Justification

The amendment restructures the Fish Levy Trust Fund into the Fish Levy Development Fund and further provides for the manner in which the Levy will be distributed for purposes of accountability.

7. REGIONAL AND INTERNATIONAL OBLIGATIONS, ROLE OF KENYA COAST GUARD SERVICE

Stakeholder Submissions

(i) Strict inspection of foreign vessels

(ii) Implement LVFO recommendations

(iii) Introduce fishing quotas

(iv) Clear boundaries

(v) streamline the role of the Kenya Coast Guard services and KFS in the protection of Kenya's Fishing Waters

Observations

- Kenya is bound by regional treaties
- Without harmonisation, fishers face arrest or cross-border disputes

Areas for Determination and consideration

i. Clause obligating the Ministry to implement LVFO recommendations

ii. Establish clear fishing zones

iii. Require Kenyan officers on foreign vessels in Kenya's fishing waters

Amendments

Clause 4(2)(q) provides for guiding principles in implementation of the Act to include implementation of international agreements.

See earlier proposal on blue economy strategy and reporting to Parliament.

On clause 20 on inter-agencies MCS include a representative of Kenya Coast guard service in the First Schedule in Part D

Amend clause 20(3) to provide for cooperation with Kenya Coast Guard Service-

(3) The principal function of the inter-agency MCS Unit shall be to ensure coordinated and effective interagency enforcement of and compliance with this Act, **including cooperation of the Service and the Kenya Coast Guard Service in protection of maritime resources including fisheries.**

We observe that section 8(1)(j) of the Kenya Coast Guard Service Act (Cap. 200) provides the Service shall, subject to this Act or any other written law, be deployed in the territorial waters… for the protection of maritime resources including fisheries.

Further section 9(2)(b) gives the Kenya Coast Guard Service the power stop, enter, board, inspect or search any structure, place, vessel or aircraft engaged in or suspected to be engaged in any unlawful activity;

Justification

Section 8(1)(j) of the Kenya Coast Guard Service Act (Cap. 200) provides that the Service shall, be deployed in the territorial waters including for the protection of maritime resources including fisheries. Further section 9(2)(b) gives the Kenya Coast Guard Service the power stop, enter, board, inspect or search any structure, place, vessel or aircraft engaged in or suspected to be engaged in any unlawful activity.

The amendment seeks to include in the inter-agencies MCS a representative of Kenya Coast Guard Service in order to enhance the protective given in the Kenya fishery waters and fishers by inclusion of the Service.

MIN.NO.DC/ BEW&I/021/2026 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at thirty minutes past four o'clock. The next meeting will be held on Saturday 21st February, 2026 at ten o'clock.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....23/02/2026.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FIFTH SESSION – 2026
MINUTES OF THE 3RD SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON FRIDAY 20TH FEBRUARY, 2026 IN THE GARDEN SUITE 1& 2, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY AT 10:00 AM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP, CBS - **Vice Chairperson**
3. Hon. Eng. Tandaza Kassim Sawa, MP, CBS
4. Hon. Buyu Rozaah Akinyi, MP, CBS
5. Hon. William Kamket, MP
6. Hon. Eng. Nzengu Paul Musyimi, MP
7. Hon. Eng. Nebart Bernard Muriuki, MP
8. Hon. Gachagua George, MP
9. Hon. Mohamed Abdikadir Hussein, MP
10. Hon. Mnyazi Amina Laura, MP
11. Hon. Dorothy Muthoni Ikiara, MP

APOLOGIES

1. Hon. Muiruri Stanley Muthama, MP
2. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP
3. Hon. Eric Wamumbi, MP
4. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE
NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1.	Mr. Mohamed Boru	First Clerk Assistant
2.	Ms. Ivy Kageha	Clerk Assistant III
3.	Dr. Benjamin Ng'imor	Principal Fiscal Analyst
4.	Ms. Lynette Otieno	Principal Legal Counsel
5.	Ms. Veron. D. Aluoch	Research Officer III
6.	Ms. Fridah Ngari	Media Relations Officer III
7.	Mr. Mohammed Said	Serjeant- At- Arms III
8.	Ms. Sophia Akumu	Intern

STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES

1.	Ms. Betsy Muthoni Njagi	Principal Secretary- SDBE&F
2.	Mr. Davies Makilla	DFBE- SDBE&F

3. Mr. Leonard Bett	DCSC- SDBE&F
4. Ms. Lucy Okungu	Ag. DG- KeFS
5. Ms. Ilga Wanza Musembi	Legal- SDBE&F
6. Ms. Joan Wamboe	SA- SDBE&F
7. Dr. Jacob Ochiewo	Director SE- SDBE&F
8. Dr. Christopher M. Auma	Director FWS- KMFRI
9. Mr. Mahongah Wala Joseph	Ag Director of Fisheries- SDBE&F
10. Dr. James M. Wamalwa	Director Oceans and Coastal Systems- KMFRI
11. Dr. Jonathan Mungai	Director Aquaculture- KMFRI
12. Dr. Mikah O. Nyaberi	CEO- KFIC
13. Ms. Daisy Muriuki	Director Fisheries- Fish Quality- KeFS
14. Dr. Simon Macharia	Director of Fisheries- Aquaculture- KeFS
15. Mr. Jared Agano	Ag.Director Fisheries- Capture Fisheries- KeFS
16. Mr. Samuel Njoroge Karanja	Ag CEO- Fish Levy Trust Fund
17. Ms. Caroline Mukiira	Corp. Secretary & Director Legal- KMFRI
18. Ms. Monica Nkatha	F&AO- Kenya Fishery Industries Corporation
19. Mr. Nicholus M. Kagundu	Ass. Dir. Fisheries & Blue Economy- SDBE&F

COUNCIL OF GOVERNORS (CoG)

1. Mr. Kizito Wangalwa	Director- CoG
2. Ms. Barbra Awuor	Technical Lead Blue Economy- CoG
3. Mr. Tom Kataka	Legal Officer- CoG

MIN.NO.DC/ BEW&I/ 012/2026: PRELIMINARIES

The Chairperson called the meeting to order at twenty- three minutes past nine o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Meeting with the State Department for Blue Economy and Fisheries and the Council of Governors to Consider the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023)**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/013/2026: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/BEW&I/ 014/2026: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next sitting.

MIN.NO.DC/ BEW&I/015/2026: MEETING WITH THE STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES AND THE COUNCIL OF GOVERNORS TO CONSIDER THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

The Principal Secretary State Department for Blue Economy and Fisheries Ms. Betsy Muthoni Njagi together with the Director Council of Governors Mr. Kizito Wangalwa, appeared before the Committee and deliberated on the areas of disparity on the Fisheries **Management and Development Bill (National Assembly Bill No. 29 of 2023)** as follows:

1. PRELIMINARY MATTERS

Stakeholder Submissions-

Clear definition of terms to provide for recognition of the County Governments officers responsible for fisheries noting fisheries is devolved function under the Fourth Schedule to the Constitution.

Observation- Need to streamline definition of terms

Areas for Determination and Consideration-

Provide for clearer definition of terms-

1. Amend Clause 2 to provide for distinct definition of terms –

Amend "**fisheries officer"** or alternatively provide the definition of the terms **"county fisheries officer"** to provide for recognition of the County Governments officers responsible for fisheries noting fisheries is devolved function under the Fourth Schedule to the Constitution.

> *"County fisheries officer" means an officer within a county designated by the respective county executive committee member;*

Introduce the definition of the following words:

> *"County Director" means the county director responsible for matters relating to fisheries in the respective county;*

"County Executive Committee Member" means the county executive committee member responsible for matters relating to fisheries in the respective county;

Committee Observation:

The amendments were adopted with necessary modifications including definition of "county fisheries officer" to provide for recognition of the County Governments officers responsible for fisheries noting fisheries is devolved function under the Fourth Schedule to the Constitution .Further recommendation is the inclusion and provision of definitions of County Director and CECMs responsible for fisheries in the interpretation.

2. Amend Clause 4 as follows:
   i. Clause 4 on the objectives and guiding principles of the Bill to align with the role of Counties as provided in the Fourth Schedule.
   4.*(2)(q) ensuring effective co-operation between the National and County Governments in the sustainable development, management, utilization and conservation of fisheries and other aquatic resources*
   ii. Amend Clause 4 on the objectives and guiding principles and insert new paragraph to address issue of promotion of blue economy
   4.*(2) (qa) provide for the promotion of the blue-economy sector.*
   iii. Provide new clause on provision of blue economy strategy—
   National Blue Economy Strategy

   4A. (1) The Cabinet Secretary shall within one year of the commencement of this Act and every five years thereafter following public participation formulate a blue economy strategy…

   (2) The Cabinet Secretary shall submit annual reports to Parliament on the implementation of the Blue Economy strategy including implementation of international agreement and obligations.

Justification: To align to the provisions of Article 6(2), 186 and 189 of the Constitution of Kenya.

Committee Observation:

The amendments were adopted with necessary modifications taking cognizance of the role of county Government in matters relating to fisheries and further expands the scope of the Bill to deal with matters related to Blue Economy.

2. LICENSING AND FEES

Stakeholder Submissions-

i. Single licence across counties
ii. Opposition to the fee increase to 560
iii. Request for waterproof or card-based licences
iv. Double licensing of vessels both at National Government and County Government and also across Counties
v. Preferential license is prone to misuse and corruption and should be abolished. All license applications should undergo the same procedure since preferential license issuance has been misused especially by foreigners and multi-nationals with financial muscle at the detriment of the locals

Observations

i. Bill centralises licensing at the national level
ii. Risk of double taxation
iii. Lacks procedural safeguards for fee revisions and public participation
iv. Vessels are licensed by KMA and KFS; however, the relevant body to determine seaworthiness is KMA (Maritime Act). KFS to limit itself to the fishing aspect

Areas for Determination and Consideration

i. Should the national or county government issue a licence or permit?
ii. Insert co-licensing or mutual recognition provisions
iii. Provide a revenue-sharing formula
iv. Mandate public participation before fee changes
v. Authority to issue licenses for fishing vessels (Foreign and local)

Amendment

Amend clause 83(2) and (3) to read as follows:

> 83 (2) The respective county governments shall be responsible for issuing licenses with respect to —
>
> (a) using any vessel for recreational fishing in the Kenya fishery waters.
>
> (b) using an artisanal fishing vessel for commercial purposes;
>
> (c)commercial aquaculture; and
>
> (e) ornamental fishing
>
> (3) The Cabinet Secretary shall in consultation with the Council of County Governors, prescribe the standards for the registration of vessels and grant,

renewal and revocation of licences by a county government under subsection (2).

Justification: The Constitution of Kenya, 2010, which assigns Counties responsibility for trade licenses. local economic development, trade regulation, and service delivery, including activities that take place within their territorial jurisdictions. In practical terms, recreational fishing, artisanal fishing, commercial aquaculture, and ornamental fishing are locally based activities that require day-to-day monitoring, community engagement, and enforcement, functions that can only be effectively performed by County Governments due to their proximity to fishers.

Committee Observation:

The amendment was not adopted further the Committee notes the need for clarification that registration is for fishing activities and not the vessel which are regulated under the Merchant Shipping Act.

3. BEACH MANAGEMENT UNITS

Stakeholder Submissions

(i) BMUs to be entrenched in the Act
(ii) BMU leadership will be funded
(iii) Composition and election be streamlined
(iv) Inclusion of PWDs in leadership
(v) Removal of leadership term limits
(vi) BMUs to be part of MCS and patrol
(vii) BMUs to have representation the Board of the Kenya Fisheries Services
(viii) PWDs and marginalised groups to have representation in BMU leadership
(ix) Cross-border BMUs and cooperation framework along cross-county water bodies (for example Lake Turkana)

Observations

i. Bill under-recognises BMUs, which are provided for establishment through regulations made by CS.
ii. BMUs are established by the respective CEC through regulations.
iii. Ensure diversity and inclusivity in the composition of BMUs (PWDs, youth, and marginalised)
iv. The Bill should create a specific Part on BMUs, establishment (election or appointment) and composition

v. There may be need to clearly provide for BMU regulation either to be vested at the national or county

Areas for Determination and Consideration

i. Create a specific Part on BMUs, establishment (election or appointment) and composition
ii. Determine the regulation of BMUs to be at the national or county level
iii. Mandate consultation with BMUs in MCS and patrol
iv. Provide for funding of BMUs, eg revenue sharing formula or withholding percentage of landing fees
v. Make BMU leadership inclusive (PWDs and marginalised groups)

Amendment

Amend clause 36 to establish Beach Management Units –

36. (1) Each County shall have Beach Management Unit consisting of —

(a) a chairperson appointed by the Cabinet Secretary being a person;

(b) a fisheries officer based in the respective administrative county nominated by the Director-General and who shall be the secretary;

(d) a county fisheries officer based in the respective administrative Conservation Area established by the Service and nominated by the respective county executive committee member;

(f)six persons not being public officers knowledgeable in fisheries matters nominated by the fisheries associations within the respective counties established and appointed by the Cabinet Secretary.

(2) The Cabinet Secretary may in consultation with the Council of County Governors make regulations for the management of beach management units.

Functions of Beach Management Unit

(1) A beach management unit shall be responsible for ensuring the orderly, safe and effective use, management and operation of the fish landing station over which it has jurisdiction.

(2) Without prejudice to sub-regulation (1), the beach management unit shall—

(a) support collection, collation and submission of fishing and fisheries related data to the County Executive Committee Member and the Director-General;

(b) ensure that the fish landing station, together with any structures or buildings situated thereon, is kept in a clean, tidy and hygienic condition;

(c) ensure adequate security at the fish landing station and any fishing vessels, nets or other equipment or structures within its boundaries;

(d) ensure compliance with applicable hygiene standards in connection with the landing storage and safety of fish and fishery products;

(e) in conjunction with other relevant agencies, maintain safety and order at the fish landing station;

(f) maintain any building or structure on the fish landing station;

(g) promote the marketing of fish including the construction and supply of marketing facilities and organizing fish auctions;

(h) provide training to its members on climate resilient fishing practices and technologies, good and acceptable fishing techniques, marketing and processing of fish, financial management and other areas relevant to fisheries; and

(i) ensure the safety of its members by—

(i) monitoring the seaworthiness of fishing vessels;

(ii) taking measures to ensure the members comply with applicable safety regulations;

(iii) organising, in collaboration with other relevant stakeholders, rescue vessels or rescue services in case of accidents or incidents;

(iv) promoting compliance with national fisheries legislation relating to small-scale fishing activities in its area of jurisdiction;

(v) promoting and improving the welfare and wellbeing of its members by supporting the activities of fisher cooperative societies and fishers' self-help groups within its jurisdiction; and

(vi) provide support in monitoring, control and surveillance in accordance with the Act.

Remuneration of members of Beach Management Units

A member of the Beach Management Unit shall be entitled to be paid such allowances as the Salaries and Remuneration Commission may determine.

Justification: To provide for clarity on the establishment of the BMUs in the respective County Government.

Committee Observation:

The amendment was adopted with necessary modifications provides for clarity on the establishment of the BMUs in the respective County Government. However there is need to provide for payment of BMUs.

MIN.NO.DC/ BEW&I/016/2026 ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at thirty- two minutes past one o'clock. The next meeting will be held on the same day at thirty minutes past two o'clock.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....23/02/2026.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025

MINUTES OF THE 51ST SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON TUESDAY 18TH NOVEMBER, 2025 IN THE COMMITTEE ROOM 13, 2ND FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS AT 12:00 NOON

PRESENT

1. Hon. Kemero Maisori Marwa Kitayama, MP - **Vice- Chairperson**
2. Hon. Eng. Tandaza Kassim Sawa, MP
3. Hon. Buyu Rozaah Akinyi, MP
4. Hon. William Kamket, MP
5. Hon. Eng. Nzengu Paul Musyimi, MP
6. Hon. Gachagua George, MP
7. Hon. Mohamed Abdikadir Hussein, MP
8. Hon. Dorothy Muthoni Ikiara, MP

APOLOGIES

1. Hon. Bowen Kangogo, MP, CBS - **Chairperson**
2. Hon. Muiruri Stanley Muthama, MP
3. Hon. Eng. Nebart Bernard Muriuki, MP
4. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP
5. Hon. Mnyazi Amina Laura, MP
6. Hon. Eric Wamumbi, MP
7. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE
NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1.	Mr. Nicodemus Maluki	First Clerk Assistant
2.	Ms. Ivy Kageha	Clerk Assistant III
3.	Dr. Benjamin Ng'imor	Principal Fiscal Analyst
4.	Ms. Veron. D. Aluoch	Research Officer III
5.	Mr. Eugene Luteshi	Audio Officer III
6.	Mr. Mohammed Said	Serjeant- At- Arms III

MIN.NO.DC/ BEW&I/ 265/2025: PRELIMINARIES

Pursuant to Standing Order 188 *in the absence of the Chairperson and Vice- Chairperson at any meeting, the members present shall elect one of them to take the Chair.* In this regard, Hon. ng. Nzengu Paul Musyimi, MP was elected to chair the meeting. The Chairperson called the

meeting to order at thirty minutes past eleven o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Consideration of Submissions on the Public Participation Exercise for the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) in Nakuru, Baringo and Turkana Counties.**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/ 266/2025: ADOPTION OF THE AGENDA

The agenda of the day was adopted having been proposed and seconded by Hon. George Gachagua, MP and Hon. Mohamed Abdikadir Hussein, MP respectively.

MIN.NO.DC/ BEW&I/ 267/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

1. Minutes of the 49th **Sitting** held on **Tuesday 4th November, 2025** at **eleven o' clock** were adopted as a true reflection of the proceedings having been proposed and seconded by the Hon. George Gachagua, MP and the Hon. Eng. Nzengu Paul Musyimi, MP respectively.
2. Minutes of the **50th Sitting** held on **Tuesday 11th November, 2025** at **eleven o' clock** were adopted as a true reflection of the proceedings having been proposed and seconded by the Hon. William Kamket, MP and the Hon. Buyu Rozaah Akinyi, MP respectively.

MIN.NO.DC/ BEW&I/268/2025: CONSIDERATION OF SUBMISSIONS ON THE PUBLIC PARTICIPATION EXERCISE FOR THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023) IN NAKURU, BARINGO AND TURKANA COUNTIES

The Fisheries Management and Development Bill, 2023 seeks to establish a comprehensive legal framework for the sustainable management and development of fisheries in Kenya. The Bill aims to ensure effective utilization of fishery resources, strengthen governance at both national and county levels, and regulate fish trade, imports, exports, and quality standards.

The Committee held consultative meetings with the State Department for Blue Economy and Fisheries and the Council of Governors. Public participation forums were conducted in the Nyanza and Coastal regions between 31st August and 5th September 2025. Further public participation was conducted in Turkana, Nakuru, and Baringo Counties between **13th to 15th November 2025**.

The Committee being aware of the numerous views collected from the public following the stakeholder engagement exercises on the Bill resolved to conduct a three- day retreat from Thursday 27th to Sunday 30th November, 2025 to consider and consolidate the views.

MIN.NO.DC/ BEW&I/269/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at forty- six minutes past twelve o'clock. The next meeting will be held on notice.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....18/11/2025.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025

MINUTES OF THE 50TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON TUESDAY 11TH NOVEMBER, 2025 IN THE COMMITTEE ROOM 13, 2ND FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS AT 11:00 AM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP - **Vice- Chairperson**
3. Hon. Eng. Tandaza Kassim Sawa, MP
4. Hon. Buyu Rozaah Akinyi, MP
5. Hon. William Kamket, MP
6. Hon. Eng. Nzengu Paul Musyimi, MP
7. Hon. Eng. Nebart Bernard Muriuki, MP
8. Hon. Gachagua George, MP
9. Hon. Mohamed Abdikadir Hussein, MP
10. Hon. Dorothy Muthoni Ikiara, MP

APOLOGIES

1. Hon. Muiruri Stanley Muthama, MP
2. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP
3. Hon. Mnyazi Amina Laura, MP
4. Hon. Eric Wamumbi, MP
5. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE
NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1.	Mr. Nicodemus Maluki	First Clerk Assistant
2.	Ms. Ivy Kageha	Clerk Assistant III
3.	Dr. Benjamin Ng'imor	Principal Fiscal Analyst
4.	Ms. Veron. D. Aluoch	Research Officer III
5.	Mr. Eugene Luteshi	Audio Officer III
6.	Mr. Mohammed Said	Serjeant- At- Arms III

MIN.NO.DC/ BEW&I/ 260/2025: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past eleven o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Pre- planning Meeting on the Public Participation Exercise for the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) in Nakuru, Baringo and Turkana Counties Scheduled for 13th – 15th November, 2025**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/ 261/2025: ADOPTION OF THE AGENDA

The agenda of the day was adopted having been proposed and seconded by Hon. Mohamed Abdikadir Hussein, MP and Hon. Kemero Maisori Marwa Kitayama, MP respectively.

MIN.NO.DC/ BEW&I/ 262/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

Minutes of the 48th **Sitting** held on **Thursday 9th October, 2025** at **ten o' clock** were adopted as a true reflection of the proceedings having been proposed and seconded by the Hon. Dorothy Muthoni Ikiara, MP and the Hon. Eng. Nzengu Paul Musyimi, MP respectively.

MIN.NO.DC/ BEW&I/263/2025: PRE- PLANNING MEETING ON THE PUBLIC PARTICIPATION EXERCISE FOR THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023) IN NAKURU, BARINGO AND TURKANA COUNTIES SCHEDULED FOR 13TH – 15TH NOVEMBER, 2025

The Fisheries Management and Development Bill, 2023 seeks to establish a comprehensive legal framework for the sustainable management and development of fisheries in Kenya. The Bill aims to ensure effective utilization of fishery resources, strengthen governance at both national and county levels, and regulate fish trade, imports, exports, and quality standards.

The Committee has so far held consultative meetings with the State Department for Blue Economy and Fisheries and the Council of Governors. Public participation forums were conducted in the Nyanza and Coastal regions between 31st August and 5th September 2025, and the views collected are scheduled for Committee consideration.

Further public participation is scheduled to take place in Turkana, Nakuru, and Baringo Counties from **13th to 15th November 2025**.

The Committee deliberated on the schedule of attendance of the stakeholder engagement and proposed as follows:

NO.	PARTICIPANT LIST NAME	DESIGNATION
PARTICIPANTS LIST (GROUP 1- BARINGO COUNTY)		
1	Hon. William Kamket, MP	Member
2	Hon. Muiruri Stanley Muthama, MP	Member
3	Hon. Mnyazi Amina Laura, MP	Member
PARTICIPANTS LIST (GROUP 2- TURKANA COUNTY)		
1	Hon. Eng. Nzengu Paul Musyimi, MP **(Delegation Leader)**	Member
2	Hon. Eng. Tandaza Kassim Sawa, MP	Member
3	Hon. Gachagua George, MP	Member
PARTICIPANTS LIST (GROUP 3- NAKURU COUNTY)		
1	Hon. Eric Wamumbi, MP **(Delegation Leader)**	Member
2	Hon. Dorothy Muthoni Ikiara, MP	Member
3	Hon. Eng. Nebart Bernard Muriuki, MP	Member

MIN.NO.DC/ BEW&I/264/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at five minutes to twelve o'clock. The next meeting will be held on notice.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....18/11/2025.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025

MINUTES OF THE 48TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON THURSDAY 9TH OCTOBER, 2025 IN THE COMMITTEE ROOM 16, 3RD FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS AT 10:00 AM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP - **Vice- Chairperson**
3. Hon. Eng. Tandaza Kassim Sawa, MP
4. Hon. Buyu Rozaah Akinyi, MP
5. Hon. Eng. Nzengu Paul Musyimi, MP
6. Hon. Gachagua George, MP
7. Hon. Dorothy Muthoni Ikiara, MP

APOLOGIES

1. Hon. William Kamket, MP
2. Hon. Muiruri Stanley Muthama, MP
3. Hon. Eng. Nebart Bernard Muriuki, MP
4. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP
5. Hon. Mohamed Abdikadir Hussein, MP
6. Hon. Mnyazi Amina Laura, MP
7. Hon. Eric Wamumbi, MP
8. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE
NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1.	Mr. Nicodemus Maluki	First Clerk Assistant
2.	Ms. Ivy Kageha	Clerk Assistant III
3.	Ms. Veron. D. Aluoch	Research Officer III
4.	Mr. Eugene Luteshi	Audio Officer III
5.	Mr. Mohammed Said	Serjeant- At- Arms III

MIN.NO.DC/ BEW&I/ 249/2025: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Pre- planning meeting for the public participation exercise on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023)**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/ 250/2025: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/ BEW&I/ 251/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

Minutes of the **47th Sitting** held on **Tuesday 7th October, 2025** at **ten o' clock** were adopted as a true reflection of the proceedings having been proposed and seconded by the Hon. Eng. Nzengu Paul Musyimi, MP and the Hon. Dorothy Muthoni Ikiara, MP respectively.

MIN.NO.DC/ BEW&I/252/2025: PRE- PLANNING MEETING FOR THE PUBLIC PARTICIPATION EXERCISE ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

The Fisheries Management and Development Bill, 2023 seeks to establish a comprehensive legal framework for the sustainable management and development of fisheries in Kenya. The Bill aims to ensure effective utilization of fishery resources, strengthen governance at both national and county levels, and regulate fish trade, imports, exports, and quality standards.

The Committee has so far held consultative meetings with the State Department for Blue Economy and Fisheries and the Council of Governors. Public participation forums were conducted in the Nyanza and Coastal regions between 31st August and 5th September 2025, and the views collected are scheduled for Committee consideration.

Further public participation is scheduled to take place in Turkana, Nakuru, and Baringo Counties from **21st to 23rd October 2025**.

The Committee deliberated on the schedule of attendance of the stakeholder engagement and proposed as follows:

PARTICIPANT LIST		
NO.	**NAME**	**DESIGNATION**
PARTICIPANTS LIST (GROUP 1- BARINGO COUNTY)		
1	Hon. Bowen Kangogo, MP, CBS	Chairperson
2	Hon. William Kamket, MP	Member
3	Hon. Muiruri Stanley Muthama, MP	Member
4	Hon. Mnyazi Amina Laura, MP	Member
5	Hon. Adow Mohamed Aden, MP	Member
PARTICIPANTS LIST (GROUP 2- TURKANA COUNTY)		
1	Hon. Eng. Nzengu Paul Musyimi, MP **(Delegation Leader)**	Member
2	Hon. Eng. Tandaza Kassim Sawa, MP	Member
3	Hon. Gachagua George, MP	Member
4	Hon. Mohamed Abdikadir Hussein, MP	Member
PARTICIPANTS LIST (GROUP 3- NAKURU COUNTY)		
1	Hon. Eric Wamumbi, MP **(Delegation Leader)**	Member
2	Hon. Dorothy Muthoni Ikiara, MP	Member
3	Hon. Eng. Nebart Bernard Muriuki, MP	Member
4	Hon. Buyu Rozaah Akinyi, MP	Member

MIN.NO.DC/ BEW&I/253/2025: ANY OTHER BUSINESS

1. **Statement by Hon. Charles Ngusya, MP for Mwingi West Constituency, regarding the delayed execution of the contract of the Director-General of the Kenya Fisheries Service.**

The Committee was informed that, pursuant to its resolution made during the meeting held on Tuesday, 7th October 2025, a written request was sent to the Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs, seeking a status report on the matter. This was aimed at facilitating the Committee's conclusion of the issue, having already received

submissions from the Office of the Attorney-General and the State Corporations Advisory Committee.

2. The Committee was informed that following the high water tariffs imposed across the country, the Hon. Wambugu Wainaina, MP, had requested a statement regarding the high water tariffs in Othaya and Mukurweini Constituencies on Thursday, 2nd October 2025.The Committee resolved to consider the matter in its next meeting.

MIN.NO.DC/ BEW&I/254/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at five minutes to twelve o'clock. The next meeting will be held on notice.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025

MINUTES OF THE 46TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON TUESDAY 30TH SEPTEMBER, 2025 IN THE COMMITTEE ROOM 12, NEW WING, PARLIAMENT BUILDINGS AT 10:00 AM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP - **Vice- Chairperson**
3. Hon. Buyu Rozaah Akinyi, MP
4. Hon. Eng. Nzengu Paul Musyimi, MP
5. Hon. William Kamket, MP
6. Hon. Eng. Tandaza Kassim Sawa, MP
7. Hon. Muiruri Stanley Muthama, MP
8. Hon. Gachagua George, MP
9. Hon. Dorothy Muthoni Ikiara, MP
10. Hon. Eng. Nebart Bernard Muriuki, MP
11. Hon. Mnyazi Amina Laura, MP
12. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP

APOLOGIES

1. Hon. Mohamed Abdikadir Hussein, MP
2. Hon. Adow Mohamed Aden, MP
3. Hon. Eric Wamumbi, MP

IN- ATTENDANCE
NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1. Mr. Nicodemus Maluki	First Clerk Assistant
2. Dr. Benjamin Ngimor	Principal Fiscal Analyst
3. Ms. Lynette Otieno	Senior Legal Counsel
4. Ms. Eugene Apaa	Research Officer II
5. Mr. Eugene Luteshi	Audio Officer III
6. Mr. Mohammed Said	Serjeant- At- Arms III
7. Ms. Maryan Gabow	Public Communication Officer

MIN.NO.DC/ BEW&I/ 240/2025: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda: Consideration of submissions by the stakeholders on the Fisheries Management and Development Bill (National Assembly Bill no. 29 of 2023)**
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/ 241/2025: ADOPTION OF THE AGENDA

The agenda of the day was adopted and seconded by the Hon. Eng. Nzengu Paul Musyimi, MP and Hon. Eng. Nebart Bernard Muriuki, MP.

MIN.NO.DC/ BEW&I/ 242/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next meeting.

MIN.NO.DC/ BEW&I/243/2025: CONSIDERATION OF SUBMISSIONS BY THE STAKEHOLDERS ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

The Legal Counsel took Members through a summary of the public submissions on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) received during the public participation exercise.

During the public participation the stakeholders raised a number of issues and proposals which the Committee considered.

1. **Licensing and fees**, stakeholders proposed the adoption of a single licence across counties, opposed the increase of fees to Kshs 560, and requested the introduction of waterproof or card-based licences.

   Concerns were also raised on the double licensing of vessels by different agencies. The Committee observed that the Bill centralizes licensing at the national level, which may expose fishers to the risk of double taxation.

   It further noted the absence of procedural safeguards for future fee revisions. In addition, while both the Kenya Maritime Authority (KMA) and the Kenya Fisheries Service (KFS) have licensing roles, the Committee affirmed that KMA, under the Maritime Act, is the

appropriate body to determine seaworthiness, whereas KFS should restrict itself to the fishing aspect.

2. **Beach Management Units (BMUs)**, stakeholders recommended their entrenchment in the Act, funding of their leadership, streamlining of composition and elections, and inclusion of persons with disabilities and other marginalized groups in leadership.

   Other proposals included the removal of leadership term limits and assigning BMUs a role in monitoring, control and surveillance. The Committee observed that the Bill under-recognizes BMUs, providing only for their establishment through regulations by the Cabinet Secretary, despite their establishment in practice by respective County Executive Committees.

3. **Regulation of fishing gear**, stakeholders—particularly from the Mombasa region—opposed bans on monofilament nets and beach seines, preferring management plans and a clear legal definition of prohibited gear. They further requested regulation of emerging fishing methods and tax incentives or subsidies for legal gear.

   The Committee agreed that regulation of fishing gear is critical for conservation, but stressed the need for a clear legal definition of prohibited gear, increased sensitization, and reduction in the cost of legal fishing gear.

4. **Closed seasons and breeding zones**, stakeholders supported the introduction of mandatory closed seasons, definition and demarcation of breeding areas, and consultation with BMUs on mangrove planting. The Committee observed, however, that Clause 39 of the Bill is permissively worded, thereby weakening conservation efforts. It also noted the absence of clear criteria or frequency for closed seasons, as well as undefined terms that may undermine enforcement.

5. **Landing sites**, stakeholders called for the protection of such sites through issuance of title deeds, to avoid domination by private investors. They also requested reclamation of blocked access roads, establishment of cold storage and processing hubs, and compensation for fishers lost at sea. The Committee noted that while the Bill defines designated fishing ports, it does not define "landing sites" under Clause 49 and the Second Schedule. It further observed that the Bill is silent on issues of compensation and safety.
6. **Devolution and governance**, stakeholders proposed that fisheries management be devolved to counties, that the powers of the Director-General be shared with county governments, and that an independent tribunal be established to address grievances.

   The Committee observed that the Bill's centralization tendencies may be unconstitutional, and emphasized the need to clarify the roles of county and national governments as set out in the Fourth Schedule of the Constitution. It also noted that routing grievances to the Cabinet Secretary undermines fairness.

7. **Aquaculture, particularly caged farming**, stakeholders called for a separate Act, stricter controls on pollution, requirement of environmental bonds before licensing, and investment in training and capacity building. The Committee noted that environmental

impact assessment (EIA) obligations should be explicitly included in Part VIII of the Bill. It further observed that while Clauses 68 and 69 address escapement of aquaculture species and use of unauthorized chemicals, stronger enforcement provisions are required. Importantly, Clause 63 prohibits deprivation of local communities' traditional access to fisheries, which the Committee supported.

8. **Inclusion, training and accessibility**, stakeholders proposed translation of the Bill into Kiswahili and Braille, provision of civic education, training prior to licensing, scholarships for youth, waivers of fees for persons with disabilities, and retention of the Fisheries Levy Trust Fund (FLTF) for loans and training needs. The Committee observed that the Bill is silent on provisions for persons with disabilities, accessibility, and training obligations. It also noted that the FLTF and other related bodies had already been established through a Cabinet directive.

9. **Regional and international obligations**, stakeholders called for stricter inspection of foreign vessels, implementation of Lake Victoria Fisheries Organization (LVFO) recommendations, introduction of fishing quotas, clear demarcation of boundaries, and harmonization of the roles of the Kenya Coast Guard Service (KCGS) and KFS in protecting Kenyan waters. The Committee noted that Kenya is bound by several regional treaties and cautioned that without proper harmonization, local fishers face a heightened risk of arrests and cross-border disputes

The Committee resolved to conclude the remaining phases of public participation between 19th and 23rd October, 2025 immediately after the House proceeds on the short recess, and thereafter retreat to undertake report writing. Further, the Committee resolved to invite the Council of Governors and the State Department for Blue Economy and Fisheries for a consultative meeting to deliberate on the proposed amendments, with a view to developing a law that is agreeable to all stakeholders.

MIN.NO.DC/ BEW&I/244/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at five minutes to twelve o'clock. The next meeting will be held on notice.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....7/10/2025.....

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025

MINUTES OF THE 40TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON THURSDAY 31ST JULY, 2025 IN THE COMMITTEE ROOM 22, FIFTH (5TH) FLOOR, BUNGE TOWER, PARLIAMENT BUILDINGS AT 10:00 AM

PRESENT

1. Hon. Bowen David Kangogo, MP, CBS - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP - **Vice- Chairperson**
3. Hon. Muiruri Stanley Muthama, MP
4. Hon. William Kamket, MP
5. Hon. Buyu Rozaah Akinyi, MP
6. Hon. Eng. Nzengu Paul Musyimi, MP
7. Hon. Mohamed Abdikadir Hussein, MP
8. Hon. Gachagua George, MP
9. Hon. Dorothy Muthoni Ikiara, MP
10. Hon. Eng. Nebart Bernard Muriuki, MP
11. Hon. Mnyazi Amina Laura, MP
12. Hon. (Dr). Osogo Bensuda Joyce Atieno, MP

APOLOGIES

1. Hon. Eng. Tandaza Kassim Sawa, MP
2. Hon. Eric Wamumbi, MP
3. Hon. Adow Mohamed Aden, MP

IN- ATTENDANCE

NATIONAL ASSEMBLY – COMMITTEE SECRETARIAT

1. Mr. Nicodemus Maluki	First Clerk Assistant
2. Ms. Ivy Kageha	Third Clerk Assistant
3. Ms. Lynnette Otieno	Senior Legal Counsel
4. Ms. Veron D. Aluoch	Research Officer III
5. Ms. Fridah Ngari	Media Relations Officer III
6. Mr. Eugene Luteshi	Audio Officer III
7. Mr. Mohamed Said	Serjeant- at- Arms
8. Ms. Rhoda Menach	Attaché
9. Joshua Omondi	Attaché

COUNCIL OF GOVERNORS- BLUE ECONOMY COMMITTEE

1. H.E. Dr. Paul Otuoma — COG- Chairperson Blue Economy Committee
2. Ms. Barbara Awuor — COG- Technical Lead, Blue Economy Committee
3. Ms. Margret Wanyama — COG- Personal Assistant

MIN.NO.DC/ BEW&I/209/2025: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past ten o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. **Agenda:**
5. **Meeting With Council of Governors to Consider their Submissions and Proposed Amendments on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023)**
6. Any other Business
7. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/210/2025: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/ BEW&I/211/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next meeting.

MIN.NO.DC/ BEW&I/212/2025: MEETING WITH COUNCIL OF GOVERNORS TO CONSIDER THEIR SUBMISSIONS AND PROPOSED AMENDMENTS ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

The Council of Governors, Chairperson- Blue Economy Committee H.E Dr. Paul Otuoma appeared before the Committee and presented their Submissions and Proposed Amendments to the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023). A summary of the key highlights from the submission were discussed as follows:

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Long title	AN ACT of Parliament to provide for the conservation, management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing and to establish the Kenya Fisheries Services; and for connected purposes	Amend to read as follows: AN ACT of Parliament to provide for the sustainable development, management, utilization and conservation of fisheries and other aquatic resources to enhance the livelihood of communities; provide for the roles of the National and County Governments; and for connected purposes	Noting that fisheries is a devolved function, it is important for the law to define the roles and responsibilities of the two levels of government taking into account the assignment of functions between the National and County Governments.
2. Interpretation		Amend the definition of the terms "agent", "authorized officer", "fisheries officer", "fish landing station", "fishery" "Government" , "illegal fishing", "landing", "subsistence fishing" , "test fishing operation" as follows: Further we recommend the inclusion and provision of definitions of County Director and CECMs responsible for fisheries in the interpretation.	To provide for recognition of the County Governments officers responsible for fisheries as fisheries is a fully devolved function under the Fourth Schedule to the Constitution.
	"agent" means any person or unit appointed by the Board or	"agent" means any person or unit appointed by the National Government or County Governments to execute	To provide for the clarity of functions between the National and County Governments as stipulated in the Fourth Schedule

	Director-General to execute designated functions under this Act, or such other agent as may be appointed in accordance with section 17 (1) (	designated functions under this Act, or such other agent as may be appointed in accordance with section 17 (1) (c);	to the Constitution as well as provide for clarity in the definition of terms.
	"authorized officer" means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 18;	"authorized officer" means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary or County Executive Committee Member under section 18;	
5. Objective and Guiding principles	5 (1) The objective of this Act is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities and	Amend clause 5 to read as follows: 5. (1) The objective of this Act is to protect, manage, use and develop the fisheries and aquatic resources in a manner which is consistent with ecologically sustainable development of fisheries value chain and to enhance food security.	To align to the provisions of Article 6(2), 186 and 189 of the Constitution of Kenya.

	to introduce fishing to traditionally non-fishing communities and to enhance food security (2)(q) ensuring effective co-operation with coastal States, fishing States and entities and competent organisations;	5(2)(q) ensuring effective co-operation between the National and County Governments in the sustainable development, management, utilization and conservation of fisheries and other aquatic resources	
6. Establishment of the Kenya Fisheries Council	PART III —THE KENYA FISHERIES SERVICE 6. (1) There is hereby established an advisory body to be known as the Kenya Fisheries Advisory Council ("the Council"), which shall consist of— (a)the Cabinet Secretary responsible for fisheries, who shall be the chairperson;	Amend by deleting clause 6(5) and amend clauses 6(1)(h), (2) and (3) to read as follows: (6)(1)(h) Three County Governors from the Council of County Governors' nominated by the Council of County Governors; and (f) the vice chancellor from a university or research institution with expertise in fisheries and who shall be nominated by the University Council; (g) the chairperson of the consumer federation nominated by the national consumer federation;	To provide for sufficient representation of the County Governments in the Council. Also, we propose amendment of clause 6(2) to require the Council to advise both levels of government as opposed to only the National Government. Further, in the spirit of Article 6(2), 186 and 189 of the Constitution, we opine that the County Governor Chair of the Council of Governors Committee on matters related to fisheries

	(b)the Cabinet Secretary responsible for interior and co-ordination of national government; (c) Cabinet Secretary responsible for transport and infrastructure; (d)the Cabinet Secretary responsible for the national treasury; (e)the Cabinet Secretary responsible for foreign affairs and international trade; (f) a representative from a university or research institution with expertise in fisheries and who shall be nominated by the University Council; (g)a representative from the consumer federation nominated by the national consumer federation; (h)a designate from the Council of Governors with	(i)the chairperson of the national umbrella of body fisheries. (2) The function of the Council shall be to review and advise the Government on— (3) The Vice Chairperson of the Council shall be one of the members nominated by the Council of County Governors under section 6(1)(h). Introduce the following new clauses (6)The Council may establish such working groups and committees as it deems necessary; (7) The Council shall meet not less than twice in a year;	be the Vice-Chairperson of the Council. In addition, the membership of the Council should constitute high level representation.

	expertise in fisheries who shall be nominated by the Council of Governors; and (i)a representative of fisheries nominated by a national umbrella of body fisheries. (2) The function of the Council shall be to review and advise the national Government on— (3) The Vice Chairperson of the Council shall be elected by members of the Council at their first sitting, provided that the chair and vice chairperson shall not be of the same gender (5)Each Cabinet Secretary represented on the Council in accordance with subsection (1) may designate an alternate who is knowledgeable and experienced in issues relevant to fisheries;		

	(6)The Council may establish such working groups and committees as it deems necessary and as are agreed by the Cabinet Secretary.		
PART III —THE KENYA FISHERIES SERVICE 7. Establishment and status	PART III —THE KENYA FISHERIES SERVICE 7. (1) There is hereby established a Service to be known as the Kenya Fisheries Service, which shall be responsible for the conservation, management and development of Kenya's fisheries resources in accordance with this Act.	Amend by reviewing the name of the Service to reflect the functions of the National Government under the Fourth Schedule of the Constitution. "Kenya Fishing Service" as opposed to Kenya Fisheries Service.	Pursuant to the provisions of section I of Part 2 of the Fourth Schedule to the Constitution, agriculture including fisheries are functions fully devolved to the County Governmer The naming of a national agencies as "Kenya Fisheries Service" goes against the aforementioned provisions of the Constitution as it seeks to claw back on devolved functions. The Council thus opines a change of the name of the institution to reflect the functional assignment.
48. Fisheries impact assessments.	48. (2) Where an application is made under subsection (1), the Director General shall refer the matter to the National Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources,	Amend clause 48(2) to read as follows: 48. (2) Where an application is made under subsection (1), the Director General shall refer the matter to the National Management Authority and respective County Executive Committee Member who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat	Being in charge of and implementers of the fisheries function, it important to provide for and require a Fisheries Impact Assessment Report from a concerned County Government before any activity is undertaken in any fisheries resource other than fishing.

	including their habitat and possible means of preventing or minimizing adverse impact.	and possible means of preventing or minimizing adverse impact.	
58. Competent authority.	58(2) The Cabinet Secretary shall establish a standing committee and a technical committee on Fish Quality and Safety. (3) The functions of the Committee shall be to— (a) monitor the production of fish products and fish feed with a view to assessing risks to humans; (b)regulate fish handling, landing, transportation, processing and marketing; (c) work in collaboration with other Government agencies in matters related to this section; (d)carry out inspection of	Amend by deleting sub-clause 58(2) and amend sub-clause 58(3) to read as follows: (3) The County Executive Committee Member shall — (a) monitor the production of fish products and fish feed with a view to assessing risks to humans; (b)regulate fish handling, landing, transportation, processing and marketing; (c) work in collaboration with other Government agencies in matters related to this section; (d)carry out inspection of operational fishery enterprises for compliance with fish safety regulations issued by the Cabinet Secretary; (e) lay down all procedures to be followed for compliance with provisions under paragraph (f); (f) specify conditions for the placing on the market of fish, fish products and fish feed; (g)maintain a register of fishery enterprises in the county;	The Council of Governors (COG) strongly opposes the creation of a Standing Committee and a Technical Committee on Fish Quality and Safety, as it is our position that these functions rightfully fall under the mandate of County Governments. The Constitution of Kenya and the devolved governance structure empower counties to manage local resources, including fisheries, and to ensure the quality and safety of fish products within their jurisdictions. The establishment of such committees at the national level would undermine the authority and responsibilities of County Governments in this sector. County Governments are best positioned to understand and address the specific needs and challenges faced by their respective

	operational fishery enterprises for compliance with fish safety regulations issued by the Cabinet Secretary; (e) lay down all procedures to be followed for compliance with provisions under paragraph (f); (f)specify conditions for the placing on the market of fish, fish products and fish feed; (g) maintain a register of fishery enterprises approved by the competent authority.	(h) issue health certification of fish, fish products and fish feed subject to the consignment meeting set requirements; (i)perform such other functions as may be necessary or expedient for food safety conditions of fish products in accordance with this Act.	regions, including fish quality and safety concerns. We believe that further centralization of these functions would lead to duplication of efforts, inefficiencies, and unnecessary bureaucracy.
93. Fees, charges or levies	93.(1) A licence or authorization granted under this Act shall be subject to payment of— (a)such licence fee prescribed for that class of licence as may be prescribed; and (b)such other fees, charges or levies as are set out in this Act, or as may be prescribed or required by the	Amend clause 93 by including the words "or County Government" immediately after the words "Director General" whenever it appears to read as follows: 93.(1) A licence or authorization granted under this Act shall be subject to payment of— (a)such licence fee prescribed for that class of licence as may be prescribed; and (b)such other fees, charges or levies as are set out in this Act, or as may be prescribed or required	To recognize the role of the County Governments to charge fees and other charges in the fisheries sector.

	Director-General by public notice	by the Director-General or County Government by public notice	
118. Aquaculture permits.	118. (1) An application for an aquaculture permit shall be made to the Director-General in the prescribed form. (3) An aquaculture permit shall not be transferred without the prior written consent of the Director-General. (2) An aquaculture permit shall— (a)confer on the holder exclusive rights to harvest the products of the aquaculture establishment within the area specified in the permit; (b)be subject to such conditions as appear to the Director-General to be necessary or expedient for	Amend clause 118 to read as follows: 118. (1) An application for an aquaculture permit shall be made to the County Executive Committee Member in the prescribed form. (2) An aquaculture permit shall— (a)… (b)be subject to such conditions as appear to the County Executive Committee Member to be necessary or expedient for the regulation of aquaculture, the management of fisheries or for the economic benefit of Kenya and, without prejudice to the generality of the foregoing, may contain conditions relating to- (3) An aquaculture permit shall not be transferred without the prior written consent of the County Executive Committee Member (4) The County Executive Committee Member may approve the application subject to the applicant being granted, where applicable, an environment impact assessment licence under the	

	the regulation of aquaculture, the management of fisheries or for the economic benefit of Kenya and, without prejudice to the generality of the foregoing, may contain conditions relating to (4) The Director-General may approve the application subject to the applicant being granted, where applicable, an environment impact assessment licence under the Environmental Management and Co-ordination Act, 1999.	Environmental Management and Co-ordination Act, 1999.	

MIN.NO.DC/ BEW&I/213/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at forty minutes past eleven o'clock. The next meeting will be held on notice.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....07/10/2025

PARLIAMENT OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - FOURTH SESSION – 2025

MINUTES OF THE 16TH SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON TUESDAY 25TH MARCH, 2025 IN PAVILLION SUITE, GROUND FLOOR, HILTON GARDEN INN AT 2.30 PM

PRESENT

1. Hon. Bowen David Kangogo, MP - **Chairperson**
2. Hon. Kemero Maisori Marwa Kitayama, MP - **Vice- Chairperson**
3. Hon. Chepkwony Charity Kathambi, MP
4. Hon. William Kamket, MP
5. Hon. Buyu Rozaah Akinyi, MP
6. Hon. Eng. Nzengu Paul Musyimi, MP
7. Hon. Eng. Tandaza Kassim Sawa, MP
8. Hon. Were Charles Ong'ondo, MP
9. Hon. Gachagua George, MP
10. Hon. Eric Wamumbi, MP
11. Hon. Dorothy Muthoni Ikiara, MP
12. Hon. Eng. Nebart Bernard Muriuki, MP
13. Hon. Adow Mohamed Aden, MP

APOLOGIES

1. Hon. Mohamed Abdikadir Hussein, MP
2. Hon. Mnyazi Amina Laura, MP

IN- ATTENDANCE – NATIONAL ASSEMBLY
COMMITTEE SECRETARIAT

1. Ms. Rose Wanjohi	Senior Clerk Assistant
2. Mr. Nicodemus Maluki	First Clerk Assistant
3. Ms. Ivy Kageha	Third Clerk Assistant
4. Dr. Benjamin Ng'imor	Principal Fiscal Analyst
5. Ms. Lynette Otieno	Senior Legal Counsel
6. Ms. Veron D. Aluoch	Research Officer III
7. Ms. Fridah Ngari	Media Relations Officer
8. Mr. Moses Luvisi	Accountant
9. Mr. Eugene Luteshi	Audio Assistant Officer
10. Mr. Allan Gituku	Sergeant- At- Arms
11. Ms. Christine Sabdio	Office Assistant

STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES

1.	Ms. Betsy M. Njagi	Principal Secretary- SDBE&F
2.	Ms. Lucy Obungu	DOF/TA/PS- SDBE&F
3.	Mr. Nicholus Murimi Kagundu	ADF/BE- SDBE&F
4.	Mr. Leonard Bett	DCSC- SDBE&F
5.	Ms. Jennifer Nyika	Record Officer- SDBE&F
6.	Ms. Lydia A. Radido	PA/PS- SDBE&F
7.	Mr. Elijah Mwakio	Legal Intern- SDBE&F
8.	Ms. Caren Unity	Legal Intern- SDBE&F
9.	Mr. James Kubasu	Legal- SDBE&F

MIN.NO.DC/ BEW&I/085/2025: PRELIMINARIES

The Chairperson called the meeting to order at forty minutes past two o'clock and prayed. He thereafter requested all present to make a self- introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/Introductions
   i. Adoption of the Agenda
   ii. Remarks by the Chairperson
3. Confirmation of Minutes/Matters Arising
4. Agenda:
   Meeting with the State Department for Blue Economy and Fisheries to consider the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023)
5. Any other Business
6. Adjournment/Date of the next meeting

MIN.NO.DC/ BEW&I/086/2025: ADOPTION OF THE AGENDA

The agenda of the day was unanimously adopted by the Committee.

MIN.NO.DC/ BEW&I/087/2025: CONFIRMATION OF MINUTES OF THE PREVIOUS MEETING

This agenda item was deferred to the next meeting.

MIN.NO.DC/ BEW&I/088/2025: MEETING STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES TO CONSIDER THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

Ms. Betsy Njagi, CBS, the Principal Secretary, State Department for Blue economy and Fisheries, appeared before the Committee and briefed on the Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023) and considered the following clauses of the Bill:

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
n the entire MDA		Choose whether to use "he", "himself", and "his" or "he or she", "himself or herself", and "his or her" and harmonize throughout the entire FMDA.	Consistency.
Clause 2 nterpretation	**"Subsistence fishing"** means harvesting fish as a source of food for a person's consumption or their dependants and not for sale or barter; **"Subsistence fishing"** means local or non-commercial fisheries, oriented not primarily for recreation but for the procurement of fish for consumption by the fishers, their families and community	Amend the definition of "subsistence fishing" as follows: **"Subsistence fishing"** means local or non-commercial fisheries, oriented not primarily for recreation but for sourcing of fish for consumption by the fishers, their families and community; Delete one of the repeated definitions of Subsistence farming in the Bill.	Refine the definition to properly distinguish between fishing as a commercial enterprise and fishing for one's own consumption.
		Insert a definition of "Marine- park" as follows: **"Marine- park"** means any park or reserve covering the area of intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law, and includes any dry land found within the gazette boundary. (Wildlife Conservation and Management Act, Cap 376).	
		The following definitions are to be added and clause 135 (6) deleted: **"Monitoring"** means the collection, measurement and analysis of fishing	For alignment with international standards and best practices.

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
		activity including, but not limited to catch, species composition, fishing effort, bycatch, discards, area of operations. **"Control"** means the specification of the terms and conditions under which resources can be harvested. **"Surveillance"** means the checking and supervision of fishing activity to ensure that national legislation and terms, conditions of access and management measures are observed.	This is expanded to cater operational efficiency a include authorization beyon Kenya's jurisdiction durin MCS operations.
	"**transshipment**" means transferring fish or fish products to or from any vessel, whether or not the fish or fish products have first been taken on board the vessel from which the fish is passed;	Replace the definition of "transshipment" with the following: "**transshipment**" means the direct transfer of any quantity of fish onboard from one vessel to another vessel regardless of the location of the event, without the fish being recorded as landed.	To align with internationa best practices and give mor clarity
		Include a definition of "commercial fishing" as below: "**commercial fishing**" means fishing for sale, barter, or trade.	The term "commercial fishing has been used in the Bill but r definition has been provided the definition section
	"**foreign fishing vessel**" means any fishing vessel other than a Kenya fishing vessel and includes any support vessel, notwithstanding that the vessel may be registered or licensed or required to be registered or licensed in Kenya pursuant to this Act or under the Merchant	Substitute the definition of "Foreign fishing vessel" with the following: **"Foreign fishing vessel"** means a fishing vessel not registered in Kenya.	To give more clarity

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	Shipping Act and Kenya Maritime Act;		
	"Board" means the Fisheries Service Board established by section 10;	Amend the definition to: **"Board"** means the board of directors of the Service established by section 10;	To align with other defined terms in the Bill
	"**Board of Directors**" means the Board of Directors of the Fish Marketing Authority established under section 201	Delete the definition of "Board of Directors"	To align with the Cabinet directive to dissolve the Fish Marketing Authority
	"**territorial waters**" shall have the meaning assigned to it under the Maritime Zones Act, and includes the territorial sea	Substitute the definition of "Territorial waters" with the following: **"territorial waters"** shall have the meaning assigned to it under the Maritime Zones Act, Cap. 371 Change all references of "**territorial sea**" in the Act to "**territorial waters**".	The Bill defines Territorial Waters but Territorial sea is then used throughout the Act but not "**territorial waters**" **"territorial waters"** shall have the meaning assigned to it under the Maritime Zones Act, Cap. 371
		"Exclusive Economic Zone" shall have the same meaning as assigned to it under the Maritime Zones Act Cap. 371	Add as part of the definitions as the term is used throughout the Bill but not defined (for example in clauses 127 (5), 162 (3) and 208 (2) (l)
Clause 4. Application		Clause 4 appears twice in the proposed bill, causing a disruption in the numbering sequence.	Revise the numbering to reflect the true position.

MIN.NO.DC/ BEW&I/089/2025: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at thirty- five minutes past four o'clock. The next meeting will be held on Wednesday, 26th March, 2025 at thirty minutes past nine o'clock.

Signed.....

HON. BOWEN KANGOGO, MP, CBS
(CHAIRPERSON)

Date.....8/14/2025

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT - SECOND SESSION – 2023

MINUTES OF THE 31ST SITTING OF THE DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION HELD ON THURSDAY 8TH JUNE, 2023 AT COMMITTEE ROOM, FOURTH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 12.00 (NOON)

PRESENT

1. Hon. Kemero Maisori Marwa Kitayama, MP - **Vice- Chairperson**
2. Hon. William Kamket, MP
3. Hon. Buyu Rozaah Akinyi, MP
4. Hon. Tandaza Kassim Sawa, MP
5. Hon. Gachagua George, MP
6. Hon. Dorothy Muthoni Ikiara, MP
7. Hon. Nebart Bernard Muriuki, MP
8. Hon. Muiruri Muthama Stanley, MP
9. Hon. Adow Mohamed Aden, MP

APOLOGIES

1. Hon. Bowen David Kangogo, MP - **Chairperson**
2. Hon. Chepkwony Charity Kathambi, MP
3. Hon. Eng. Nzengu Paul Musyimi, MP
4. Hon. Were Charles Ong'ondo, MP
5. Hon. Eric Mwangi Kahugu, MP
6. Hon. Mnyazi Amina Laura, MP

IN- ATTENDANCE – NATIONAL ASSEMBLY
COMMITTEE SECRETARIAT

1.	Mr. Nicodemus K. Maluki	Second Clerk Assistant
2.	Ms. Ivy Kageha	Third Clerk Assistant
3.	Ms. Lynette Otieno	Senior Legal Counsel
4.	Dr. Benjamin Ngimor	Fiscal Analyst
5.	Mr. Eugene Apaa	Research Officer II
6.	Ms. Lilian Mburugu	Media Relations Officer
7.	Ms. Felistus Muiya	Public Communication Officer
8.	Mr. Danton Kimatai	Audio Officer

IN ATTENDANCE- DIRECTORATE OF LITIGATION, NATIONAL ASSEMBLY

Mr. Sheriffsam Mwendwa	Director, Litigation and Compliance.

MIN.NO.DC/ BEW&I/078/2023: PRELIMINARIES

The Chairperson called the meeting to order at thirty minutes past twelve o'clock and prayed. He thereafter welcomed Members and the secretariat into the meeting and requested all present to make a self-introduction.

AGENDA:

The agenda of the meeting was presented as follows:

1. Prayers
2. Preliminaries/ Introductions
3. Adoption of the Agenda
4. **Confirmation of Minutes**
5. Communication from the Chair
6. **Legal Brief/ Status of Fisheries Management and Development Act, 2016 that was declared unconstitutional**
7. Any other Business
8. Adjournment

MIN.NO.DC/ BEW&I/079/2023: ADOPTION OF THE AGENDA

The agenda was adopted. It was proposed by Hon. Nebart Muriuki, MP and seconded by Hon. Rozaah Buyu, MP.

MIN.NO.DC/ BEW&I/080/2023: CONFIRMATION OF MINUTES

The Minutes of the previous meetings were confirmed as follows:

1. The Minutes of the 22nd sitting held on **Thursday 27th April, 2023** at ten o'clock were confirmed as a true record of the proceedings after being proposed and seconded by Hon. William Kamket, MP and Hon. Muthama Stanley, MP respectively.
2. The Minutes of the 23rd sitting held on **Monday 15th May, 2023** at nine o'clock were confirmed as a true record of the proceedings after being proposed and seconded by Hon. Nebart Muriuki, MP and Hon. George Gachagua, MP respectively.
3. The Minutes of the 24th sitting held on **Monday 15th May, 2023** were confirmed as a true record of the proceedings after being proposed and seconded by Hon. George Gachagua, MP and Hon. William Kamket, MP respectively.
4. The Minutes of the 25th sitting held on **Tuesday 16th May, 2023** were confirmed as a true record of the proceedings after being proposed and seconded by Hon. Kemero Maisori Marwa, MP- Vice Chairperson and Hon. Dorothy Ikiara, MP respectively.
5. The Minutes of the 26th sitting held on **Tuesday 16th May, 2023** were confirmed as a true record of the proceedings after being proposed and seconded by Hon. Kemero Maisori Marwa, MP- Vice Chairperson and Hon. Dorothy Ikiara, MP respectively.
6. The Minutes of the 27th sitting held on **Wednesday 17th May, 2023** were confirmed as a true record of the proceedings after being proposed and seconded by Hon.Nebart Muriuki, MP and Hon. Dorothy Ikiara, MP respectively.
7. The Minutes of the 28th sitting held on **Wednesday 17th May, 2023** were confirmed as a true record of the proceedings after being proposed and seconded by Hon. Muthama Stanley, MP and Hon. William Kamket, MP respectively.
8. The Minutes of the 29th sitting held on **Thursday 18th May, 2023** were confirmed as a true record of the proceedings after being proposed and seconded by Hon. Dorothy Ikiara, MP and Hon. George Gachagua, MP respectively.
9. The Minutes of the 30th sitting held on **Wednesday 24th May, 2023** were confirmed as a true record of the proceedings after being proposed and seconded by Hon. Nebart Muriuki, MP and Hon. William Kamket, MP respectively.

MIN.NO.DC/ BEW&I/081/2023: LEGAL BRIEF/ STATUS OF FISHERIES MANAGEMENT AND DEVELOPMENT ACT, 2016 THAT WAS DECLARED UNCONSTITUTIONAL

The Director Litigation appeared before the Committee to brief on the status of nullification of the Fisheries Management and Development Act, 2016. The Committee was taken through the petition and the court ruling by the High Court of Kenya in Malindi **as per the attached copy of the presentation.**

In the end, the Committee resolved to invite the State Department for Blue Economy and Fisheries to appraise on the actions taken the State Department to ensure that the Department is not affected and any other pending matter.

MIN.NO.DC/ BEW&I/082/2023: ANY OTHER BUSINESS

Under this agenda item the following issues were raised:

1. In regard to the Committees recommendations to the 2023/24 Budget Estimates the Fiscal analyst reported BAC had adopted all the recommendations and additional funding was provided which enabled for certain requests in the Ministries' wish-lists be granted.

2. The Committee Secretariat was tasked to invite the State Department for Blue Economy & Fisheries to appear before the Committee soonest time possible to apprise on all pending issues as requested during consideration of 2023/24 Budget Estimates.

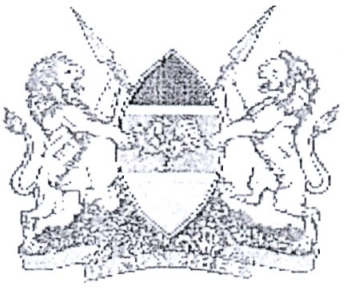
MIN.NO.DC/ BEW&I/083/2023: ADJOURNMENT

There being no other business, the Chairperson adjourned the meeting at fifty-two minutes past one o'clock. The next meeting will be held on notice.

Signed.....

HON. BOWEN DAVID KANGOGO, MP
(CHAIRPERSON)

Date.....6/7/2023.....



REPUBLIC OF KENYA

NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY AND IRRIGATION

BRIEF ON THE JUDGMENT IN THE HIGH COURT AT MALINDI CONSTITUTIONAL PETITION NO. 13B OF 2021: MAHMOUD SHALIMA MOHAMMED -VS- MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES, THE ATTORNEY GENERAL, THE NATIONAL ASSEMBLY, THE SENATE & THE KENYA FISHERIES SERVICE.

PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2023

A. BACKGROUND

1. On 29th November, 2021 a Constitutional Petition was filed by one Mr. Ahmed Mahmoud Shallima (Petitioner) at the High Court of Kenya in Malindi being *Malindi High Court Constitutional Petition No. 13B of 2021: Mahmoud Shalima Mohamed V Ministry of Agriculture Livestock and Fisheries, The Attorney General, The National Assembly, The Senate and Kenya Fisheries Services*

2. The Petitioner sought to challenge the provisions of Section 42(1)(a), (b), (e), (i), (j), (m) (herein referred to as the impugned provisions) of **the Fisheries Management and Development Act, 2016.** The Petitioner claims to have filed the Petition on behalf of the artisanal/small scale fishermen and fisheries in Lamu County.

3. The impugned provision provides as follows:

42. (1) No person shall use, permit to be used or attempt to use or carry on board a vessel-

(a) fishing gear that has not been authorized by a valid and applicable licence issued pursuant to this Act for the purpose of fishing unless otherwise provided in this Act;

(b) any fish aggregating device unless an authorization has been issued ***accordance with this Act;***

(c) a trawl net or other net the mesh of which is less in stretched diagonal length than the prescribed mesh size;

(d) the method of pair trawling for the purpose of fishing;

(e) monofilament net for the purpose of fishing;

(f) more than one net at a time for the purpose of fishing with trawl net;

(g) attachments to any trawl net except as may be prescribed;

(h) a gill net, whether drifting or set, in any river or body of water forming part of the riverine system if the mesh of the net is less than forty- five millimeters in stretched diagonal length;

(i) a seine net the mesh of which is less than forty-five millimetres in stretched diagonal length;

(j) a beach seine net for the purpose of fishing;

(k) a seine net in any body forming part of the riverine system;

(1) firearms or other electrical shock devices for the purpose of fishing including stunning, disabling or killing fish or in any way rendering fish to be caught easily;

(m)such other gear as may be prescribed or prohibited by regulations established under this Part.

4. The Petitioner was aggrieved that the impugned provisions infringed on the Petitioner's economic and social rights as espoused in Article 43 of the Constitution. Further, the Petitioner contended that the impugned provisions were enacted unconstitutionally, siting lack of public participation in the enactment process.

5. The Petitioner contended that the National Assembly proceeded to pass the impugned provisions without any legislative impact assessment statement from the sponsoring authority or following the strict framework for public participation provided by the Statutory Instruments Act, thus violating the overriding objectives of the framework, that is, to provide a comprehensive regime for the making, scrutiny, publication and operation of pending Bills.

6. Therefore, principally, the Petition was premised on two key issues:

    a. The alleged lack of public participation; and

b. The alleged lack of compliance with the Constitutional safeguards framework provided under the Statutory Instruments Act, 2013 prior to the enactment of Section 42(1)(a), (b), (e), (i), (j), (m) of the Fisheries Management and Development Act, 2016.

7. The Petitioner sought the following Orders in the Petition:

a. A declaration do issue that the legislative process leading up to and including the enactment of the provisions of Sections 42(1)(a),(b),(e), (i),(j),(m) of the Fisheries Management and Development Act, 2016 was fundamentally flawed and inconsistent with the mandatory requirements of public participation under the Constitution and the various procedural and substantive safeguards provided thereunder, including under the Statutory Instruments Act2013 in relation to the antecedent Fisheries Management and Development Bill, and are therefore void *ab initio*.

b. A declaration do issue that any bill or subsidiary legislation submitted to either house of Parliament for consideration and approval that seeks to curtail or limit socio-economic rights under Article 43 of the Constitution without an accompanying Memorandum or a competent Legislative Impact Statement denies, violates, infringes, or threatens a right or fundamental freedom in the Bill of Rights and is presumptively void under Articles 24 and 43 of the Constitution;

c. The court be at liberty to make such further or alternative declarations and orders in accordance with each of its findings in relation to the allegations set forth in the Petition;

d. Pending the hearing and determination of this Petition, this Honourable Court do grant appropriate interim relief; and

e. Costs of and/or incidental to this Petition be provided for.

B. THE JUDGMENT OF THE HIGH COURT AT MALINDI NULLIFYING THE FISHERIES MANAGEMENT AND DEVELOPMENT ACT, 2016.

(a) Court Proceedings in the matter

8. The Directorate of Litigation and Compliance Services entered appearance on behalf of the National Assembly and filed a Replying Affidavit dated 17th January, 2022 and submissions dated 8th February, 2022 in opposition to the Petition.

9. Upon the filing of respective responses and submissions by the parties, the Honourable Judge directed that the Judgement in the matter would be delivered on 24th October, 2022.

10. However, when the matter was before the court on 24th October, 2022, the Honourable Judge informed parties that the Judgment was not ready, and rescheduled its delivery to 10th November, 2022.

11. On 10th November, 2022, the Honourable Judge was absent and the Court Assistant informed parties that the Judgment in the matter would be delivered on notice on a date to be issued by the Court.

12. It however came to the attention of the Directorate of Litigation and Compliance through the media that the Judgment in the matter was delivered on 15th

November, 2022 in the absence of the parties to the Petition yet the Court had not issued any notice on its delivery as directed.

13. The Directorate of Litigation and Compliance has taken steps to acquire a signed copy of the Court Judgment wherein the trial court made the following Declarations:
    a. A declaration is hereby issued that section 42(1)(a), (b), (e), (i), (j), (m) of the Fisheries Management Development Act, 2016 are inconsistent with the Constitution and therefore null and void.

    b. A declaration is hereby issued that the entire Fisheries Management Development Act, 2016 is invalid for want of Public Participation.

14. We have therefore prepared an application seeking extension of time from the Court to file a Notice of Appeal against the decision of the Court.

(b) National Assembly Application for leave to extend time for filing Appeal.

15. Following the discovery that the Judgment had been delivered, the Directorate of Litigation and Compliance lodged an Application dated 28th April, 2023 seeking an extension of time to file an Appeal against the decision of the High Court.

16. The Application was based on grounds that:
    a. The Judgment in *High Court Constitutional Petition No. 13B of 2021, Mahmoud Shalima Mohammed Versus Ministry of Agriculture, Livestock and Fisheries & Others* was scheduled to be delivered on 24th October, 2022. On the said date, the Honourable S.M Githinji, presiding Judge in the High Court informed the parties that the Judgment in the Petition was not

ready and further directed that the Judgment shall be delivered on 10th November, 2022.

b. Upon the matter coming up on 10th November, 2022, the Honourable Judge was absent and the Court Assistant informed parties that the Judgment in the matter would be delivered on notice on a date to be issued by the Court.

c. The National Assembly was however not served with any notice by the court informing on the Judgment date.

d. On 6th April, 2023, the Advocate on record for the National Assembly, Mr. S. M Mwendwa was in receipt of an unsigned Judgment alleged to be the decision of the Court in the Petition. In order to verify the said Judgment, Mr. S.M Mwendwa wrote a letter to the court on the same date seeking clarification on the alleged Judgment and whether the Court had delivered its Judgment in the matter.

e. In response, the Honourable Judge (S.M Githinji) responded vide a letter dated 13th April 2023 stating that the Judgment in the matter was delivered on 15th November, 2022.

f. Owing to the lack of any notification by the court on the Judgment date as was anticipated from the directions of the Court Assistant, the advocate on record was not aware that the Judgment of the court was delivered on 15th November, 2022, thus did not file a Notice of Appeal within the required timeline of fourteen days which lapsed on 29th November, 2022.

g. The Advocate on record for the Applicant, Mr. S.M Mwendwa received a signed copy of the Judgment on 13th April, 2023 and made the Application in good faith without undue delay seeking the leave of the Court of Appeal to lodge an Appeal against the decision of the High Court.

17. The prayers sought in the Application are that:

a. The Honourable Court be pleased to certify the Application urgent to be heard *ex-parte* in the first instant, and directions be given that the same heard on priority basis.

b. The Honourable Court be pleased to extend the time allowed to file and serve the Notice of Appeal to appeal the Judgment of the High Court (S.M Githinji) delivered on 15th November, 2022 in *Malindi High Court Constitutional Petition No. 13B of 2021, Mahmoud Shalima Mohammed Versus Ministry of Agriculture, Livestock and Fisheries & Others.*

c. The Honourable Court be pleased to issue any other Orders it deems fit and just.

d. The costs of the application be in the intended appeal.

C. IMPLICATIONS OF THE HIGH COURT JUDGMENT.

18. The implication of the Court's decision to irregularly declare the entire Fisheries Management and Development Act, 2016 unconstitutional is that there is now no regulation in place for the Fisheries industry and this has consequently led to disorder in the operations of the sector.

19. The National Assembly intends to file a Notice of Appeal against the matter swiftly upon grant of such leave by the Court of Appeal. The Appeal shall be based on the grounds that:

a. The Learned judge erred in law and in fact by failing to take into consideration the Replying Affidavit and Submissions filed by the Appellant in determining the Petition.

b. The Learned Judge erred in law and in fact by casting doubts and aspersions on the public participation undertaken by the National Assembly without taking due consideration to the evidence adduced by the Appellant.

c. The learned Judge erred in law and in fact by placing unreasonable standards to the Appellant on how to undertake public participation in accordance with Article 118 of the Constitution.

d. The learned Judge erred in law and in fact by failing to follow existing judicial precedents in determining whether the Appellant had undertaken adequate public participation on the impugned Fisheries Management and Development Act, 2016.

e. The learned Judge erred in law and in fact by directing the Appellant on how to conduct public participation and thus violating the doctrine of separation of powers.

f. The learned Judge erred in law and in fact by directing or supervising the workings of the House of Parliament contrary to the institutional comity between the three arms of government.

g. The learned Judge erred in law and in fact by violating the legislative mandate of the National Assembly.

h. The learned Judge erred in law and in fact by framing and considering issues that were not in issue in the Petition. → Petitioner only had an issue with section 24. Why was the whole Act affected ??

i. The learned Judge erred in law by delivering the Judgment in *High Court Constitutional Petition No. 13B of 2021, Mahmoud Shalima Mohammed Versus Ministry of Agriculture, Livestock and Fisheries & Others* in the absence of notice on its delivery and consequently in the absence of the parties to the Petition.

20. The Court of Appeal gave directions on filing of responses and submissions to the Application. The National Assembly has complied with the court directions, however, no party has opposed to the Application.

21. The Application for leave to Appeal out of time is scheduled for a hearing of the Application on **12th June, 2023** before a single Judge of the Court of Appeal constituted by the President of the Court of Appeal.

D. CONCLUSION AND WAY FORWARD

22. In view of the foregoing, we recommend that the National Assembly Departmental Committee on Blue Economy and Irrigation notes the contents of this brief.

THE DIRECTORATE OF LITIGATION AND COMPLIANCE SERVICES

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT MALINDI

CONSTITUTION PETITION NO. 13B OF 2021

MAHMOUD SHALIMA MOHAMMED..... PETITIONER

VERSUS

MINISTRY OF AGRICULTURE,

LIVESTOCK AND FISHERIES.....1ST RESPONDENT

ATTORNEY GENERAL.....2ND RESPONDENT

THE NATIONAL ASSEMBLY.....3RD RESPONDENT

THE SENATE.....4TH RESPONDENT

KENYA FISHERIES SERVICE.....5TH RESPONDENT

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CORAM: Hon. Justice S.M Githinji

Mr Waigwa for the Petitioner

Mr Lutta for the 1st, 2nd and 5th Respondent

Mr Mwendwa for the 3rd Respondent

Mr Wamburwa for the 4th Respondent

JUDGMENT

The Petitioner instituted this suit vide the Petition dated 24th November, 2021 seeking the following reliefs; -

a) *A declaration do issue that the legislative process leading up to and including the enactment of the provisions of sections 42 (1) (a), (b), (e), (i), (j), (m) of the Fisheries Management and Development Act, 2016 was fundamentally flawed and inconsistent with the mandatory requirements of Public participation under the Constitution and the various procedural and substantive safeguards provided thereunder, including the Statutory Instruments Act 2013 in relation to the antecedent Fisheries Management Development Bill, and are therefore void ab initio;-*

b) *A declaration do issue that any bill or subsidiary legislation submitted to either house of parliament for consideration and approval that seeks to curtail or limit socio-economic rights under Article 43 of the constitution without an accompanying Memorandum of competent Legislative Impact Statement denies, violates, infringes or threatens a right or fundamental freedom in the Bill of Rights and is presumably void under Articles 24 and 43 of the Constitution.*

c) *The Court be at liberty to make such further or alternative declarations and Orders in accordance with each of its findings in relation to the allegations set forth in the Petition.*

d) *Pending the hearing and determination of this Petition, this Honourable Court do grant appropriate interim relief.*

e) *Costs of and/or incidental to this Petition be provided for.*

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The Petitioner's Case

The Petitioner is a resident of and with firm ties to Faza ward, Lamu East Constituency in Lamu County sufficiently versed with the facts

and issues faced by indigenous artisanal/small scale fishermen and fisheries bordering the Indian Ocean within Lamu County and who are especially affected by the enactment and implementation of section 42 of the Fisheries Management and Development Act 2016; and brings the Petition on his own behalf and wider public interests.

The Petitioner averred that in the wake of the constitution 2010, there was a compulsory constitutional requirement for the state department of fisheries to justify it's designation of each and every artisanal fishing gear it wanted to ban or render illegal in the context of Economic and Social Rights under Article 43 of the Constitution. Further that under Article 24 (1) of the Constitution, it was no longer open to the state to continue with the ban on fishing gear traditionally used by artisanal fishers without proper verifiable and accountable basis in light of Article 43 of the Constitution.

The Petitioner further averred that the enactment of the fisheries Management and Development Act 2016 sidelined him together with the Marine artisanal fishermen of Lamu, specifically section 42 of the Act. His claim is that Article 43 of the Constitution as read together

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with Article 24 (1) were disregarded to the extent that there was no public participation and there was lack of compliance with the constitutional safeguards framework provided under the Statutory Instruments Act 2013 prior to enactment of sections 42 (1), (a), (b), (e), (i), (j), (m) of the Fisheries Management and Development Act 2016.

It was his averment that the enactment and implementation/enforcement of the aforestated impugned sections has denied marine artisanal fishermen of Lamu the use of their fishing gear necessary to sustain their livelihoods and on the basis of a ban without any prior disclosure of any probative scientific evidence. That the said ban is simply the continuation of previously existing ban since 2001 yet the Regulation 43 of the Fisheries (General) Regulations as read together with the imposition Management Measures, 2001 easily demonstrate that the fishing gear ban was effectively for inland fisheries in Lake Naivasha, Lake Victoria, Lake Baringo, Lake Turkana, Challa, Jipe and the dams of Tana and Tarkwell Rivers and not artisanal marine fishing.

The Petitioner contends that artisanal fishing is the economic mainstay for Lamu County supporting incomes for 80% of the populations but the continued arrests of fishermen is not only inhumane but infringes on their rights.

Response to the Petition

The 1st, 2nd and 5th Respondents filed a replying affidavit dated 21st January, 2022 sworn by Daniel Mungai the Director General of the Kenya Fisheries Service under the State Department for Fisheries, Aquaculture and Blue Economy, the Ministry of Agriculture, Livestock, Fisheries and Co-operatives.

He deponed that the need for conservation and preservation of the environment is of utmost concern and a constitutional obligation as set out under Articles 42 and 69 of the Constitution and it therefore outweighs the prayers and the claim presented by the petitioner.

It was also stated that the fourth schedule of the constitution of Kenya 2010 provides for the distribution of functions between the National Government and the County Governments and part 1 provides for the

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functions of the National Government. Further, paragraph 22 provides that the National Government shall be tasked with the role of protection of the environment and Natural Resources with a view to establishing a durable and sustainable system of development, including in particular; -

a) Fishing, hunting and gathering;

b) Protection of animals and wildlife

c) Water protection, securing sufficient residual water; hydraulic engineering and the safety of dams; and

d) Energy Policy

Further, the County Governments have been tasked with the agricultural function which includes; -

a) Crop and animal husbandry

b) Livestock sale yards;

c) County abattoirs

d) Plant and animal disease control; and

e) Fisheries

Mr Daniel Mungai further stated that every person has a duty under Article 69 (2) to Cooperate with state organs and other persons to

protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

It was also argued that in the year 2016, in compliance with Article 72 of the Constitution, parliament passed The Fisheries Management and Development Act No.35 of 2016 whose objectives as set out under section 5 (1) is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities to enhance food security.

Further, it was stated the 1st, 2nd and 5th Respondents conducted public participation and stakeholder engagement in compliance with the provisions of Article 10 as well as Article 69 (1) (d) of the Constitution 2010 and as well, the 3rd and 4th Respondents conducted Public Participation before The Fisheries Management and Development Act No.35 of 2016 was passed five years ago. Further, that the Act is a National Law and has been enforced in the entire

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Republic and the Petitioner cannot therefore claim that the same has been enforced selectively to Lamu County.

The 3rd Respondent filed a replying affidavit dated 17th January, 2022 sworn by Michael Sialai O.B.S the Clerk of the National Assembly stating that the 3rd Respondent holds a constitutional mandate under Article 94 and 109 of the Constitution to take legislative and policy measurer to enact legislation on matters of interest to the public.

He stated that the petition offends the doctrine of presumption of constitutionality of a statute passed which states that statutes passed should be presumed to be constitutional until the contrary is proved and the petitioner has failed to demonstrate the unconstitutionality alleged and has not reached the threshold to declare the statutes unconstitutional.

It was deponed that The Fisheries Management and Development Bill was read a first time on 3rd June, 2014 and pursuant to Article 118 of the National Assembly standing order 127 which requires Public Participation, an advertisement was placed in the mainstream print media on 9th June, 2014 inviting the public to submit any

Memorandum and comments on the draft bill. The committee however, did not receive any memoranda bill. Further the committee undertook public participation and compiled its report having extensively considered the Bill and the report was laid before the National Assembly on 28th April, 2015 and approved thereafter. It was then transmitted to the House of Senate for consideration where the senate proposed several amendments. On 11th August, 2016, the senate amendments were considered in the National Assembly Committee and approved. The Bill was then read a third time and passed.

It was averred that the Petitioner seeks to illegally undermine the parameters for consideration and processing of statutes, alleging inadequacies, yet the National Assembly conducted adequate participation before passing of the Act. Further, the Petitioner has failed to explain with clarity and precision the manner in which the alleged infringement of their rights have been occasioned through the enactment, enforcement and implementation of the impugned provisions.

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The 4th Respondent filed a replying affidavit dated 19th January, 2022 sworn by Jeremiah Nyengenye the Clerk of the Senate, stating that the Act was enacted by the National Assembly in accordance with the Constitution and tabled before the Senate for consideration. He added that the Senate Committee subjected the Bill to public participation pursuant to Article 118 of the Constitution and Standing Order No.130 (4) of the Senate Standing Orders No.130 (4) of the Senate Standing Orders by inviting submissions from the members of the public through advertisement on newspapers.

It was stated that the committee received written submissions on the Bill and held a public hearing on 8th March, 2016 at Shimba Hills Hall in Kenyatta International Convention Centre, Nairobi where oral submissions were received and the proposals were included in the amendments.

It was further stated that there is no evidence of alleged unconstitutionality of section 42 (1) (a), (b), (e), (i), (j), (i) (m) of the Act and the Petitioner has not reached the threshold to declare the statutes unconstitutional.

Analysis and Determination

I have considered the pleadings by the parties. I have also read and weighed the extensive submissions by the parties as well as the authorities relied on. The issues for determination are; -

1. *Whether the Court has the power to grant the Orders sought herein?*
2. *Whether there was public participation in enacting the Fisheries Management and development Act?*

- *Whether the Court has the power to grant the Orders sought herein?*

Article 1 (3) of the Constitution provides that sovereign power which is pursuant to Article 1 (1) of the Constitution "belongs to the people of Kenya and shall be exercised only in accordance with this Constitution."

> *".....is delegated to the following state organs which shall perform their functions in accordance with this Constitution-*
>
> *a) Parliament and the legislative assemblies in the County Governments;*
>
> *b) The National Executive and the Executive structures in the County Government; and*
>
> *c) The Judiciary and independent tribunals*

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The effect of the above Article is to reasonate with the doctrine of separation of powers to both the National Government as well as devolved government. The doctrine of separation of powers was well enunciated in the case of ***Trusted Society of Human Rights V The Attorney General and Others, High Court Petition No.229 of 2012 [2012] eKLR*** where the Court held; -

> *"Although the Kenyan Constitution contains no explicit clause on separation of powers, the Montesquieu influence is palpable throughout the foundational document, the Constitution, regarding the necessity of separating the Government functions. The Constitution consciously delegates the sovereign power under it to the three branches of Government and expects that each will carry out those functions assigned to without interference form the other two."*

Article 2 (4) of the Constitution provides that; -

> ***"Any law, including customary law, that is inconsistent with this Constitution is void to the extent of the inconsistency, and any act or omission in contravention of this constitution is invalid."***

Article 165 (3) (d) (ii) and (iii) confers jurisdiction to the High Court to hear any question in regard to interpretation of the Constitution including the determination of whether any law is inconsistent with or in contravention of the Constitution. On that account, while the

legislative authority vests in the National Assembly and County legislative assemblies, where a question arises on the Constitutionality of an enactment, it is the duty of the High Court to determine that question. The upshot of the above is that this Court has the jurisdiction to hear and determine the issue before it.

- ***Whether there was public participation in enacting the Fisheries Management and development Act and whether the impugned sections should be declared unconstitutional.***

Article 10 of the Constitution concerns itself with National Values and principles of governance. Article 10 (2) provides; -

"The National values and principles of governance include; -

a) Patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people:
b) –
c) Good governance, integrity, transparency and accountability and
d) –

The above principles were well discussed in the case of *Nairobi Civil Appeal No.224 of 2017 Independent Electoral and Boundaries Commission & Others V the National Super Alliance & Others where the Court of Appeal* stated; -

"In our view, analysis of jurisprudence from the Supreme Court leads us to the clear conclusion that Article 10 (2) of

> *the Constitution is justiciable and enforceable immediately. For avoidance of doubt, we find and hold that the values espoused in Article 10 (2) are neither aspirational nor progressive; they are immediate, enforceable and justiciable. The values are not directive principles. Kenyans did not promulgate the 2010 Constitution in order to have devolution, good governance, democracy, rule of law and participation of the people to be realized in a progressive manner in some time for future; - it could never have been the intention of Kenyans to have good governance, transparency and accountability to be realized and enforceable gradually....."*

The question I am faced with is on the constitutionality of the impugned sections of the Act. The burden of prove dies with the Petitioners to demonstrate the unconstitutionality of the said sections. This position was well settled in the case of ***Ndyanabo V Attorney General*** *[2001] 2 EA485* where the *Court of Appeal in Tanzania* stated that;

> *"Until the contrary is proved a legislation is presumed to be Constitutional. It is a sound principle of Constitutional construction, that, if possible, a legislation should receive such a construction as will make it operative and not inoperative."*

The result of the foregoing is that Courts should be guided by the general principles that there is a rebuttable presumption that legislation is constitutional hence the burden of rebuttal rests on the one challenging the constitutionality of a legislation.

The Petitioner herein contends that the enactment of the Act was unconstitutional as it did not meet the various constitutional and statutory provisions that there be public participation in enactment of a legislation. It is the duty of this Court therefore, to determine whether the Act was in fact and in substance enacted as per the provisions of the Constitution.

Public participation is not mere consultation. It is not a public relations exercise either. Public views ought to be taken into account in the decision making process all the way to the enactment. This was a position well appreciated in the authority of ***Doctors for Life International V Speaker of the National Assembly and Others (CCT 12/05) [2006] ZACC 11; 2006 (12) BCLR 1399 (cc); 2006 (6) SA 416 (cc)*** where the Court held; -

> *"If legislation is infused with a degree of openness and participation, this will minimize dangers of arbitrariness and irrationality in the formulation of legislation. The objective in involving the public in the law making process is to ensure that the legislators are aware of the concerns of the public. And if the legislators are aware of those concerns, this will promote the legitimacy, and thus the acceptance of the legislation. This not only improves the quality of the law-making process, but it also serves an important principle that government should be open,*

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accessible, accountable and responsive. And this enhances democracy. "

Through the replying affidavit sworn by Mr Daniel Mungai, the 1st, 2nd and 5th Respondents maintain that they conducted public participation and stakeholder engagement in accordance with the provisions of the Constitution. Similarly, the 4th Respondent contends that an advertisement was placed in the mainstream print media on 9th June, 2014 inviting the public to give their views on the Bill.

Articles 124 of the Constitution gives the powers to the Houses of Parliament to put in place standing orders to guide their operations. Section 127 of the National Assembly standing orders informs the process of law making. This section provides inter-alia that the Departmental Committee should facilitate public participation through inviting submissions of memoranda, public hearing, consultation with relevant stakeholders and consultation with experts.

The question then is, was there public participation? Public participation as per the standing orders hereinabove discussed was supposed to be initiated by the National Assembly in view of the fact that the legislation emanated from the said House. The 3rd

Respondent (the National Assembly) avers that there was an advertisement on print media on 9th June, 2014. This is captured in it's report dated 27th April, 2015. Apart from simply asserting this was done; there is no evidence that public participation was initiated let alone considered. I concur with *Mwita J in Kenya Human Rights Commission V Attorney General & Another [2018] eKlr* where he held that;

> *"Once a Petitioner attacks the legislative process on grounds that the law making process did not meet the constitutional standard of public participation, the Respondent is under a legal obligation to demonstrate that the legislative process did meet the Constitutional Standards of public participation.....there was no attempt on part of the Respondent to show that there was any semblance of public participation in the legislative process leading to the enactment of the impugned contempt of Court Act. That being the State of affairs, the Court has no option but to agree with the Petitioner that there was violation of an important Constitutional step in the form of public participation and the Act fails this Constitutional step."*

The 4th Respondent however, did adduce evidence to show that indeed there was public participation. However, it is paramount at this stage to point out that the actions undertaken by the 3rd Respondent are precursory to activities carried out by the 4th Respondent in the law making process especially when a bill originates from the National Assembly. This cannot be a process where the end justifies the means.

Every step is important and counts in the ultimate. It was upon the 3rd Respondent to ensure that the process was flawless and in line with the provisions of the Constitution and the Standing Orders. Public participation must include and be seen to include the dissemination of information, invitation to participate in the process and consultation on the legislation and this is a fact to be proved by the party that was required to comply with this requirement, that indeed there was this objective public participation.

The *Court of Appeal in Kiambu County Government & 3 Others V Robert N. Gakuru & Others [2018] eKLR* held that; -

> *".....the issue of public participation is of immense significance considering the primacy it has been given in the Supreme law of this Country and in relevant statutes relating to institutions that touch on the lives of the people. The constitution in Article 10 which binds all state organs, state officers, public officers and all persons in the discharge of public functions, highlights public participation as one of the ideals and aspirations of our democratic nation....."*

That said, it is my finding that the 3rd Respondent did not demonstrate that there was public inclusion and/or participation in the law making process. The compliance by the 4th Respondent does not absolve the

failure of the 3rd Respondent. I am persuaded that the impugned sections in the Act do not meet the Constitutional test of validity for want of public participation as well as the entire Fisheries Management Development Act 2016.

My findings are guided by the holding in *Macfoy V United Africa Co.Ltd [1961]3 All ER 1169* where Lord Denning at page 1172 (1) stated;-

> *"If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the Court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the Court declare it to be so. And every proceeding which is founded on it is also incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse."*

Accordingly, I make the following orders; -

1. *A declaration is hereby issued that section 42 (1) (a), (b), (e), (i) (j), (m) of the Fisheries Management and Development Act, 2016 are inconsistent with the Constitution and therefore null and void.*

2. *A declaration is hereby issued that the entire Fisheries Management and Development Act 2016 is invalid for want of Public Participation.*

3. *No orders as to costs.*

RULING READ, SIGNED AND DELIVERED VIRTUALLY AT MALINDI THIS 15TH DAY OF NOVEMBER, 2022

.....

S.M. GITHINJI

JUDGE

15/11/2022

In the absence of; -

1. Mr Waigwa for the Petitioner
2. Mr Lutta for the 1st, 2nd and 5th Respondent
3. Mr Mwendwa for the 3rd Respondent
4. Mr Wamburwa for the 4th Respondent

Parties be notified.

.....

S.M. GITHINJI

JUDGE

15/11/2022

ANNEX 3:

NEWSPAPER ADVERT

Development Money is a conditional grant to county governments from donors through Department of Housing

Why counties risk losing Sh7.2bn funding

This is due to the delays in the enactment of the law governing cash disbursement

BY DAVID MWERE

The government risks losing Sh7.2 billion in World Bank funding earmarked for urban support programmes due to delays in enacting the County Governments Additional Allocation Bill, which is crucial for the disbursement of the funds.

Housing Principal Secretary Charles Hinga stated that while ...ds are available, they can...released to counties until the ...w is enacted.

The funding is a conditional grant to county governments through the State Department for Housing, supporting the second Kenya Informal Settlement Improvement Project (KISIP II) and the second Kenya Urban Support Programme (KUSP II).

"We are unable to disburse the funds to counties due to the delayed enactment of the County Governments Additional Allocation (CGAA) Bill 2024," said Mr Hinga in response to an interjection by Bahati MP Irene Njoki.

He was speaking before the National Assembly's Housing, Urban Planning and Public Works Committee during deliberations on the 2025 Budget Policy Statement (BPS).

"The PS needs to tell us the impact of the delayed disbursement of these funds," said Ms Njoki.

Although Mr Hinga assured the committee, chaired by Emurua Dikir MP Johanna Ng'eno, that discussions between the government and the World Bank were ongoing to salvage the funding, he clarified that disbursement could only proceed with a substantive legal framework in place.

"The absence of a legal framework is causing anxiety between us and the World Bank. However, mediation between the government and the World Bank is underway," said Mr Hinga.

The PS stopped short of explicitly stating that any further delay in enacting the law could result in the funds being recalled by the donor and redirected to another country.



Housing and Urban Development Principal Secretary Charles Hinga. DENNIS ONSONGO | NATION

The County Governments Additional Allocation Bill is enacted annually to facilitate the disbursement of donor funds to counties for projects aimed at improving livelihoods.

The Bill is introduced in the National Assembly immediately after the County Allocation of Revenue Bill is enacted. However, the 2024 version lapsed before it could be passed, necessitating the publication of a new version.

77

The number of municipalities that the two World Bank-funded projects are being implemented.

The Bill was approved by the Senate and sent to the National Assembly for reconsideration, where it was passed with amendments, prompting the formation of a mediation committee. However, the 30-day mediation period – during which representatives from both Houses were to reach a compromise – expired before an agreement was reached, resulting in the Bill's lapse.

The two World Bank-funded projects are being implemented in 77 municipalities and two special municipalities – Kakuma and Dadaab refugee camps – across 45 counties, excluding Nairobi and Mombasa.

"We allocate funds to counties based on their population, as per the 2019 census report," said Mr Hinga.

Phase 1 of the programme saw the implementation of over 300 projects, including waste management (liquid and solid), stormwater drainage infrastructure, fire and disaster management facilities and equipment and urban socio-economic infrastructure, such as markets.

"These interventions have significantly improved the health and livelihoods of people across the country," said the PS.

Records at the State Department for Housing indicate that rapid urbanisation, as demonstrated by the 2019 census, continues to pose a challenge to county governments.

"There is, therefore, a deliberate need to direct resources towards urban development to realise the vision of making Kenya an upper-middle-income nation by 2030," states government documentation submitted to the Housing Committee.

According to the Ministry of Lands, KUSP II aims to build on the achievements and lessons learned from both the Kenya Devolution Support Programme (KDSP) and Kenya Urban Support Programme (KUSP).

dmwere@ke.nationmedia.com

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REDUCTION IN LENDING RATE

We would like to inform you that the Bank has further djusted its Base Rate for loans denominated in Kenya Shillings (KShs) from 16.44% to 14.96% per annum (p.a.) for those priced based on the NBK Base Rate.

This revision will take effect on February 24, 2025, for new facilities, and on March 24, 2025, for existing facilities.

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THIRTEENTH PARLIAMENT – FOURTH SESSION (2025)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the **Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023)** was Read a First Time and referred to the Departmental Committee on Blue Economy, Water and Irrigation for consideration and reporting to the House;

IT IS NOTIFIED that the **Fisheries Management and Development Bill (National Assembly Bill No. 29 of 2023)** is a Bill Sponsored by **the Leader of the Majority Party**. The Bill seeks to provide a comprehensive legislative framework for the development, governance and investment of the oceans and fisheries resources in line with the national development policy objectives envisaged in Vision 2030.

The Bill further seeks to align the governance of the fisheries sector to the Constitution which calls for sustainable use of our natural resources for the benefit of the people of Kenya and governance at the national and county levels of government.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and Stakeholders to submit memoranda on the Bill to the Departmental Committee on Blue Economy Water and Irrigation.

A copy of the Bill is available at the National Assembly Table Office, Main Parliament Buildings, and on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842- 00100, Nairobi;** hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi;** or emailed to cna@parliament.go.ke to be received on or before **Friday, 7th March, 2025** at **5.00 p.m.**

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
21st February, 2025

"For the Welfare of Society, the Highest Government of the People"

NEWS GENERAL

FINANCIAL ACCOUNTABILITY

State to surcharge officials linked to loss of public cash

Koskei gives accounting officers until April 14 to report actions in line with directive

JAMES MBAKA
@Onchiri Mbaka

THE government has directed the immediate and continuous implementation of surcharges against officials whose actions or omissions result in the loss of public resources.

The move is part of President William Ruto administration's efforts to curb the misuse of funds and restore public confidence in the fight against corruption.

In the past, the government has been forced to pay billions of shillings to settle litigation arising from negligence by public officers entrusted with managing public resources.

Most of these payouts have gone to petitioners contesting the irregular awarding of tenders and the blatant failure of accounting officers to comply with procurement laws.

The directive, issued by Head of Public Service Felix Koskei, was communicated to all PSs in a circular dated February 11.

It mandates strict adherence to financial accountability measures.

Following a Cabinet meeting held on September 17, 2024, several policy measures were approved to enhance financial discipline within public service institutions.

These include immediate surcharging of public officials whose actions or inactions lead to financial loss and enforcement of disciplinary measures against officers implicated in internal and external audit reports.

The Cabinet also approved referral of corruption cases to statutory agencies mandated to investigate and take further action.

In the circular, Koskei instructed all accounting officers to submit a detailed report outlining actions taken in response to the directive by April 14.

Additionally, any implicated official will be subjected to due process and fair administrative action before any surcharge is imposed.

"Before any surcharges are effected, the concerned officers must be subjected to due process and fair administrative action procedures in accordance with the law. All accounting officers are required to provide a report outlining the action(s) taken pursuant to this directive by April 14," the circular reads.

Surcharging refers to imposing an additional financial penalty on an individual responsible for financial loss.

For instance, surcharging on income tax means an additional tax levied against a specified officer, with the limit set by the government.

Koskei said the latest move aligns with the government's Public Service Zero Fault Audit Status Campaign, which aims to instil a culture of accountability and financial integrity.

The directive has been copied to PSs, chairpersons and chief executive officers of independent constitutional commissions, offices, state corporations, and agencies.

Koskei said the directive is in line with constitutional provisions and audit findings that have uncovered massive losses of public funds due to acts of commission or omission.



Chief of Staff and Head of Public Service Felix Koskei /HANDOUT

INSTANT ANALYSIS

During a State House briefing shortly after swearing-in 19 Cabinet secretaries on August 8, President Ruto vowed to surcharge any accounting officer or public official who misuses public resources. Articles 226(5), 201(d), and 232(b) of the Constitution mandate accountability in public financial management.

DIPLOMATIC BLACK EYE

Hosting Sudan militia, Besigye seizure big diplomatic blunders, say senators

JULIUS OTIENO
@JuliusOtieno04

HOSTING Sudan's militia and the abduction and repatriation of Ugandan opposition leader Kizza Besigye in Nairobi are big diplomatic blunders giving Kenya a black eye, senators have said.

The lawmakers said the actions threatened to erode the country's relations with her neighbours and tarnish its image on the international stage, giving it another black mark human rights.

They spoke during a heated debate on the floor over the just-concluded Africa Union Commission (AUC) election in which Kenya's Raila Odinga lost the chairmanship.

"The fact that Besigye was abducted in Kenya and repatriated to Uganda speaks volumes about our foreign policy," Kitui Senator Enoch Wambua said.

Wambua, while demanding Besigye's release, said it was regrettable that Kenya played a role in the atrocities facing the veteran opposition leader's dramatic arrest in Nairobi.

"Besigye must be set free. He must be set free," he said.

They senators said the behaviour of the Executive and its consequences are lowering Kenya's international standing.

Besigye was dramatically kidnapped in Nairobi on November 20, 2024, and ferried to Uganda where he was taken before the Makindye General Court Martial under a heavily armed military escort. He has been in detention since then. "It is quite painful and shameful to me as a senator of Nairobi that Dr Besigye is facing the things that he is facing right now, including an illegal and unconstitutional court martial because he was abducted in my city, in Nairobi," Nairobi Senator Edwin Sifuna said.

Sifuna said Kenya's hosting of leaders of Sudan's paramilitary Rapid Support Forces and the arrest of Besigye speak to the country's flawed foreign policy.

"A few days ago, some leaders of a rival movement were granted the opportunity to speak from our shores here," he said.

"We have a situation where you have people who are threatening peace and stability in a neighbouring country and then you grant a stage for them to perpetuate these divisions in their own homes."

On Tuesday, Kenya hosted RFS to launch a parallel government in Khartoum.



Rapid Support Forces deputy head Abdul Rahim at KICC on Tuesday /ENOS TECHE

THIRTEENTH PARLIAMENT - FOURTH SESSION (2025)
THE NATIONAL ASSEMBLY

IN THE MATTER OF ARTICLE 118(1) (B) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

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The Bill further seeks to align the governance of the fisheries sector to the Constitution which calls for sustainable use of our natural resources for the benefit of the people of Kenya and governance at the national and county levels of government.

NOW THEREFORE, in compliance with Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bill to the Departmental Committee on Blue Economy Water and Irrigation.

A copy of the Bill is available at the National Assembly Table Office, Main Parliament Buildings, and on **www.parliament.go.ke/the-national-assembly/house-business/bills.**

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to **cna@parliament.go.ke** to be received on or before **Friday, 7th March, 2025** at **5.00 p.m.**

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY
21st February 2025

"For the Welfare of Society and the Just Government of the People"

ANNEX 4:

LEGAL BRIEF

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

SUBMITTED TO: DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2023

DATE: 25TH MARCH,2025

DIRECTORATE OF LEGAL SERVICES

BRIEF ON THE FISHERIES MANAGEMNET AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILLS NO. 29 OF 2023)

Background

1. This brief is guided by the Constitution which empowers Parliament to make provisions having the force of law in Kenya and the Interpretation and General Provisions Act, Cap. 2 of the Laws of Kenya which provides for construction, application and interpretation of statutes.
1. On 29th November, 2021 *Malindi High Court Constitutional Petition No. 13B of 2021, Mahmoud Shalima Mohammed Versus Ministry of Agriculture, Livestock and Fisheries & Others* was filed at the High Court of Kenya.

2. The Petitioner sought to challenge the provisions of Section 42(1)(a), (b), (e), (i), (j), and (m) (herein referred to as the impugned provisions) of the Fisheries Management and Development Act, 2016 which provides limitations on the fishing gear that can be used by persons in the conduct of fishing activity. **Section 42 provides for the prohibition of certain fishing gears and methods.**

Prohibited fishing gear and methods

42. (1) No person shall use, permit to be used or attempt to use or carry on board a vessel—

(a) fishing gear that has not been authorized by a valid and applicable licence issued pursuant to this Act for the purpose of fishing unless otherwise provided in this Act;

(b) any fish aggregating device unless an authorization has been issued in accordance with this Act;

(c) a trawl net or other net the mesh of which is less in stretched diagonal length than the prescribed mesh size;

(d) the method of pair trawling for the purpose of fishing;

(e) monofilament net for the purpose of fishing;

(f) more than one net at a time for the purpose of fishing with trawl net;

(g) attachments to any trawl net except as may be prescribed;

(h) a gill net, whether drifting or set, in any river or body of water forming part of the riverine system a gill net, whether drifting or set, in any river or body of water forming part of the riverine system if the mesh of the net is less than forty-five millimeters in stretched diagonal length;

(i) a seine net the mesh of which is less than forty-five millimetres in stretched diagonal length;

(j) a beach seine net for the purpose of fishing;

(k) a seine net in any body forming part of the riverine system;

(l) firearms or other electrical shock devices for the purpose of fishing including stunning, disabling or killing fish or in any way rendering fish to be caught easily; or

(m) such other gear as may be prescribed or prohibited by regulations established under this Part…

3. The Petitioner was aggrieved that the impugned provisions infringed on the Petitioner's economic and social rights as espoused in Article 43 of the Constitution. Further, the Petitioner contended that the impugned provisions were enacted unconstitutionally, siting lack of public participation in the enactment process.
4. The Petitioner contended that the National Assembly proceeded to pass the impugned provisions without any legislative impact assessment statement from the sponsoring authority or following the strict framework for public participation provided by the Statutory Instruments Act, thus violating the overriding objectives of the framework, that is, to provide a comprehensive regime for the making, scrutiny, publication, and operation of pending Bills.
5. In its Judgment in the matter on 15th November, 2022 the High Court made the following declarations:
    a. A declaration is hereby issued that section 42(1)(a), (b), (c), (i), (j), (m) of the Fisheries Management Development Act, 2016 are inconsistent with the Constitution and therefore null and void.
    b. A declaration is hereby issued that the entire Fisheries Management Development Act, 2016 is invalid for want of Public Participation.
6. The National Assembly subsequently filed an appeal and an application seeking a stay of the Judgment of the High Court pending the hearing and determination of the Appeal. Upon hearing all parties, the following orders were made by the Court that;
    a. *The entire* ***Fisheries Management and Development Act, 2016*** *continues to be in operation save for* ***Section 42(1)(a)*** *to* ***(k)*** *and* ***(m)*** *and* ***Section 42(2)*** *thereof which remain suspended pending the hearing and determination of the substantive appeal.*

b. There shall be no orders as to costs.

7. The orders granted by the court enable the continued operation of various authorities and agencies established through the Act pending the hearing and determination of the Appeal.

Publication of the Fisheries Management and Development Bill (National Assembly Bills No. 29 of 2023)

8. The **Fisheries Management and Development Bill (National Assembly Bills No. 29 of 2023) was published on 16th June, 2023 and read a First Time on 6th July 2023.**
9. The Bill seeks to provide for the conservation, management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing.
10. In accordance with Article 118(1)(a) of the Constitution that provides that Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its committees, an advertisement was published inviting for public participation and submission of memoranda by 10th July 2023.
11. As at 7th March,2025, the Committee received memoranda from the following stakeholders-
    (i) The Ministry of Mining and Blue Economy;
    (ii) The Council of Governors;
    (iii)Lake Naivasha Basin Landscape Association; and
    (iv)Lake Victoria Aquaculture Association.
12. We wish to highlight the following general observations on the Bill-
    (1) The Cabinet on 21st January approved reforms to various parastatals including bodies established under the Fisheries Management and Development Act, Cap.372 and which have been transited in the Bill as follows-

(a) The Fish Levy Trust Fund established under clause 27 of the Bill that consists of a levy that is to be imposed by the Cabinet Secretary, is proposed to be declassified and reverted back to the Ministry with a strengthened/more focused governance structure that will apply to all public funds; and

(b) The Kenya Fish Marketing Authority established under Part XVIII (clauses198-207) is proposed for dissolution after its functions are transferred back to the Ministry or other relevant State Corporations.

(2) In this regards there is need for review of these clauses, after taking into consideration the views of the relevant stakeholders on the manner of implementation of the Cabinet directive.

(3) The Committee may further interrogate the role of the Kenya Fisheries Council and review its relevance in the implementation of the Cap.378.

Summary of Provisions of the Bill

13. **PART I** (Clauses 1-5) of the Bill contains provisions relating to preliminary provisions including the short title, interpretation, object of the Act and guiding principles, application and jurisdiction and sovereign rights of Kenya. The objects of the Bill is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security

14. **PART II (Clauses 6)**of the Bill contains the provision relating to the establishment of the Kenya Fisheries Council. The role of the Council is to **review and advise the national Government** on policies in relation to the co-ordination of fisheries management in relation to the aquatic environment and human dimensions, the **allocation and access to fisheries** resource

15. **PART III(Clauses 7-23) of the Bill contains provisions relating the Kenya Fisheries Service and matters incidental including, setting out the** headquarters establishment, functions, powers and duties of the Board of Directors of the Service, membership of the Board, termination of appointment as a member of the Board. Appointment of the Director-General. Functions of the Director-General, staff of the Service, authorized officers, honorary fisheries officers, establishment of

Monitoring, Control and Surveillance Unit, Inter-agency monitoring, control and surveillance unit and funds of the Service. The Service shall be responsible for the conservation, management and development of Kenya's fisheries resources.

16. **PART IV(Clauses 23-28) of the Bill provides financial and administrative provisions** including the Financial Year, annual estimates, accounts and audit to be in accordance with the Public Audit Act. Provides for reporting to the by the Director-General. The Fisheries Research and Development Fund whose object is to provide supplementary funding for research intended to further the development of fisheries management, capacity building, scholarships, grants and support for the observer programme established and the Fish Levy Trust Fund whose object is to provide supplementary funding of activities geared towards management, development and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource.
17. **PART V(Clauses 29-53) of the Bill provides for fisheries conservation, management and development.** This part provides that all fisheries resources vest in the State and shall be conserved, managed and developed consistently with the Act, including its objective and principles, and acknowledging their role as the heritage of the people of Kenya. Clause 30 provides for fisheries measures where the Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act, through, inter alia—
    (i) providing a national framework of extension and training services;
    (ii) conducting research and surveys;
    (iii) promoting co-operation among fishers;
    (iv) spearheading arrangements for the orderly marketing of fish;
    (v) stocking waters with fish and supplying fish for stocking;
    (vi) promoting the adoption of alternative means of livelihood amongst fishers;

(vii) promoting the development of ornamental fisheries;

This part also provides for implementation of international conservation and management measures relating to fisheries, development of fisheries management plans by counties and submission of the same to the Director-General for endorsement. This part also provides for how the National and County governments shall relate with regards to fisheries conservation and management. It also provides for the establishment of Beach Management Units. The Responsibility for planning fisheries management, constitution of fisheries management plans and management measures. This part also outlines in clauses and 41 and 42 the limitation on fishing and fishing related activities and prohibited, fish landing stations and prohibited activities relating to fish or fish products taken contrary to the laws of another State.

18. **PART VI(Clauses 54-57) of the Bill provides for import, export and trade and marketing of fish**. No person shall export any live fish from Kenya except in accordance with regulations made pursuant top the Act. The Director-General may, in consultation with Fish Marketing Authority, for the purposes of promotion of fish production and marketing—enter into arrangements and agreements with registered associations or institutions for the management development and administration of fisheries, and facilitate the establishment of fish market management units and aquaculture production units.
19. **PART VII(Clauses 58-60) of the Bill provides for** fish quality and safety including harmonization of fish quality standards and safety and prohibition of sale of contaminated fish quality and safety including harmonization of fish quality standards and safety and prohibition of sale of contaminated fish.
20. **PART VIII(Clauses 61-74) of the Bill provides for** aquaculture activities and promotion of the same, This part also provides for aquaculture development plan that shall include—

    (a) a statement of the objectives and priorities of the plan and a strategy for achieving those objectives;
    (b) performance indicators to monitor the extent to which the objectives of the plan are being attained;

(c) a strategy for monitoring progress at least on an annual basis, and as appropriate an evaluation of the implementation of the aquaculture plan that preceded it;

(d) a description or identification of any area of water which is suitable for aquaculture and the type of aquaculture for which the area is suitable;

(e)a description of suitable methods for undertaking any type of aquaculture;

(f)identification of suitable or unsuitable species of fish for aquaculture; and

(g)requirements or standards for water quality, aquaculture waste, escapement, environmental impact assessments and the introduction, transfer and release of fish for purposes related to aquaculture.

21. **PART IX(Clauses 75-83) of the Bill provides** for information and data records. The Director-General may, for purposes of this Act, require any person to keep and furnish in such manner and form and at such time as the Director may specify any information and data, including information relating to fishing, fisheries, aquaculture, landing, research, storage, food safety, processing, buying, selling, exports and other related transactions.
22. **PART X(Clauses 84-123) of the Bill provides** for licensing and registration. The Director-General shall establish and maintain a national register of licences and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary that shall contain among others information on each licensed or authorized person and information on the relevant vessel, facility, and/or licensed or authorized activity. This part also provides for establishment and operation of aquaculture.
23. **PART XI(Clauses 124-127) of the Bill provides** for compliance with, licences, authorizations and requirements for fishing vessels.

24. **PART XII (Clauses 128-135) of the Bill provides** for requirements for foreign fishing vessels or vessels fishing under charter arrangements. This part also provide that the Cabinet Secretary may require either as a precondition of issuing a licence to any fishing vessel other than a Kenya fishing vessel, or at any time during the licensing period, that a performance bond be provided by the applicant in accordance with such procedures and in such form as may be prescribed.
25. **PART XIII (Clauses 136-161) of the Bill provides** for monitoring, control and surveillance. The Director-General may establish and operate vessel monitoring systems for purposes of monitoring, control and surveillance, and managing the operations of fishing vessels .The Director-General may also require the operator of any fishing vessel, as a condition of licence or otherwise, to install, maintain and operate in accordance with such conditions as may be prescribed and such other conditions that may be required by the Director-General, a mobile transceiver unit or other device or equipment that is an integral component of a vessel monitoring system at all times while the fishing vessel is in the fishery waters or, in respect of a Kenya fishing vessel, in areas beyond national jurisdiction or such other area as may be prescribed or agreed in an international agreement or international conservation and management measures.
26. **PART XIV (Clauses 162-172) of the Bill provides** for the regulation of arrested persons and seized items including fishing vessels.
27. **PART XV (Clauses 173-181) of the Bill provides** for the regulation of evidence collected in the regulation of fisheries.
28. **PART XVI (Clauses 182-183) of the Bill provides** for Summary and administrative proceedings. A person arrested under the Act shall promptly be brought before the Court of applicable jurisdiction or be subject to administrative proceedings in accordance with the Act and In cases of arrest or detention of foreign fishing vessels for a contravention of this Act, the Director-General shall promptly notify the flag State, through appropriate channels, of the action taken and of any penalties subsequently imposed. Any foreign fishing vessel and its crew arrested for the contravention of any provision of the Act that

governs any act of fishing or fishing-related activity shall be promptly released upon the posting of a reasonable bond or other security.

29. **PART XVII (Clauses 184-197)** of the Bill provides for the jurisdiction of the Court, prosecution, forfeiture, liabilities and other actions under the Act. Where a court convicts a person of an offence against the Act, the Court may order the forfeiture of any of the following any fish, fish product, fishing vessel (including its gear, furniture, appurtenances, stores, cargo and aircraft), vehicle, aircraft, gear, equipment, explosive or noxious substance taken, used or otherwise involved in the commission of the offence or where a fishing vessel, vehicle or aircraft was used in the commission of an offence, any fish on board such vessel, vehicle or aircraft at the time of the offence.

30. **PART XVIII(Clauses 198-207)** of the Bill provides for the establishment of the Kenya Fish Marketing Authority. The functions of the Authority are as follow to-

(a) develop, implement and co-ordinate a national fish marketing strategy;

(b) ensure that fish and fishery products from Kenya enjoy market access at local, national, regional and international levels as premier products and, to this end, that the products and markets are developed and diversified;

(c) promote the sustainable use of fish by preventing, deterring and eliminating to the extent possible trade in illegal, unreported and unregulated fishing;

(d) enforce national fisheries trade laws and international fisheries related trade rules;

(e) identify fish market needs and trends and advise fisheries stakeholders accordingly;

(f) organize stakeholders to ensure smooth marketing of fish and fishery products;

(g) collaborate with national and international trade related bodies;

(h) advice the Cabinet Secretary on issues related to national and international trade trends; and

(i) perform any other functions that are ancillary to the object and purpose for which the Fish Marketing Authority is established.

31. **PART XIX(Clauses 208-209)** of the Bill provides for miscellaneous provisions including regulation making powers under the act and that where e any conflict arises between the provisions of this Act and any other law in matters relating to fisheries, the provisions of this Act shall prevail.(suprecession)
32. **PART XX(Clause210)** of the Bill provides for repeal and transitions. **We observe some of these proposals are spent and have already been incorporated in the relevant laws.**

ANNEX 5:

SUBMISSION BY THE COUNCIL OF GOVERNORS (COG)

48 Governments 1 Nation

COUNCIL OF GOVERNORS

LEGISLATIVE MEMORANDUM ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2023 (NATIONAL ASSEMBLY BILLS NO. 29 OF 2023)

TO

NATIONAL ASSEMBLY

FROM

THE COUNCIL OF GOVERNORS

Introduction

THE COUNCIL OF GOVERNORS,

In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Article 6 (2) of the 2010 Constitution; and

In further recognition of the need to ensure that all legislations embrace and provide for fisheries in a manner that appreciates and comports with the 2010 Constitution regarding the fact that fisheries is a fully devolved function under Part 2 of the Fourth Schedule to the 2010 Constitution.

Having reviewed the **Fisheries Management and Development Bill, 2024 (National Assembly Bill No. 29 of 20243)** in its entirety, the Council of Governors recommends the following amendments to the Bill for better implementation by the County Governments:

A. General comments

The Constitution of Kenya vests the National Government with the responsibility of **protection** of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular-- fishing, as outlined in the Fourth Schedule. The National Government, through the Ministry responsible for fisheries, is tasked with formulating national policies, regulations, and standards for sustainable fisheries management, conservation, and development. This includes research, monitoring, and the enforcement of laws to protect fish resources in Kenyan waters.

However, the Fisheries Management and Development Bill, 2023 proposes to establish the Kenya Fisheries Service (hereinafter KeFS) to play a role in the formulation and implementation of fisheries policies. It is therefore crucial to ensure that there is a clear delineation between the policy-making function of the Ministry and the operational role of KeFS to avoid overlaps, inefficiency, and duplication of roles. The Ministry should focus on policy formulation, guidance, strategic oversight, and coordination, while KeFS should concentrate on enforcement, regulation, technical assistance, and capacity building of counties in fisheries management.

At the County level, the Constitution assigns County Governments the role of managing and regulating inland fisheries, including aquaculture, under Part 2 of the Fourth Schedule. County Governments play an essential role in promoting local fisheries development, managing fisheries resources within their jurisdiction, and ensuring compliance with national standards.

Clarity and collaboration between the Ministry, KeFS, and County Governments are vital to avoid role duplication, streamline efforts, and enhance the effective management of the fisheries sector. This will ensure that fisheries resources are utilized sustainably for economic growth and food security.

B. Specific recommendations

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Long title	AN ACT of Parliament to provide for the conservation, management and development of fisheries and other aquatic resources to enhance the livelihood of communities dependent on fishing and to establish the Kenya Fisheries Services; and for connected purposes	Amend to read as follows: **AN ACT of Parliament to provide for the sustainable development, management, utilization and conservation of fisheries and other aquatic resources to enhance the livelihood of communities; provide for the roles of the National and County Governments; and for connected purposes**	Noting that fisheries is a devolved function, it is important for the law to define the roles and responsibilities of the two levels of government taking into account the assignment of functions between the National and County Governments.
2. Interpretation		Amend the definition of the terms **"agent", "authorized officer"**, **"fisheries officer"**, **"fish landing station"**, **"fishery"** **"Government"** , **"illegal fishing"**, **"landing"**, **"subsistence fishing"** , **"test fishing operation"** as follows: Further we recommend the inclusion and provision of definitions of **County Director** and **CECMs** responsible for fisheries in the interpretation.	To provide for recognition of the County Governments officers responsible for fisheries as fisheries is a fully devolved function under the Fourth Schedule to the Constitution.
	"agent" means any person or unit appointed by the Board or Director-General to execute designated functions under this Act, or such other agent as may be appointed in accordance with section 17 (1) (c);	**"agent" means any person or unit appointed by the National Government or County Governments to execute designated functions under this Act, or such other agent as may be appointed in accordance with section 17 (1) (c);**	To provide for the clarity of functions between the National and County Governments as stipulated in the Fourth Schedule to the Constitution as well as provide for clarity in the definition of terms.

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	"authorized officer" means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 18;	**"authorized officer" means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary or County Executive Committee Member under section 18;**	
	"fisheries officer" means the Director-General and any employee of the Service described in the first schedule;	**"fisheries officer" means any person in the public service of or above the rank of assistant fisheries officer;**	
	"**fish landing station"** means a point on the shore of any of which the Director-General has by notice in the gazette designated as a point to land fish waters or coastline	**"fish landing station" means a point on the shore of any waters or coastline of which the County Executive Committee Member responsible for matters relating to lands has by notice in the gazette designated as a point to land fish and includes fish landing site;**	
	"fishery" means— (a) one or more stocks of fish, or parts thereof existing in a delineated area, which can be treated as a unit for the purposes of conservation, development and management, taking into account geographical, scientific, technical, customary, recreational, economic and other relevant characteristics; or	**"fisheries" means all activities relating to the management and utilization of fish resources and its environment starting from pre-production, production, processing until marketing and includes a place where fish is caught for commercial or recreational purposes.**	

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	(b)any fishing for such stocks;		
	"designated Fishing Port" means fishing port established under section 50 (1) (b);	**"designated Fishing Port" means fishing port designated by the Cabinet Secretary under section 50 (1) (b) for purposes of imports and exports of fish and fish products**	
	"**Government"** means the Government of Kenya;	**"Government" means the National Government and County Governments;**	
	"illegal fishing" includes— (a) (c) activities carried out in violation of national laws or international laws or international obligations, including those undertaken by co-operating states to a relevant regional fisheries management organization;	**"illegal fishing" includes—** **(a)** **(c) activities carried out in violation of relevant laws of Kenya or international obligations,** **including those undertaken by co-operating states to a relevant regional fisheries management organization;**	
	"landing" means bringing any fish or fish product to the harbour, port or beach from within or outside the Kenya fishery waters and offloading;	**"landing" means bringing any fish or fish product to the fish landing station or fish landing port from within or outside the Kenya fishery waters and offloading;**	

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	"subsistence fishing" means harvesting fish as a source of food for a person's consumption or their dependants and not for sale or barter; **"subsistence fishing"** means local or non-commercial fisheries, oriented not primarily for recreation but for the procurement of fish for consumption by the fishers, their families and community;	**"subsistence fishing" means harvesting fish as a source of food for a person's consumption <u>or their dependants or community and is not for sale or barter;</u>**	
	"test fishing operation" means any fishing operation undertaken over a limited period of time with the approval of the Director–General for the purpose of testing the feasibility of commercial fishing operations with a view to establishing fishery operations, and not for commercial purposes;	**"test fishing operation" means any fishing operation undertaken over a limited period of time with the approval of the <u>Director General</u> or <u>County Executive Committee Member</u> for the purpose of testing the feasibility of commercial fishing operations with a view to establishing fishery operations, and not for commercial purposes;**	
		Introduce the definition of the following words: **<u>"County Director" means the county director responsible for matters relating to fisheries in the respective county;</u>** **<u>"County Executive Committee Member" means the county executive committee member responsible for matters relating to fisheries in the respective county</u>**	

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		"Fishing Communities" means communities which are substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs.	
4. Objective and Guiding principles	5 (1) The objective of this Act is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security (2)(q) ensuring effective co-operation with coastal States, fishing States and entities and competent organisations;	Amend clause 5 to read as follows: **5. (1) The objective of this Act is to protect, manage, use and develop the fisheries and aquatic resources in a manner which is consistent with ecologically sustainable development of fisheries value chain and to enhance food security.** **5(2)(q) ensuring effective co-operation between the National and County Governments in the sustainable development, management, utilization and conservation of fisheries and other aquatic resources**	To align to the provisions of Article 6(2), 186 and 189 of the Constitution of Kenya.
5. Establishment of the Kenya Fisheries Council	**PART III —THE KENYA FISHERIES SERVICE** 6. (1) There is hereby established an advisory body to be known as the Kenya Fisheries Advisory Council ("the Council"), which shall consist of— (a)the Cabinet Secretary responsible for fisheries, who shall be the chairperson; (b)the Cabinet Secretary responsible for interior and	Amend by deleting **clause 6(5)** and amend **clauses 6(1)(h), (2) and (3)** to read as follows: **(6)(1)(h) The chairperson of the Council of Governors committee responsible for fisheries; and** (f) **the vice chancellor from a university or research institution with expertise in fisheries and who shall be nominated by the University Council;** **(g) the chairperson of the consumer federation nominated**	To provide for sufficient representation of the County Governments in the Council. Also, we propose amendment of clause 6(2) to require the Council to advise both levels of government as opposed to only the National Government. Further, in the spirit of Article 6(2), 186 and 189 of the Constitution, we opine

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	co-ordination of national government; (c) Cabinet Secretary responsible for transport and infrastructure; (d)the Cabinet Secretary responsible for the national treasury; (e)the Cabinet Secretary responsible for foreign affairs and international trade; (f) a representative from a university or research institution with expertise in fisheries and who shall be nominated by the University Council; (g)a representative from the consumer federation nominated by the national consumer federation; (h)a designate from the Council of Governors with expertise in fisheries who shall be nominated by the Council of Governors; and (i)a representative of fisheries nominated by a national umbrella of body fisheries. (2) The function of the Council shall be to review and advise the national Government on— (3) The Vice Chairperson of the Council shall be elected by members of the Council at their first sitting,	**by the national consumer federation;** **(i)<u>the chairperson</u> of the national umbrella of body fisheries.** **(2) The function of the Council shall be to review and advise the <u>Government</u> on—** **(3) <u>The Vice Chairperson of the Council shall be one of the members nominated by the Council of County Governors under section 6(1)(h)</u>.** Introduce the following new clauses **<u>(6)The Council may establish such working groups and committees as it deems necessary;</u>** **<u>(7) The Council shall meet not less than twice in a year;</u>**	that the County Governor Chair of the Council of Governors Committee on matters related to fisheries be the Vice-Chairperson of the Council. In addition, the membership of the Council should constitute high level representation.

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	provided that the chair and vice chairperson shall not be of the same gender (5)Each Cabinet Secretary represented on the Council in accordance with subsection (1) may designate an alternate who is knowledgeable and experienced in issues relevant to fisheries; (6)The Council may establish such working groups and committees as it deems necessary and as are agreed by the Cabinet Secretary.		
PART III —THE KENYA FISHERIES SERVICE 6. Establishment and status	PART III —THE KENYA FISHERIES SERVICE 7. (1) There is hereby established a Service to be known as the Kenya Fisheries Service, which shall be responsible for the conservation, management and development of Kenya's fisheries resources in accordance with this Act.	**Amend by reviewing the name of the Service to reflect the functions of the National Government under the Fourth Schedule of the Constitution.** **"Kenya Fishing Service" as opposed to Kenya Fisheries Service.**	Pursuant to the provisions of section 1 of Part 2 of the Fourth Schedule to the Constitution, **agriculture including fisheries** are functions fully devolved to the County Governments. The naming of a national agencies as "Kenya Fisheries Service" goes against the aforementioned provisions of the Constitution as it seeks to claw back on devolved functions. The Council thus opines a change of the name of the institution to reflect the functional assignment.
8. Functions of Service	8 The functions of the Service shall be to— (a) ensure the appropriate conservation development of standards on management, sustainable	Amend clause 8 of the Bill by **deleting** ***clauses 9(c)(e)(f)(g)(i)(n)(o)(p) q)(r)*** *and* ***amend clauses 9(a)(b)(e) (j) (h)((m) (r)(u) and (v)*** to read as follows; 8. **The Service shall**—	To align to the provisions of section 1 and 7 of Part 2 of the Fourth Schedule to the Constitution which has devolved agriculture including fisheries, trade development and

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	use, development and protection of the fisheries resources; (b) formulate and monitor the implementation of policies regarding the conservation, management and utilization of all fisheries resources within the scope of this Act; (e) provide education to create public awareness and support for fisheries conservation, management, development and sustainable use; (f)set and meet goals for fisheries conservation, management, development and sustainable use; g.in consultation with the Kenya Marine and Fisheries Research Institute, approve and coordinate research activities in relation to matters falling within the scope of this Act; (o)undertake the development of appropriate fisheries infrastructure, that relates to its mandate under this Act and the Constitution; (q)promote development and introduction of	**(a) the development of standards on management, sustainable use, development and protection of the fisheries resources**; **(b) Advice the Government on formulation of policies regarding the conservation, management and utilization of all fisheries resources within the scope of this Act;** **(e) create public awareness and support on protection and conservation of fisheries resources;** **(j) consult as appropriate with Government and persons, including stakeholders, industry, regional and international organisations and experts, whether local or foreign, on matters falling within the scope of this Act;** **(h)collect and analyse data in relation to resources and activities on imports, exports and within exclusive economic zone of this Act;** **(m)develop standards on fish safety and quality;** **(r) identify and promote construction of any works deemed necessary for the sustainable protection and conservation of fisheries resources and export;**	regulations to the County Governments. It is therefore imperative that the provisions of clause 9 is aligned to the functional assignment between the two levels of government. In addition, there need to clearly demarcate roles of the service to speak to its responsibilities in Kenya's international waters and beyond the EEZ.

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	appropriate technologies in aquaculture production, processing and preservation in collaboration with relevant agencies, county governments and stakeholders; (h)collect and analyse data in relation to resources and activities falling with the scope of this Act; (u) co-ordinate fish quality assurance and operations of the marine and coastal fisheries, aquaculture and inland and riverine fisheries; (r) identify and promote construction of any works deemed necessary for the sustainable development and economic utilization of fisheries resources; (u) co-ordinate fish quality assurance and operations of the marine and coastal fisheries, aquaculture and inland and riverine fisheries; (m)subject to the Public Health Act and the Food, Drugs and Substance Act, control and regulate fish safety and quality; (v) co-ordinate and or undertake monitoring, control and surveillance of	**(u) co-ordinate fish quality assurance and operations of the marine and international waters;** **(v) co-ordinate and or in collaboration with the County Governments undertake monitoring, control and surveillance of all activities within the scope of this Act; and**	

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	all activities within the scope of this Act; and		
10. Membership of the Board.	11. (1) The members of the Board shall consist of— (a) a chairperson appointed by the President from among the members appointed under paragraph (c) (b)the Principal Secretaries of the Ministries for the time being responsible for— (i)fisheries; (ii)defence; (iii)finance; (c)five members, not being public officers, openly appointed by the Cabinet Secretary for their long term knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;	Amend clause 11(1)(a) and (c) to read as follows: **11. (1) The members of the Board shall consist of—** **(a) a chairperson appointed by the President;** **(c)two members, not being public officers, openly appointed by the Cabinet Secretary for their long term knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;** **(ca) Three persons nominated by the Council of County Governors and appointed by the Cabinet Secretary.**	To provide for sufficient representation of the County Governments in the Board of the Service. The functions given to the Service have a direct and indirect impact on the functions of the County Governments and its imperative that they are represented in the Board.
		Introduce a new clause/part to the Bill to provide for functions of the County Governments: **Functions of the County Governments** **The County Governments shall—** **a) ensure the appropriate conservation, sustainable management, use, development and protection of the fisheries resources;**	Constitutionally, County Government are assigned the fisheries function and in the spirit of constitutionalism, it is therefore good practice that this fact is affirmed an provided for in law including spelling out the specific roles and responsibilities of counties as regards fisheries.

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		b) issue licenses, permits as per this Act c) formulate and monitor the implementation of policies regarding the conservation management and utilization of all fisheries resources; d) manage all fisheries and aquaculture in the county; e) prepare and implement fisheries specific management plans for fishery waters; f) provide education to create public awareness and support for fisheries conservation, management, development and sustainable use; g) collect and analyse data in relation to fisheries resources and activities; h) In collaboration with necessary government agencies, control and regulate fish safety and quality; i) undertake the development of appropriate fisheries infrastructure; j) facilitate investment in commercial fisheries, in collaboration with relevant agencies, persons or bodies, including Government departments; k) promote development and introduction of appropriate technologies in aquaculture	

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		production, processing and preservation in collaboration with relevant agencies, other county governments and stakeholders; **l) identify and promote construction of any works deemed necessary for the sustainable development and economic utilization of fisheries resources;** **m) identify opportunities and promote all aspects of fisheries marketing;** **n) arrange and enter into joint ventures or any other forms of investment arrangement for purposes of performing any of its functions;** **o) co-ordinate fish quality assurance and operations of the coastal fisheries, aquaculture and inland and riverine fisheries;** **p) undertake monitoring, control and surveillance of all activities within the scope of this Act;** **q) Promote cooperation amongst fishers, fish traders, fish farmers** **r) perform such other duties and functions as may be assigned by county legislation.**	
17. Authorized officers	17. The Cabinet Secretary may, in consultation with the Director-General, by notice in the Gazette appoint a person to an authorised officer for purposes of this Act.	Amend to read as follows: **18. The Cabinet Secretary or County Executive Committee Member may, in consultation with the Director-General or County Director as the case may be, by notice in the Gazette**	Fisheries being a devolved function that is primarily undertaken at the county level, then it is only reasonable that the law recognizes and provides for the appointment of

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		appoint a person as an authorised officer for purposes of this Act.	authorized officers at the county level as well.
18. Honorary fisheries officers	18. (1) The Director-General may, with the approval of the Board, by notice in the Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the Service in carrying into effect the provisions of this Act.	Amend to read as follows: **18. (1) The Director-General may, with the approval of the Board, by notice in the Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the Service in carrying into effect the provisions of this Act.** **(1a) The County Executive Committee Member may, in consultation with the County Public Service Board, by notice in Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the County government in carrying into effect the provisions of this Act.**	County Executive Committee Members being in charge or responsible for fisheries at the county level, have a similar mandate to hire honorary fishing officers as the case may be.
27. Fish Levy Trust Fund.	27. (1) There is hereby established a fund to be known as the Fish Levy Trust Fund. (2) The Fish Levy Trust Fund shall consist of — (a)a levy imposed by the Cabinet Secretary under section 28 by Order to require the payment of levies by persons engaged in fishing or fishing related activities of a fish levy ("the levy") which may provide requirements relating, inter alia, to activities within the scope of this Act; and the evidence by	Amend clause 27 to read as follows: **27. (1) There is hereby established a fund to be known as the Fish Levy Trust Fund.** **(2) The Fish Levy Trust Fund shall consist of —** **(a)a levy imposed by the Cabinet Secretary under section 28 by Order to require the payment of levies by persons engaged in fishing or fishing related activities of a fish levy ("the levy") which may provide requirements relating, inter alia, to activities within the scope of this Act; and the evidence by which a person's liability to pay**	Provide for sharing of the Fund 60% to 40% with counties getting 60pc of the share. This is attributed to the fact that county governments have a primary role to play in creating and improving on the experience of all persons involved in the fishing industry value chain. Additionally, promoting sustainability and development of *fisheries* resource in Kenya on the part of the county governments as implementers requires supplementary funding through this Fund.

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	which a person's liability to pay the levy, or the payment thereof, may be established, and the time at which any amount shall become payable. (b)donations made to the Service from any source for purposes of the Fund; and (c) such other sums of money or other assets as may be specifically designated to the Fish Levy Trust Fund by the Service out of its general fund. (3) The object of the fund shall be to provide supplementary funding of activities geared towards Management, development and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource. (4) The Trust shall be administered by a five member Board of Trustees nominated through an open and competitive process and they shall meet the requirements of Chapter six of the Constitution. (5) The members of the Board of Trustees shall include—	**the levy, or the payment thereof, may be established, and the time at which any amount shall become payable.** **Provided that artisanal fishers are exempted from payment of the levy.** **(3) The fund shall be utilized as follows:** **a) 40 per cent to be utilized at the national level as supplementary funding of activities geared towards and capacity building, awards and urgent mitigation to ensure sustainability of the fisheries resource.** **b) 60 per cent to be remitted directly to the County Governments on pro rata basis for management, development, capacity building of fishing communities and urgent mitigation to ensure sustainability of the fisheries resource.** **(4) The Trust shall be administered by a seven-member Board of Trustees nominated through an open and competitive process and they shall meet the requirements of Chapter six of the Constitution.** **(5) The members of the Board of Trustees shall include—** **(a)two representatives from fishers organizations in**	

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	(a)two representatives from fishers organizations in fresh inland waters and marine waters; (b)two persons nominated by the traders exporters association and fish processors; and (c) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science.	**fresh inland waters and marine waters;** **(b)two persons nominated by the traders exporters association and fish processors;** **(c) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science; and** **(d) two persons with experience in fisheries resources management nominated by the Council of County Governors**	
29. Fisheries development measures	29. The Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act, through inter alia— (a) providing a national framework of extension and training services; (b) conducting research and surveys; (c) promoting co-operation among fishers; (d) spearheading arrangements for the orderly marketing of fish; (e) stocking waters with fish and supplying fish for stocking; (f)promoting the adoption of alternative means of	**Amend clause 29 to read as follows:** **29. (1) The Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act, through inter alia—** **(a) providing a national framework of extension and training services;** **(b) conducting research and surveys;** **(d) spearhead arrangements for the international marketing of fish;** **(e)promote the development of other sustainable methods of in-situ and ex-situ fishing;** (f) **developing a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the fish market value chain;**	To provide for the clarity of functions between the National and County Governments as stipulated in the Fourth Schedule to the Constitution.

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	livelihood amongst fishers; (g)promoting the development of ornamental fisheries; (h)promote the development of other sustainable methods of insitu and exsitu fishing; (i) providing for the establishment of investor friendly licensing and approval systems; (j)developing a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the market value chain; developing a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the market value chain; (m)promoting value addition and utilization of fish by products and bycatch; (n)providing for the establishment of accredited fish safety and quality control laboratories and other infrastructural facilities; and (o) such other measures and actions as may be approved by the Board.	**(g) support the establishment of accredited fish safety and quality control laboratories and other infrastructural facilities; and** **(h) such other measures and actions as may be approved by the Board.** **30(2) The County Executive Committee Member shall promote the development of fisheries through—** **(a) provision of extension and training services;** **(b) disseminate research and survey's findings;** **(c) promote co-operation among fishers;** **(d) spearhead arrangements for the orderly marketing of fish;** **(e) stocking waters with fish and supplying fish for stocking;** **(f)promote the adoption of alternative means of livelihood amongst fishers** **(g) provide for the establishment of investor friendly licensing and approval systems at the county;** **(h) develop a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the market value chain;** **(i) promote value addition and utilization of fish by products and bycatch;** **(j)providing for the establishment of accredited fish safety and quality control laboratories and other infrastructural facilities; and** **(o) such other measures and actions as may be provided for in county legislation.**	

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Co-ordination of Fisheries Management with the Counties **32. Director-General to keep Counties informed of management measures, processes.**	**Director-General to keep Counties informed of management measures, processes.** 32.(1) The Director-General shall ensure that all County Governments are consulted and kept informed of relevant management measures and processes taken pursuant to this Act. (2) Each County shall collaborate with the Director- General in the management of fisheries and shall, for this purpose ensure that the Director-General is informed, by effective means of communication, of relevant developments in relation to the management of fisheries within the County. **County may develop fisheries management plan** 33. (1) Each County may develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in the Fourth Schedule to the Constitution. (2) In developing the management measures and plans, referred to in subsection (1), the relevant authorities in the	Amend by deleting clauses 32, 33 and 34 of the Bill and replace with the following **new clauses:** **County fisheries management plan** **32. (1) Each County may develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in the Fourth Schedule to the Constitution.** **(2) In developing the management measures and plans, referred to in subsection (1), the County Government shall—** **(a) take into consideration, to the extent possible, elements of national fisheries management plan; and** **(b) ensure that such measures are consistent with the provisions of this Act, including its objective and principles, and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act.** **Consultation and Cooperation between the National and County Governments** **33.(1) The Director-General shall ensure that all County Governments are consulted and kept informed, by effective means of communication, of relevant management measures**	To ensure the sustainable management of fisheries resources, county governments should be empowered to establish their respective fisheries development plans. This process can be aligned with national objectives while adhering to constitutional provisions under Article 6(2), 186 and 189, which emphasize cooperation between the national and county governments.

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	County shall take steps to ensure that such plans and measures are consistent with the provisions of this Act, including its objective and principles, and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act. **County to submit Fisheries management plans to Director General For endorsement**. 34. Each fisheries management plan developed by authorities in each County shall— (a) take into consideration, to the extent possible, elements of a fisheries management plan described in section 39; and (b) take into account any recommendations that may be made by the Director-General with respect to the plan.	**and processes taken pursuant to this Act.** **(2) County Governments shall collaborate with the Director-General in the management of fisheries and shall, for this purpose ensure that the Director-General is informed, by effective means of communication, of relevant developments in relation to the management of fisheries within the County.**	
35. Relations between National and County governments.	**Relations between National and County governments.** 35. (1) Where there is any conflict between a County	**This clause should be deleted**	The clause does not comport with the provisions of the Intergovernmental Relations Act on matters relating to

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	fisheries management plan and the management-related provisions of this Act, the Director-General shall consult with the County government and give appropriate direction. (2) Where the Director-General is of the opinion, based on information from the implementing officer, that the County government has conducted its affairs in relation to fisheries management in a manner which is contrary to the provisions of this Act, the Director- General shall, with the approval of the Board— (a) serve the County government with a notice requiring it to take specified action within a specified period to rectify and improve the fisheries management, and (b)if the County government does not take action as required, the Director-General shall prepare a report and submit to the Cabinet Secretary with recommendations on the action to be taken.		intergovernmental disputes and the procedure conflict resolution thereto.
36. Establishment of Beach	36.(1) The Cabinet Secretary may for purposes of ensuring	Amend clause 36 to read as follows:	To provide for clarity on the establishment of the BMUs in the respective County Government.

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Management Units.	structured community participation in fisheries management, make regulations for the management of beach management units established by the county governments.	**<u>Establishment of Beach Management Units.</u>** **<u>37.(1) Each County Executive Committee Member shall establish beach management units within its jurisdiction ensuring structured community participation in fisheries management.</u>** **<u>(2) The Cabinet Secretary may in consultation with the Council of County Governors make regulations for the management of beach management units.</u>**	
Fisheries Conservation and Management **37. Responsibility for planning fisheries management.**	37. The Director-General shall be responsible for planning for the conservation, management, development and sustainable use of all fish and fisheries within Kenya fishery waters.	Amend clause 37 to read as follows: **<u>37. The Cabinet Secretary and respective County Government shall be responsible for planning for the conservation, management, development and sustainable use of all fish and fisheries within Kenya fishery waters.</u>**	Planning is a function of both the National and County Governments under the Constitution. It is therefore imperative that the Bill recognizes and provides for the same as the case may be.
38. Fisheries management plans	38. (1) The Board may, in consultation with the Council of Governors and on the recommendation of the Director-General, declare a fishery as a designated fishery where, having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery— (2) The Director-General shall, in consultation with the relevant county governments—	Amend clause 38 by deleting the words **"Director General"** wherever it appears and replacing with the words "**Cabinet Secretary"** to read as follows: **38. (1) <u>The Cabinet Secretary may, in consultation with the Council of Governors and on the recommendation of the Director-General,</u> declare a fishery as a designated fishery where, having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery—**	We opine that this is a mandate of the Cabinet Secretary and not the Board of the Service as proposed in the Bill. It is important to recognize the role of the County Governments in the management of the fisheries resources thus the introduction of the role of the County Director.

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	(a) prepare, keep under review and be responsible for the implementation of fisheries management plans for the conservation management, development and sustainable use of each designated fishery in the Kenya fishery waters; (b)prepare, keep under review and be responsible for the implementation of fisheries management plans for any other fisheries in the Kenya fishery waters as may be necessary and practicable; and (c) determine the priority for the preparation of fisheries management plans, taking into account the advice of any committee established and carrying out functions under this Act and of other relevant stakeholders.	**(2) The Cabinet Secretary or County Executive Committee member as the case may be, shall—**	
39. Fisheries management measures	39. (1) The Director-General may in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary, by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery—	Amend clause 39(1) to read as follows: **39. (1) The Director-General or County Director may in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary or County Executive Committee Member as the case may be, by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery—**	To provide role of the County Governments in prescribing measures for conservation of inland fisheries.

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40. Limitation of fishing and fishing related activities	40. (1) The Director-General may take fisheries management measures to limit fishing and fishing related activities in accordance with the objective and principles of this Act and shall communicate such measures by notice in writing to the persons affected. (2) A person aggrieved by the action taken by the Director-General pursuant to subsection (1) may appeal in writing to the Cabinet Secretary.	Amend clause 40 to read as follows: **40. (1) The Director-General or County Director may take fisheries management measures to limit fishing and fishing related activities in accordance with the objective and principles of this Act and shall communicate such measures by notice in writing to the persons affected.** **(2) A person aggrieved by the action taken by the Director-General or County Director pursuant to subsection (1) may appeal in writing to the Cabinet Secretary or County Executive Committee Member as the case may be.**	To make provisions for the role of the County Governments, and specifically the role of the County Committee Member in charge of matters relating to Fisheries.
42. Damage, destruction to and interference with fishing gear, vessel, person prohibited.	42(2) Where a vessel becomes entangled with fixed fishing gear or other object referred to in subsection (1), the master shall- (a)undertake to minimize any damage caused by the gear; (b)where practicable return the gear to the sea and log the position; and (c) make a full report of the incident and steps taken by him or her to the Director General at the earliest opportunity.	Amend clause 42(2)(c) to read as follows: 42(2)**(c) make a full report of the incident and steps taken by him or her to the Director General or County Director as the case may be, at the earliest opportunity.**	To provide for reporting to the County Director in charge of fisheries in cases of fisheries falling under the purview of the County Governments
47. Fisheries impact assessments.	47. (2) Where an application is made under subsection (1), the Director General shall refer the matter to the	Amend clause 47(2) to read as follows: **47. (2) Where an application is made under subsection (1), the**	Being in charge of and implementers of the fisheries function, it is important to provide for and require a **Fisheries**

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	National Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat and possible means of preventing or minimizing adverse impact.	**Director General shall refer the matter to the National Management Authority and <u>respective County Executive Committee Member</u> who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat and possible means of preventing or minimizing adverse impact.**	**Impact Assessment Report** from a concerned County Government before any activity is undertaken in any fisheries resource other than fishing.
48. Pollution of the Kenya Fishery Waters	48 (3) The Director-General may suspend or cancel the licence of a vessel to which this section applies until such time as all fines, penalties and damages have been satisfied. (4) Notwithstanding subsection (2), in the event of an accidental introduction into the Kenya fishery waters of any deleterious article or substance prohibited in subsection (1), or in the event of encountering such articles, the owner, operator or master of the vessel shall immediately report the incident to the Director-General giving the following information to the extent possible—	Amend clauses 48(3) and (4) to read as follows; **48 (3) The Director- General <u>or County Director as the case may be,</u> may suspend or cancel the licence of a vessel to which this section applies until such time as all fines, penalties and damages have been satisfied.** **(4) Notwithstanding subsection (2), in the event of an accidental introduction into the Kenya fishery waters of any deleterious article or substance prohibited in subsection (1), or in the event of encountering such articles, the owner, operator or master of the vessel shall immediately report the incident to the Director-General or <u>County Director</u> giving the following information to the extent possible—**	To recognize the role of the county governments in control of pollution in inland fisheries waters.
50. Fish landing stations, etc.	50. (1) The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by the Board establish by a notice in the Gazette —	Amend clause 50(1) to read as follows: **50. (1) The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by**	Based on their implementation powers as regards fisheries, counties are constitutionally enabled to establish fish landing stations as the

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	(a) fish landing stations, (b) designated fishing ports, and (c) protected fish breeding grounds.	**the Board establish by a notice in the Gazette —** **(a) designated fishing ports, and** **(b) protected fish breeding grounds.** **(1A) The County Executive Committee Member may, on recommendation of the County Director by a notice in a Gazette establish fish landing stations in their area of jurisdiction.**	situation or circumstances may warrant.
51. Director-General to direct stock assessments, collection and analysis of other information and forward to the Board.	**51** (1) In addition to the information requirements specified in Part VIII, the Director-General may by notice in writing direct any person whom he is satisfied is suitably qualified to undertake the periodic stock assessment of all the fishery waters and collect and analyze statistical and other data and information on activities under the scope of this Act and forward the same to the Board.	**51** (1) **In addition to the information requirements specified in Part VIII, the Director-General or County Executive Committee Member may by notice in writing direct any person whom he is satisfied is suitably qualified to undertake the periodic stock assessment of all the fishery waters and collect and analyze statistical and other data and information on activities under the scope of this Act and forward the same to the Board.**	It is important the law to recognize the fact that the county governments can also undertake stock assessment based on their own initiative or authority.
54. Export of live fish.	54. (1) No person shall export any live fish from Kenya except in accordance with regulations.	Amend clause 54(1) to read as follows: **54. (1A) No person shall move any live fish from one fishery to another without a movement permit from the respective County Government.**	To provide for the regulation of movement of live fish by the County Governments within the country.
56. Promotion of fish production and marketing	56. The Director-General may, in consultation with Fish Marketing Authority, for the purposes of promotion of fish production and marketing—	Amend clause 56 to read as follows: **56. The County Executive Committee Member may, in consultation with Fish Marketing Authority, for the purposes of**	We opine that fish production and marketing should be the role of the respective County Government in collaboration with the fish marketing authority.

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	(a) enter into arrangements and agreements with registered associations or institutions for the management development and administration of fisheries, and (b) facilitate the of fish market management units and aquaculture production units.	**promotion of fish production and marketing—** **(a) enter into arrangements and agreements with registered associations or institutions for the management development and administration of fisheries, and** **(b) facilitate the establishment of fish market management units and aquaculture production units.**	
57. Competent authority.	57(2) The Cabinet Secretary shall establish a standing committee and a technical committee on Fish Quality and Safety. (3) The functions of the Committee shali be to— (a) monitor the production of fish products and fish feed with a view to assessing risks to humans; (b)regulate fish handling, landing, transportation, processing and marketing; (c) work in collaboration with other Government agencies in matters related to this section; (d)carry oAquaut inspection of operational fishery enterprises for compliance with fish safety regulations issued by the Cabinet Secretary; (e) lay down all procedures to be followed for	Amend by deleting sub-clause 57(2) and amend sub-clause 57(3) to read as follows: **(3) The County Executive Committee Member shall —** **(a) monitor the production of fish products and fish feed with a view to assessing risks to humans;** **(b)regulate fish handling, landing, transportation, processing and marketing;** **(c) work in collaboration with other Government agencies in matters related to this section;** **(d)carry out inspection of operational fishery enterprises for compliance with fish safety regulations issued by the Cabinet Secretary;** **(e) lay down all procedures to be followed for compliance with provisions under paragraph (f);** **(f) specify conditions for the placing on the market of fish, fish products and fish feed;** **(g)maintain a register of fishery enterprises in the county;** **(h) issue health certification of fish, fish products and fish feed**	The Council of Governors (COG) strongly opposes the creation of a Standing Committee and a Technical Committee on Fish Quality and Safety, as it is our position that these functions rightfully fall under the mandate of County Governments. The Constitution of Kenya and the devolved governance structure empower counties to manage local resources, including fisheries, and to ensure the quality and safety of fish products within their jurisdictions. The establishment of such committees at the national level would undermine the authority and responsibilities of County Governments in this sector. County Governments are best positioned to understand and address the specific

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	compliance with provisions under paragraph (f); (f)specify conditions for the placing on the market of fish, fish products and fish feed; (g) maintain a register of fishery enterprises approved by the competent authority.	**subject to the consignment meeting set requirements;** **(i)perform such other functions as may be necessary or expedient for food safety conditions of fish products in accordance with this Act.**	needs and challenges faced by their respective regions, including fish quality and safety concerns. We believe that further centralization of these functions would lead to duplication of efforts, inefficiencies, and unnecessary bureaucracy.
61. Aquaculture Development plan.	61. (1) The Director-General shall, in consultation with the Oceans and Fisheries Advisory Council, prepare an aquaculture development plan for the review and endorsement by the Board and approval by the Cabinet Secretary, with the objective of promoting the sustainable development of aquaculture in Kenya in accordance with the principles and objectives of this Act. (2) Any aquaculture development plan developed under subsection (1) shall be for duration of three years. (4) The first aquaculture development plan shall be prepared and submitted through the Board to the Cabinet Secretary for approval as soon as reasonably practicable and in any case within one year from the date on	Amend clause 61 to read as follows: **61. (1) The Cabinet Secretary shall, in consultation with the Service and County Governments, prepare a national aquaculture development plan for promoting the sustainable development of aquaculture in Kenya in accordance with the principles and objectives of this Act.** **(2) Any aquaculture development plan developed under subsection (1) shall be for duration of five years.** **(4) The Cabinet Secretary shall publish the aquaculture development plan in the Gazette.** **(5) Each County Government may develop a county aquaculture development plan taking into consideration the national development plan.**	We opine that these should be the role of the Cabinet Secretary as opposed to the Director General. We further opine that these should be done in consultation with the County Governments.

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	which this Act enters into force.		
62. Collaboration with Counties.	62. The Director-General shall, in collaboration with County authorities and relevant bodies, ensure that—	Amend to read as follows: **62. The Cabinet Secretary and County Governments shall, ensure that—**	To align to our proposals above
63. Prohibited to Deprive community of traditional access to fisheries.	63. (1) No person shall, by carrying out aquaculture activities, deprive a local community of its traditional access to fishing grounds without good cause and without first consulting the affected community.	Amend clause 64 to read as follows: **63. (1) A person carrying out aquaculture activities, shall undertake Environment & Social Impact Assessment commencing the activities**	To prescribe requirements for undertaking aquaculture activities including mandatory Environment & Social Impact Assessment.
64. County's responsibility to monitor non-commercial aquaculture activities	64 (2) Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government shall in consultation with the Cabinet Secretary, give notice in writing to the owner of the relevant waters requiring the destruction of all fish and fish products in the said waters or the taking of such other measures as the county government may specify in the notice. (3) Every person who receives a notice under	Amend clause 64(2) and (3) to read as follows: **64 (2) Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government, give notice in writing to the owner of the relevant waters requiring the destruction of all fish and fish products in the said waters or the taking of such other measures as the county government may specify in the notice.** **(3) Every person who receives a notice under subsection (2) shall comply with its requirements at her own expense, and in default of such compliance, the county government may enter the relevant facility and take or cause to be taken such measures**	To provide clarifications that this is the role of the respective county government.

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	subsection (2) shall comply with its requirements at her own expense, and in default of such compliance, the local fisheries authority may enter the relevant facility and take or cause to be taken such measures as may be necessary for	**as may be necessary for complying with the requirements of the notice and any expenses incurred shall be recoverable as a civil debt from the person so notified.**	
65. Permission of Director-General and approval by Board required.	65. (1) No person shall, without written permission granted by the Director-General on the advice of the Board—	Amend to read as follows: **65. (1) No person shall, without written permission granted by the Director-General on the advice of the Board <u>and respective County Government</u>—**	To provide for a process of involvement of the County Governments given that they are responsible for the respective fisheries.
67. Aquaculture waste	67. (1) Each person engaged in commercial aquaculture in Kenya shall ensure that aquaculture waste— (a) does not cause an unsightly or offensive condition at the licence area; and (b) is secured or treated in a manner designed to prevent it from being blown, washed or swept off the licence area. (2) Where any person fails or apparently fails to fulfil the conditions set out in subsection (1), the Director General, in consultation with the National Environmental Management Authority, may notify such person in writing of the requirement	Amend clause 67(2) to read as follows: **67(2) Where any person fails or apparently fails to fulfil the conditions set out in subsection (1), the <u>County Director,</u> in consultation with the National Environmental Management Authority, may notify such person in writing of the requirement to take measures to restore the applicable area to such standard as the <u>County Director</u> may specify within a stated period of time, and may upon inspection require such person to redesign the applicable area.** **(3) Each person who is notified by the <u>County Director</u> pursuant to subsection (2) shall promptly fulfil the requirements set out in the notification**	To ensure clarity, it is recommended that the responsibility for managing aquaculture waste be explicitly assigned to the respective County Governments.

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	to take measures to restore the applicable area to such standard as the Director-General may specify within a stated period of time, and may upon inspection require such person to redesign the applicable area. (3) Each person who is notified by the Director General pursuant to subsection (2) shall promptly fulfil the requirements set out in the notification		
69. Escapement	68(3) Each person engaged in commercial aquaculture in Kenya shall, within twelve hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility over which the person exercises management or control or to other equipment, that may lead to the escape of hatchery reared aquaculture stock, notify the Director-General of the escape or damage, including the following— (a) the species of fish affected; (b)the date (or an estimate of the date) on which the escape or damage took place; © the number and biomass (or an estimate of the number and biomass)	Amend by deleting the words "**Director General"** and replacing with the words "**County Director"** whenever it appears in clause 68(3) and (4) to read as follows; **68(3) Each person engaged in commercial aquaculture in Kenya shall, within twelve hours after becoming aware of the escape of hatchery reared aquaculture stock or damage to a farming structure in relation to a facility over which the person exercises management or control or to other equipment, that may lead to the escape of hatchery reared aquaculture stock, notify the <u>County Director</u> of the escape or damage, including the following—** **(a) the species of fish affected;** **(b)the date (or an estimate of the date) on which the escape or damage took place;** **©the number and biomass (or an estimate of the number and**	The Council of Governors asserts that the regulation of fish escapements from aquaculture operations should be the responsibility of the respective County Governments. County Governments are best positioned to manage and oversee local aquaculture activities, ensuring that any potential environmental impacts, including fish escapements, are effectively controlled in line with regional needs and conditions. This approach aligns with the principles of devolution, which emphasize local governance and management of natural resources.

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	of the fish that have escaped; and (d) the age or developmental stage of the fish at the time of their escape and details of the circumstances in which the escape or damage took place, and, within seven days after becoming aware of such escape or damage, notify the Director-General in writing of the action taken to deal with it.	**biomass) of the fish that have escaped;** **and** **(d) the age or developmental stage of the fish at the time of their escape and details of the circumstances in which the escape or damage took place, and, within seven days after becoming aware of such escape or damage, notify the County Director in writing of the action taken to deal with it.**	
69. Use of drug, chemical, etc. restricted	69. (1) No person shall use in a commercial aquaculture establishment any drug, pharmaceutical, antibiotic or other chemical for the treatment of fish diseases or for the enhancement of fish growth without the written approval of the Director-General.	Amend clause 70 to read as follows: **69. (1) No person shall use in a commercial aquaculture establishment any drug, pharmaceutical, antibiotic or other chemical for the treatment of fish diseases or for the enhancement of fish growth without the written approval of the County Director.**	To align to the provisions of the Fourth Schedule to the Constitution which has devolved Agriculture including animal disease control; and fisheries are functions to counties.
73. Regulations for Aquaculture	73. (1) The Cabinet Secretary may make regulations the better carrying out of the provisions of this Act.	Amend to read as follows: **73. (1) The Cabinet Secretary may, in consultation with County Governments, make regulations the better carrying out of the provisions of this Act.**	To provide for a consultative process between the National and county governments in the regulatory making process.
74. Information, data and records	74.(1) The Director-General may, for purposes of this Act, require any person to keep and furnish in such manner and form and at such time as the Director may specify—	Amend by introducing the words **"or County Director"** immediately after the words "**Director General**" whenever it appears to read as follows: **74.(1) The Director-General or County Director as the case may be, may, for purposes of this Act, require any person to keep and**	To recognize the role of the County Director in requiring information under the Act.

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		furnish in such manner and form and at such time as the Director may specify—	
79. Confidential information	79. (1) No person carrying out duties or responsibilities under this Act, including the Cabinet Secretary, Board members and Director-General shall, unless authorized or otherwise provided or directed in accordance with this Act, reveal information or other data of a confidential nature or designated as confidential in accordance with this Act, acquired by virtue of their said authority, duties and responsibilities to any person not having such authority or carrying out such duties and responsibilities. (2) The Cabinet Secretary in consultation with the Director-General may designate any information as confidential, and in doing so may also exempt general summaries of aggregated information from confidentiality requirements. (3) The Director-General may authorise in writing any person to—	Amend clause 79 to read as follows: **79. (1) No person carrying out duties or responsibilities under this Act shall, unless authorized or otherwise provided or directed in accordance with this Act, reveal information or other data of a confidential nature or designated as confidential in accordance with this Act, acquired by virtue of their said authority, duties and responsibilities to any person not having such authority or carrying out such duties and responsibilities.** **(2) The Cabinet Secretary or <u>County Executive Committee Member</u> in consultation with the Director-General <u>or County Director as the case may be</u>, may designate any information as confidential, and in doing so may also exempt general summaries of aggregated information from confidentiality requirements.** **(3) The <u>Director-General or County Director</u> may authorise in writing any person to—**	To provide for the role of the County Governments in handling confidential information

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80A. Registers of licences and authorizations.	**Insert New Clause:**	**80(A)The County Director shall establish and maintain a County register of licences and authorizations issued under this Act in accordance with such requirements as may be prescribed or required by the Cabinet Secretary.** (2) **The register established under subsection (1) shall include —** **(a) information on applications for licences and authorizations under this Act;** **(b) information on each licence and authorization issued, renewed, suspended or cancelled under this Act, including the activity, date and duration;** **(c) information on each licensed or authorized person;** **(d) information on the relevant vessel, facility, and/or licensed or authorized activity;** **(e) any record of non-compliance with the licence or authorization;** **(f) any record of action taken as a result of non such other information that may be prescribed or required by the County Director.**	County Governments also need to have in place a register of licenses and authorizations.
81. Information on legal and administrative action taken in	81. The Director-General shall maintain and make publicly available a record of the outcome of any legal or administrative action taken in respect of	Amend clause 81 to read as follows: **81. The Director-General or County Director shall maintain and make publicly available a**	To recognize the role of the County Director in managing information under the Act.

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respect of violations of the Act.	any violation against this Act that results in a judgment or administrative determination.	**record of the outcome of any legal or administrative action taken in respect of any violation against this Act that results in a judgment or administrative determination.**	
82. Information available to public	82. The Director-General shall make information available to the public and as necessary disseminate relevant information to stakeholders for purposes of fisheries conservation, management and development, including regional and international organizations, except for such information that may be designated confidential in accordance with section 82.	Amend to read as follows: **82. The <u>Director-General and County Director</u> shall make information available to the public and as necessary disseminate relevant information to stakeholders for purposes of fisheries conservation, management and development, including regional and international organizations, except for such information that may be designated confidential in accordance with section 82.**	To recognize the role of the County Director in managing information under the Act.
83. Licences and authorizations required	83 (2) The respective county governments shall be responsible for issuing licenses with respect to using any vessel for recreational fishing in the Kenya fishery waters. (3) The Cabinet Secretary shall prescribe the standards for the registration of vessels and grant, renewal and revocation of licences by a county government under subsection (2).	Amend clause 83(2) and (3) to read as follows: 83 (2) The respective county governments shall be responsible for issuing licenses with respect to — **<u>(a) using any vessel for recreational fishing in the Kenya fishery waters.</u>** **<u>(b) using an artisanal fishing vessel for commercial purposes;</u>** **<u>(c)commercial aquaculture; and</u>** **<u>(e) ornamental fishing</u>** **<u>(3) The Cabinet Secretary shall in consultation with the Council of County Governors, prescribe the standards for the registration of vessels and grant, renewal and revocation of licences by a county government under subsection (2).</u>**	To conform with the provisions of the Fourth Schedule to the Constitution which has devolved trade licenses and fisheries to the County Governments

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84. Subsistence exemption from licence requirements	84 (2) The Cabinet Secretary may by order published in the Gazette determine the quantity of fish which may be deemed to be fish for own consumption under subsection (1), and different quantities may be determined for different areas of Kenya.	Amend to read as follows: **84 (2) The Cabinet Secretary may <u>after consultation with the respective County Government and</u> by order published in the Gazette determine the quantity of fish which may be deemed to be fish for own consumption under subsection (1), and different quantities may be determined for different areas of Kenya.**	To provide for a consultative process with the respective County Government.
85(3) Grant, renewal and issuance of licences nd authorizations	85(3) The Director-General shall, in approving or renewing a licence under subsection (1), act in accordance with the procedures required pursuant to this Act and such other transparent and accountable standards as may be determined and published.	Amend to read as follows: **The Director-General or <u>County Director</u> shall, in approving or renewing a licence under subsection (1), act in accordance with the procedures required pursuant to this Act and such other transparent and accountable standards as may be determined and published.**	There is need to provide for the County Director to be able to exercise simila powers at the county level.
92. Fees, charges or levies	92.(1) A licence or authorization granted under this Act shall be subject to payment of— (a)such licence fee prescribed for that class of licence as may be prescribed; and (b)such other fees, charges or levies as are set out in this Act, or as may be prescribed or required by the Director-General by public notice	Amend clause 92 by including the words **"or County Government"** immediately after the words **"Director General"** whenever it appears to read as follows: **92.(1) A licence or authorization granted under this Act shall be subject to payment of—** **(a)such licence fee prescribed for that class of licence as may be prescribed; and** **(b)such other fees, charges or levies as are set out in this Act, or as may be prescribed or required by the Director-General <u>or County Government</u> by public notice**	To recognize the role of the County Governments to charge fees and other charges in the fisheries sector.

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93. Suspension or cancellation of licence or authorization	93. (1) The Director-General may, by written notice to the holder of a licence or authorization or that person's agent, suspend or cancel any licence or authorization issued pursuant to this Act for any of the following reasons—	Amend to read as follows: **93. (1) The Director-General or County Director may, by written notice to the holder of a licence or authorization or that person's agent, suspend or cancel any licence or authorization issued pursuant to this Act for any of the following reasons—**	To provide for the role of the County Governments in suspension or cancellation of licenses
96(A). Right of appeal	Insert New Clause:	The New Clause to read as follows: **An applicant for a licence who is aggrieved by a decision not to grant or renew any licence or authorization under this Act, or to a person who holds a licence or authorization who is aggrieved by a decision to suspend or cancel such licence or authorization may appeal to the County Directorate within thirty days of receiving notification of such decision, and may further appeal to the County Executive Committee Member within thirty days of receiving notification of the Directorate's decision.**	To provide for the right of appeal at the county level.
102. Registration of artisanal fishing vessels.	102. (1) No person shall use an artisanal fishing vessel for fishing in the Kenya fishery waters without— (a) a valid and applicable registration number; and (b) displaying such registration number in accordance with the requirements in such form as may be prescribed. (2) The owner of each artisanal fishing vessel shall apply for a	Amend to read as follows: **102. (1) No person shall use an artisanal fishing vessel for fishing in the Kenya fishery waters without— (a) a valid and applicable registration number; and (b) displaying such registration number in accordance with the requirements in such form as may be prescribed. (2) The owner of each artisanal fishing vessel shall apply for a registration number on such**	Registration of artisanal fishing vessels should be regulated by the respective County Governments.

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	registration number on such form as may be prescribed or as the Director-General may require	**form as may be prescribed or as the County Director may require**	
103(7) Registration of Vessels	103 (7) In any judicial or administrative proceedings brought under this Act, the entry in respect of a vessel in the Register of Fishing Vessels, or any other register maintained by the Director-General under this section, shall be *prima face* evidence of the ownership of the vessel.	Amend to read as follows: **In any judicial or administrative proceedings brought under this Act, the entry in respect of a vessel in the Register of Fishing Vessels, or any other register maintained by the Director-General or County Director under this section, shall be *prima face* evidence of the ownership of the vessel.**	Counties should as a matter of law and procedure put in place a register of vessels operating within their areas of domain.
105. Conditions for recreational fishing vessels	105. (1) Licences issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions— (a)!the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the Director-General. (b)on receipt of an application for registration of a recreational fishing vessel, the Director-General, shall as soon as practicable, cause the vessel to which the application refers to be inspected, and	Amend to read as follows: **105. (1) Licences issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions—** **(a)the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the County Director.** **(b)on receipt of an application for registration of a recreational fishing vessel, the County Director shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if, upon such inspection, the vessel is found to be fit for fishing and meets the**	The Council of Governors maintains that the regulation of recreational fishing, including the registration of vessels used for such activities, should be undertaken by the respective County Governments. County Governments are better equipped to oversee and manage recreational fishing within their jurisdictions, ensuring compliance with local regulations and promoting sustainable use of aquatic resources. This responsibility aligns with the principles of devolution, allowing for effective governance and management at the local level.

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	if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the Director-General shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration; and (c)such other requirements as may be prescribed or required by the Director-General.	**prescribed safety standards, the County Director shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration; and** **(c)such other requirements as may be prescribed or required by the County Director.**	
107. Deployment and maintenance of a fish aggregating device.	107. (1) No person shall deploy or maintain a fish aggregating device in the Kenya fishery waters except with the authorization by the Director-General and in accordance with such conditions as the Director-General may specify or as are otherwise specified in this Act	Amend clause 108 to read as follows: **107. (1) No person shall deploy or maintain a fish aggregating device in the Kenya fishery waters except with the authorization by the Director-General and in accordance with such conditions as the Director-General may specify in consultation with the respective County Government or as are otherwise specified in this Act**	To provide for consultation with the respective County Government
108. Designated fish aggregating device	108 (2) Subject to subsection (3), no person shall fish within a radius of one nautical mile from a designated fish aggregating device except with the permission of the Director-General and in accordance with such conditions as he/she may specify.	Amend clause 108(2) to read as follows: **109 (2) Subject to subsection (3), no person shall fish within a radius of one nautical mile from a designated fish aggregating device except with the permission of the Director-General and in accordance with such conditions as he/she may specify.**	To provide for consultation with the respective County Government

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
		(2A) The Director General shall consult the respective county government before issuing the permission stipulated under subsection 2.	
111. Conditions for fish processing licence	111. (1) Each licence to operate a fish processing establishment shall be subject to the following conditions in addition to any other conditions required pursuant to this Act—	Amend clause 111(1) to read as follows; **<u>111. (1) Each licence to operate a fish processing establishment shall be issued by the respective county government subject to the following conditions in addition to any other conditions required pursuant to this Act—</u>**	To clarify, the respective County Governments shall be responsible for issuing fish processing licenses in accordance with the conditions set forth in the Act. Trade regulation, including the issuance o trade licenses, is a fully devolved function under the Fourth Schedule of the Constitution.
114. Returns	114 (1) For purposes of fishery conservation and management, the Director-General may require data returns from the sellers or buyers of such species during such periods including information relating to the - (2) Any person to whom a request for data returns is made by the Director-General pursuant to subsection (1) shall promptly furnish such information.	Amend to read as follows: **114 (1) For purposes of fishery conservation and management, the Director-General or <u>County Director</u> may require data returns from the sellers or buyers of such species during such periods including information relating to the -** **(2) Any person to whom a request for data returns is made by the Director-General or <u>County Director</u> pursuant to subsection (1) shall promptly furnish such information.**	To provide for the powers of the County Director to require for data as the circumstances may warrant or require.
115. Establishment and operation of aquaculture.	115(1) No person shall establish or operate a commercial aquaculture establishment otherwise than under the authority of, and in accordance with the conditions of, an aquaculture licence	Amend clause 115(1) and (3) to read as follows: **<u>115(1) No person shall establish or operate a commercial aquaculture establishment otherwise than under the authority of, and in accordance</u>**	Regulation of aquaculture is a function of the County Governments, as it falls within the devolved mandates outlined in the Constitution. County Governments are responsible for overseeing

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	granted by the Director-General under section 122. (3) This section shall apply to such aquaculture establishments as the Director-General may by notice in the Gazette, prescribe	**with the conditions of, an aquaculture licence granted by the County Executive Committee Member under this Act.** **(3) This section shall apply to such aquaculture establishments as the County Executive Committee Member may by notice in the Gazette, prescribe.**	and managing aquaculture activities within their jurisdictions, ensuring compliance with relevant regulations and promoting sustainable practices.
116. Registration of Aquaculture Establishment, notice of transfer	116. (1) The owner or lessee of an aquaculture establishment shall register such establishment with the Director-General and shall, for the purposes of the registration, provide to the Director-General— (2) A person who is a buyer or transferee of an aquaculture establishment shall, within fourteen days after the sale or transfer, give notice of the sale or transfer to the Director-General.	Amend clause 116 to read as follows: **116. (1) The owner or lessee of an aquaculture establishment shall register such establishment with the County Executive Committee Member and shall, for the purposes of the registration, provide to the County Executive Committee Member —** **(2) A person who is a buyer or transferee of an aquaculture establishment shall, within fourteen days after the sale or transfer, give notice of the sale or transfer to the County Executive Committee Member —.**	
117. Aquaculture permits.	117. (1) An application for an aquaculture permit shall be made to the Director-General in the prescribed form. (3) An aquaculture permit shall not be transferred without the prior written consent of the Director-General. (2) An aquaculture permit shall—	Amend clause 118 to read as follows: **117. (1) An application for an aquaculture permit shall be made to the County Executive Committee Member in the prescribed form.** **(2) An aquaculture permit shall—** **(a)...** **(b)be subject to such conditions as appear to the County Executive Committee Member to**	

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	(a)confer on the holder exclusive rights to harvest the products of the aquaculture establishment within the area specified in the permit; (b)be subject to such conditions as appear to the Director-General to be necessary or expedient for the regulation of aquaculture, the management of fisheries or for the economic benefit of Kenya and, without prejudice to the generality of the foregoing, may contain conditions relating to- (4) The Director-General may approve the application subject to the applicant being granted, where applicable, an environment impact assessment licence under the Environmental Management and Co-ordination Act, 1999.	**be necessary or expedient for the regulation of aquaculture, the management of fisheries or for the economic benefit of Kenya and, without prejudice to the generality of the foregoing, may contain conditions relating to-** **(3) An aquaculture permit shall not be transferred without the prior written consent of the <u>County Executive Committee Member</u>** **(4) The <u>County Executive Committee Member</u> may approve the application subject to the applicant being granted, where applicable, an environment impact assessment licence under the Environmental Management and Co-ordination Act, 1999.**	
118	118. (1) An application for an aquaculture licence shall be made to the Director-General in such form as may be prescribed or required by the Director-General and be accompanied by such documents and information as the Director-General may require, including proof that the applicant is legally	Amend clauses 118, 119 and 12 by deleting the words **"Director General"** and replacing the words **"<u>County Executive Committee Member"</u>** whenever it appears to read as follows: **119. (1) An application for an aquaculture licence shall be made to the <u>County Executive Committee Member</u> in such form as may be prescribed or required by the <u>County Executive</u>**	To align to our proposals above

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	entitled to use the land or other area designated as the proposed site. (2) After receipt of an application pursuant to subsection (1), the Director-General shall ensure that any relevant environmental standards for the proposed aquaculture project are being met, including requirements for siting, emissions and other relevant matters under the Environment Management and Coordination Act, and may, in consultation with the relevant County, determine whether the applicant is required to submit an environmental assessment of the proposed aquaculture project.	**Committee Member and be accompanied by such documents and information as County Executive Committee Member may require, including proof that the applicant is legally entitled to use the land or other area designated as the proposed site.** **(2) After receipt of an application pursuant to subsection (1), the County Executive Committee Member shall ensure that any relevant environmental standards for the proposed aquaculture project are being met, including requirements for siting, emissions and other relevant matters under the Environment Management and Coordination Act,** determine whether the applicant is required to submit an environmental assessment of the proposed aquaculture project.	
121. Conditions for aquaculture licences	121. (1) The period of validity of each commercial aquaculture licence shall not exceed ten years, and shall be subject to renewal on an annual basis. (2) The Director-General may issue an aquaculture licence subject to any conditions the Director considers appropriate, including conditions relating to—	Amend to read as follows: **121. (1) The period of validity of each commercial aquaculture licence shall not exceed ten years, and shall be subject to a compliance review on an annual basis.** **(2) The County Executive Committee Member may issue an aquaculture licence subject to any conditions the County Executive Committee Member considers appropriate, including conditions relating to —**	There is need to be clear that the aquaculture licenses shall be subject to compliance review annually, over the license period.

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
143 (3). Seizure of vessels, etc.	143 (3) Anything seized pursuant to subsection (1) shall be delivered into the custody of the Director-General.	**143 (3) Anything seized pursuant to subsection (1) shall be delivered into the custody of the Director-General or County Director.**	To provide for the powers of the County Director as regards seizures.
147. Appointment of, and identification by inspectors and observers.	**147.** (1) The Director-General may, in writing, appoint - 148(1)(b) observers for purposes of the observer programme established under section 147, in accordance with such standards and procedures as may be prescribed or approved by the Board.	**147. (1) The Director-General or County Director may, in writing, appoint –** **148(1)(b) observers for purposes of the observer programme established under section 147, in accordance with such standards and procedures as may be prescribed or approved by the Board or the County Director.**	To provide for the powers of the County Director as regards the appointment of and identification by inspectors and observers.
153 (1) Protection of authorized persons from liability	153 (1) No liability shall attach to the Service and its officers, employees or other persons acting under the authority of the Service, including persons with delegated authority and any person assisting an authorized officer pursuant to section 19, for any damage sustained by any person as a result of any act or omission done or made in good faith in performance of their duties under this Act or any other law relating to fisheries.	**153 (1) No liability shall attach to the Service or the County Government and their officers, employees or other persons acting under the authority of the Service or County Government, including persons with delegated authority and any person assisting an authorized officer pursuant to section 19, for any damage sustained by any person as a result of any act or omission done or made in good faith in performance of their duties under this Act or any other law relating to fisheries.**	Provide for similar powers of the County Governments at the county level.
154. Insurance	**154.** The Service shall ensure full group insurance coverage for all authorized persons.	**Amend to read as follows:** **The Service or County Government shall ensure full group insurance coverage for all authorized persons.**	As above.
166. Disposal of perishable items.	166. (1) Any fish or fish products seized by an authorized officer under this Act may, at the	**166. (1) Any fish or fish products seized by an authorized officer under this Act may, at the direction of the Director-General**	Provide for the powers of the County Director to exercise similar powers but at the county level.

CLAUSE OF THE BILL	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	direction of the Director-General, be sold and the proceeds of the sale held and dealt with pursuant to this Act.	**or County Director, be sold and the proceeds of the sale held and dealt with pursuant to this Act.**	
200. Functions of the Fish Marketing Authority.	200. The functions of the Fish Marketing Authority shall be to	**The functions of the Fish Marketing Authority, in collaboration with the County Governments, shall be to;**	It is legally prudent and justifiable for the Fish Marketing Authority to collaborate with the County Governments in the exercise of its functions.
201. Board of Directors	201(1)(f). There shall be a Board of Directors of the Fish Marketing Authority which shall consists of - one person, who has knowledge and experience in matters relating to fisheries, nominated by the Council of Governors; 201 (6) The members of the Board of Directors shall be paid remuneration and allowances determined by the Cabinet Secretary, in consultation with the Cabinet Secretary responsible for matters relating to finance.	**201(1)(f). There shall be a Board of Directors of the Fish Marketing Authority which shall consists of - two persons, who have knowledge and experience in matters relating to fisheries, nominated by the Council of Governors;** **201 (6) The members of the Board of Directors shall be paid remuneration and allowances determined by the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission.**	For fairness in representation and also taking into account the place and position of County Government in matters relating to fisheries, it is important that the number of representatives from the Council of Governors be enhanced to two. Remuneration is a constitutional function of the Salaries and Remuneration Commission.
208. Regulations.	**208.** (1) The Cabinet Secretary may make regulations for the better carrying into effect of the provisions of this Act.	**The Cabinet Secretary, in consultation with the County Governments, may make regulations for the better carrying into effect of the provisions of this Act.**	The involvement of the County Government in the formulation of the regulations shall go a long way in the implementation of the Act including the realization of its objectives being that fisheries is a devolved function.

ANNEX 6:

SUBMISSIONS BY THE STATE DEPARTMENT FOR BLUE ECONOMY AND FISHERIES

Annex 1



REPUBLIC OF KENYA

REMARKS ON THE LEGISLATIVE MEMORANDUM FOR THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 29 OF 2023)

FROM

MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS THROUGH THE STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

TO

THE CLERK OF THE NATIONAL ASSEMBLY

Introduction

The Ministry of Mining, Blue Economy and Maritime Affairs through the State Department for the Blue Economy & Fisheries is in receipt of an invitation to submit memoranda on the Fisheries Management and Development Bill [National Assembly Bill No. 29 of 2023]. It is understood that the Bill has been read for the first time and referred to the Department Committee on Blue Economy, Water and Irrigation for consideration and reporting to the House. Further, it is noted that the Bill is being subjected to further submission of comments from the State Department and the Council of Governors.

Previously, in March 2025 the State Department submitted their comments and inter alia cited the provisions of the Constitution of Kenya 2010, specifically, Article 62 on the definition of public land which provides that the following lands have been rendered National Government Land: -

62. (1) (i) all rivers, lakes and other water bodies as defined by an Act of Parliament;
62.(1) (j) the territorial sea, the exclusive economic zone and the sea bed;
62.(1)(k) the continental shelf;
62 (1) (l) all land between the high and low water marks;

The Constitution provides that the activities being conducted within the above-mentioned Kenya's Fishery Waters are well within the Jurisdiction of the National Government. This is expressly provided for under Article 62 (3) which provides that: -
"Public land classified under clause (1) (f) to (m) shall vest in and be held by the national government in trust for the people of Kenya and shall be administered on their behalf by the National Land Commission".

The Constitution in Article 69 has granted the National Government the mandate to protect the environment. The said Article provides as follows: -

Obligations in respect of the environment

69 (1) The State shall—

(i) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;
(ii) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;
(iii) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;
(iv) encourage public participation in the management, protection and conservation of the environment;
(v) protect genetic resources and biological diversity;
(vi) establish systems of environmental impact assessment, environmental audit and monitoring of the environment;
(vii) eliminate processes and activities that are likely to endanger the environment; and
(viii) utilise the environment and natural resources for the benefit of the people of Kenya.

Similarly, the Constitution has expressly provided in the fourth schedule part 1 (2) and part 1 (22) that it is the National Government's function to use International waters and Water resources and to protect the environment. The fourth Schedule

part 1 (22) provides further that it is the National Government's function to protect the environment. That part provides as follows: -

''Protection of the environment and natural resources with a view to establishing a durable and sustainable system of development, including, in particular—

(a) fishing, hunting and gathering;

(b) protection of animals and wildlife;

(c) water protection, securing sufficient residual water, hydraulic engineering and the safety of dams; and

(d) energy policy.''

Similarly, the Constitution in its Article 191 provides for conflict of laws especially between the National Legislation and County Legislation. The said article provides as follows: -

Conflict of laws

191. (1) This Article applies to conflicts between national and county legislation in respect of matters falling within the concurrent jurisdiction of both levels of government.

(2) National legislation prevails over county legislation if—
- *(a) the national legislation applies uniformly throughout Kenya and any of the conditions specified in clause (3) is satisfied; or*
- *(b) the national legislation is aimed at preventing unreasonable action by a county that—*
  - *(i) is prejudicial to the economic, health or security interests of Kenya or another county; or*
  - *(ii) impedes the implementation of national economic policy.*

(3) The following are the conditions referred to in clause (2)(a)—
- *(a) the national legislation provides for a matter that cannot be regulated effectively by legislation enacted by the individual counties;*
- *(b) the national legislation provides for a matter that, to be dealt with effectively, requires uniformity across the nation, and the national legislation provides that uniformity by establishing—*
  - *(i) norms and standards; or*
  - *(ii) **national policies;** or*
- *(c) the national legislation is necessary for—*
  - *(i) the maintenance of national security;*
  - *(ii) the maintenance of economic unity;*
  - *(iii) the protection of the common market in respect of the mobility of goods, services, capital and labour;*
  - *(iv) the promotion of economic activities across county boundaries;*
  - *(v) the promotion of equal opportunity or equal access to government services; or*
  - ***(vi) the protection of the environment.***

The Ministry is concerned with Articles 191 (3) (b) (ii) and 191 (3) (c) (vi) which have been highlighted in bold above.

The Committee is therefore invited and requested to note these provisions of the Constitution in the development of the Fisheries Management and Development Bill [National Assembly Bill No. 29 of 2023]. It is further the Ministry's submission that the Blue Economy and Fisheries sector must at all times be effectively regulated as non-regulation shall put the sector to anarchy. The Act has provided for the Kenya Fisheries Service as a regulator.

The Ministry on the 4th May, 2023 vide a letter Ref No. MMBE&MA/SDBE&F/VOL. sought the legal advisory of the Office of the Attorney General. The Attorney General's Office vide a letter Ref No. 589/2/27 Vol.II provided their advisory which is hereby attached for reference. The Ministry has further made a proposal for the establishment of Kenya Marine Fisheries Research Institute (KMFRI) with the sole object of conducting research in order to generate scientific data and information in "marine and freshwater fisheries, aquaculture, socioeconomics, environmental and ecological studies, and marine research including chemical and physical oceanography and hydrography, marine geology, minerology, bio-prospecting, and energy, for sustainable development of the blue economy, among others. See attached proposal for the establishment of KMFRI in the attached matrix.

The Ministry wishes therefore to present its proposals and submissions vide the herein below table/matrix.

MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS

STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

PROPOSALS FOR CONSIDERATION IN THE PROPOSED DRAFT FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2023

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
In the entire FMDA		Choose whether to use "he", "himself", and "his" or "he or she", "himself or herself", and "his or her" and harmonize throughout the entire FMDA.	Consistency. -Parliamentary legal unit to guide.
Clause 2 Interpretation	**"Subsistence fishing"** means harvesting fish as a source of food for a person's consumption or their dependants and not for sale or barter; **"Subsistence fishing"** means local or non-commercial fisheries, oriented not primarily for recreation but for the procurement of fish for consumption by the fishers, their families and community	Amend the definition of "subsistence fishing" as follows: **"Subsistence fishing"** means local or non-commercial fisheries, oriented not primarily for recreation but for sourcing of fish for consumption by the fishers, their families and community; Delete one of the repeated definitions of Subsistence farming in the Bill.	Refine the definition to properly distinguish between fishing as a commercial enterprise and fishing for one's own consumption.
		Insert a definition of "Marine park" as follows: **"Marine park"** means any park or reserve covering the area of intertidal or subtidal terrain, together with its overlying water and associated flora, fauna, historical and cultural features, which has been reserved by law, and includes any dry land found within the gazette boundary. (Wildlife Conservation and Management Act, Cap 376).	
		The following definitions are to be added and clause 135 (6) deleted: **"Monitoring"** means the collection, measurement and analysis of fishing activity including, but not limited to catch, species composition, fishing effort, bycatch, discards, area of operations. **"Control"** means the specification of the terms and conditions under which resources can be harvested.	For alignment with international standards and best practices. This is expanded to cater for operational efficiency and include authorization beyond Kenya's

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
		"Surveillance" means the checking and supervision of fishing activity to ensure that national legislation and terms, conditions of access and management measures are observed.	jurisdiction during MCS operations.
	"**transshipment**" means transferring fish or fish products to or from any vessel, whether or not the fish or fish products have first been taken on board the vessel from which the fish is passed;	Replace the definition of "transshipment" with the following: **"transshipment"** means the direct transfer of any quantity of fish onboard from one vessel to another vessel regardless of the location of the event, without the fish being recorded as landed.	To align with international best practices and give more clarity.
		Include a definition of "commercial fishing" as below: "**commercial fishing"** means fishing for sale, barter, or trade.	The term "commercial fishing" has been used in the Bill but no definition has been provided in the definition section.
	"**foreign fishing vessel**" means any fishing vessel other than a Kenya fishing vessel and includes any support vessel, notwithstanding that the vessel may be registered or licensed or required to be registered or licensed in Kenya pursuant to this Act or under the Merchant Shipping Act and Kenya Maritime Act;	Substitute the definition of "Foreign fishing vessel" with the following: **"Foreign fishing vessel"** means a fishing vessel not registered in Kenya.	To give more clarity
	"Board" means the Fisheries Service Board established by section 10;	Amend the definition to: **"Board"** means the board of directors of the Service established by section 10;	To align with other defined terms in the Bill.
	"**Board of Directors**" means the Board of Directors of the Fish Marketing Authority established under section 201.	Delete the definition of "Board of Directors"	To align with the Cabinet directive to dissolve the Fish Marketing Authority

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	"**territorial waters**" shall have the meaning assigned to it under the Maritime Zones Act, and includes the territorial sea	Substitute the definition of "Territorial waters" with the following: **"territorial waters"** shall have the meaning assigned to it under the Maritime Zones Act, Cap. 371 Change all references of "**territorial sea**" in the Act to "**territorial waters**".	The Bill defines Territorial Waters but Territorial sea is then used throughout the Act but not "**territorial waters**" **"territorial waters"** shall have the meaning assigned to it under the Maritime Zones Act, Cap. 371
		"Exclusive Economic Zone" shall have the same meaning as assigned to it under the Maritime Zones Act Cap. 371.	Add as part of the definitions as the term is used throughout the Bill but not defined (for example in clauses 127 (5), 162 (3) and 208 (2) (l))
	"**Authority**" means the Fish Marketing Authority established by section 198;	Delete the definition of 'Authority'.	To align with the Cabinet directive to dissolve the Fish Marketing Authority

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
		Insert the following definitions **"Fish Inspector"** is any person appointed for purposes of inspections in fish safety and quality or aquaculture activities or Monitoring, Control and Surveillance under the Bill. **"Observer"** is any person appointed under clause 147 (1) (b) of the Bill. **"Authorization"** means any authorization issued under clause 83(5) Insert definition of Fishing Licence. **"Fishing Licence"** is any licence granted under clause 83 of the Bill.	For Clarity. For Clarity.
	"authorized officer" means a a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 18;	Amend to read as follows: "authorized officer" means a fisheries officer, **fish inspector**, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 18;	To include a fish inspector as an authorized officer.
Clause 4. Application		Clause 4 appears twice in the proposed bill, causing a disruption in the numbering sequence.	Revise the numbering to reflect the true position.
Clause 5 Establishment of Kenya Fisheries Advisory Council	Establishment of the Kenya Fisheries Advisory Council.	Delete the entire part creating the Fisheries Advisory Council	This Council is no longer needed as there is now a State Department dedicated to blue economy which was not the case when the FMDA 2016 was passed.

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Clause 8 Functions of the service	8. The functions of the Service shall be to— (b) formulate and monitor the implementation of policies regarding the conservation, management and utilization of all fisheries resources within the scope of this Act; (k) act on behalf of the government, subject to the Treaty Making and Ratification Act, 2013 in relation to any domestic or international agreement relating to fishing, fishing related activities or any matter falling within the scope of this Act, to which Kenya is or may become a party; (p) facilitate investment in commercial fisheries, in collaboration with relevant agencies, persons or bodies, including Government departments; (r) identify and promote construction of any works deemed necessary for the sustainable development and economic utilization of fisheries resources; (s) in collaboration with county government and the Fish Marketing Authority established under section 201, identify opportunities and promote all aspects of fisheries marketing; (t) arrange and enter into joint ventures or any other forms of investment arrangement for purposes of performing any of its functions;	Delete the functions under Clause 8(b), (k), (r) (s) and (t) from the Act as functions of the Service and Kenya Fish Marketing Authority and move them to the new clause on the functions of the Ministry. Amend following sub-clauses of clause 8 as follows: (p) Replace the word "facilitate" with "promote".	These are the functions of the Ministry responsible for blue economy and fisheries.

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Clause 12 Termination of appointment as a member of the Board.		Rename to 'Vacation of office'	For consistency
Clause 14 Appointment of the Director - General.	14. (1) There shall be a Director-General of the Service who shall be competitively recruited by the Board openly and transparently, and on such terms and conditions as may be specified in the instrument of appointment. (2) A person shall be qualified to be appointed under subclause (1) if such person holds an advanced degree from a recognized university in- (a) natural resource or environmental management, or science. (b) fisheries studies, including fisheries governance, management. development or science (c) aquatic science; or (d) any other related field, and has at least ten years' experience in a senior management position in a public institution.	Amend clause 14 (2) as follows: (2) A person shall be qualified to be appointed under subclause (1) if such person holds a postgraduate degree from a recognized university in either- a) natural resource or environmental management, or science. b) fisheries studies, including fisheries governance, management. development or science c) aquatic science; or d) any other related field, and has at least ten years' experience in a senior management position in a public or private institution.	To make the provision less rigid to ensure that the best available candidate can be recruited for the position
Clause 15	15 (2) Without prejudice to the generality of the foregoing, the Director-General shall— (d) collaborate with the Fish Marketing Authority established under section 204 and other agencies to identify marketing	Delete Clause 15 (2) (d).	Clause 15 (2) (d) refers to the Fish Marketing Authority which is to be dissolved under the directive from the Cabinet and the functions of the Fish Marketing Authority

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	and investment opportunities for the fisheries sector;		have been transferred to the State Department.
Clause 17 Authorized Officer.	17. The Cabinet Secretary may, in consultation with the Director-General, by notice in the Gazette appoint a person **to an** authorized officer for purposes of this Act.	Substitute Clause 17 with the following: 17. The Cabinet Secretary may, on the recommendation of the Director- General, by notice in the Gazette appoint a person **to be an** authorized officer for purposes of this Act.	Correcting a typographical error in the clause. Changing 'in consultation with' to 'on the recommendation of'.
Clause 18 Honorary fisheries officers.	18. (1) The Director-General may, with the approval of the Board, by notice in the Gazette appoint suitable persons to be honorary fisheries officers for the purpose of assisting the Service in carrying into effect the provisions Authorized officers. (2) An honorary fisheries officer shall—(a) hold office subject to such conditions as the Director may prescribe, for a period of five years; and (b) have such functions as may be prescribed by rules made under this Act.	Delete Clause 18.	Positions of honorary fisheries officers are unnecessary.
Clause 27 Fish Levy Trust Fund	The Cabinet Secretary will impose (a) a levy under Clause 28 by Order to require the payment of levies by persons engaged in fishing or fishing related activities of a fish levy ("the levy") which may provide requirements relating, *inter alia*, to activities within the scope of this Act; and the evidence by which a person's liability to pay the levy, or the payment thereof, may be established, and the time at which any amount shall become payable.	Delete Clause 27 and other references to the Fish Levy Trust Fund in the Bill.	The provision creates the Fish Levy Trust Fund which is to be dissolved under the directive from the Cabinet and the functions transferred to the Cabinet Secretary's office.

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Clause 29. Fisheries development measures	29. The Director-General may, in consultation with County governments, other appropriate agencies and other departments of Government, promote the development of activities within the scope of this Act, through, inter alia - (d) spearheading arrangements for the orderly marketing of fish; (j) developing a comprehensive fish marketing, system, including fish auction, through strengthening linkages along the market value chain;	Delete 29 (d) and 29 (j).	These functions have been transferred to the State Department.
Clause 33 County may develop fisheries management plans	33 (1) Each County may develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in the Fourth Schedule to the Constitution. (2) In developing the management measures and plans, referred to in subclause (1) The relevant authorities in the County shall take steps to ensure that such plans and measures are consistent with the provisions of this Act, including its objective and principles. and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act.	Amend sub-clause 2 as follows: (2) In developing the management measures and plans, referred to in subclause (1), the relevant authorities in the County shall (a) take steps to ensure that such plans and measures are consistent with the provisions of this Act, including its objective and principles, and national fisheries management plans and that they take into account relevant measures taken, information and data available, and the economic and social value of the resource pursuant to this Act, and (b) take into consideration, to the extent possible, elements of a fisheries management plan described in Clause 38.	The proposal provides for harmony and synergy in developing fisheries management plans.
Clause 35 Relations between National and County governments	35. (1) Where there is any conflict between a County fisheries management plan and the management-related provisions of this Act, the Director-General shall consult with the County	Amend as follows: 35. (1) Where there is any conflict between the national and county management plans, the national management plan shall prevail.	Under Article 62 (3) the Constitution of Kenya, all rivers, lakes, other water bodies, the territorial sea, the exclusive economic

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	government and give appropriate direction.		zone and sea bed all constitute public land that vests and is held by the national government and as such where the plans conflict in respect to these resources the national government should prevail. Additionally, under Article 191 (3)(b) and 191 (3)(c)(vi) the national government should prevail in this instance.
Clause 38 Fisheries management plans	38 (1) The Board may, in consultation with the Council of Governors and on the recommendation of the Director-General, declare a fishery as a designated fishery where, having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery- (a) is important to the national interest; and (b) requires special conservation and management measures for effective sustainable use of the fisheries resources.	Amend as follows: (1) The Cabinet Secretary may, on the recommendation by the Director-General and in consultation with the Council of Governors declare a fishery as a designated fishery where having regard to scientific, economic, cultural, environmental and other relevant considerations, it is determined that the fishery- (a) is important to the national interest; and (b) requires special conservation and management measures for effective sustainable use of the fisheries resources.	We have deleted the Board.
Clause 44 Declaration of endangered species of fish	44. (1) The Cabinet Secretary may, by notice in the Gazette, declare any species of fish to be endangered or threatened with extinction, and shall, to the extent possible, include those species relevant to Kenya that have been declared endangered or threatened under any	Amend the sub-clauses (1) and (2) by inserting the bolded text below to read as follows: 44 (1) The Cabinet Secretary may, by notice in the Gazette. declare any species of fish to be endangered or threatened with extinction **in Kenya**. and shall, to the extent possible. include those species relevant to Kenya that have been declared	For clarity.

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	international agreement or instrument to which Kenya is party. (2) Unless otherwise provided by the Cabinet Secretary, no person shall engage in fishing for, catch, possess, transport, process, buy or sell any species of fish declared endangered or threatened with extinction pursuant to subsection (1). (3) A person who contravenes sub-section (2) commits an offence and shall be liable on conviction to — (a) a fine not exceeding two hundred and fifty thousand shillings or to a term of imprisonment not exceeding three years or to both in respect of industrial fishing; or (b) a fine not exceeding fifty thousand shillings or a term of imprisonment not exceeding six months in respect of artisanal fishing. (4) Where a species of fish has been declared as endangered under subsection (1), the Cabinet Secretary shall take special measures for its protection.	endangered or threatened under any international agreement or instrument to which Kenya is party. (2) Unless otherwise provided by the Cabinet Secretary, no person shall engage in fishing for, catch, possess, transport, process, buy or sell any species of **fish and/or fish products** declared endangered or threatened with extinction pursuant to subclause (1).	
Clause 53 Import and release of live fish	53. (1) No person shall import any live fish or fish products into Kenya without the written authorization of the Director-General and in accordance with such procedures as may be prescribed, and the authorization shall only be given upon production of an environmental impact	Amend as follows: Amend the marginal note to read "Import of fish and fish products" and in the provision: 53 (1) No person shall **import any fish or fish** products into Kenya without the written authorization of the Director-General and in accordance with such procedures as may be prescribed, and the authorization shall only be given upon production of an	The deletion is for clarity because the definition of fish includes live fish. The addition of a fine is to enable enforcement.

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	assessment report on the effect of each introduction (2) No person shall release any live fish imported into Kenya into the fishery waters except with the writ1en approval of the Director-General. (3) The Director General shall not approve any release of live fish unless the fish has been kept under observation and control for such period and on such terms and conditions as the Director-General thinks fit (4) Where the Director-General is satisfied that any fish which has been imported into Kenya is unsuitable for the purpose of release the Director may order the fish to be forfeited and destroyed. (5) The importer and exporter of any fish destroyed under subclause (4) shall not be entitled to compensation	environmental impact assessment report on the effect of each introduction. Add a new subclause 53 (6); (6) A person who contravenes subclause (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding three years or to both.	
Clause 54 Export of live fish	(1) No person shall export any fish from Kenya except in accordance with regulations. (2) A person who contravenes subclause (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding three years or to both.	Amend as follows: Delete 'live' from the marginal note 54 (1) No person shall export any fish or fish product from Kenya without the written authorization of the Director-General and in accordance with such procedures as may be prescribed.	The deletion is for clarity because the definition of fish includes live fish.

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Clause 64	Clause 64 (2) Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government shall in consultation with the Cabinet Secretary, give notice in writing to the owner of the relevant waters requiring the destruction of all fish and fish products in the said waters or the taking of such other measures as the county government may specify in the notice.	Amend Clause 64 (2) and replace it as follows: 64 (2) Where any person or any County government has cause to believe that any fish and fish products from any waters used for aquaculture activities **in areas under their respective jurisdiction,** are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such County government shall in consultation with the Cabinet Secretary take such measures as prescribed.	For clarity.
Clause 82 Information available to public	The Director-General shall make information available to the public and as necessary disseminate relevant information to stakeholders for purposes of fisheries conservation, management and development, including regional and international organizations, except for such information that may be designated confidential in accordance with Clause 82.	Replace reference to Clause 82 in accordance with Clause 79.	Cure a mistake in cross-referencing. Clause 83 should refer to confidential data as per Clause 80, as opposed to "Clause 82" which is on public access to information.
Clause 83 Licenses and authorizations required	(1) A valid and applicable licence issued in accordance with section 90(3) shall be required for— (a) using an industrial fishing vessel for fishing or fishing related activities in the Kenya fishery waters;	Replace reference to Clause 90(3) with 85(1).	Cure cross-referencing error.

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	(b) using a semi-industrial fishing vessel for fishing or related activities in the Kenya fishery waters; (c) using an artisanal fishing vessel for commercial purposes; (d) commercial aquaculture; (e) ornamental fishing; and (f) such other activity or activities within the scope of this Act for which a licence or authorization may be required by the management measures in an applicable Fisheries Management Plan adopted in accordance with the requirements in this Act, or as may be prescribed from time to time.		
Clause 85 Grant, renewal and issuance of licenses and authorizations.	85. (1) The Board, on the recommendation of the Director-General may approve the grant or renewal of licences and authorization for any purpose specified.	Amend Clause 85 (1) as follows: The Director General may approve the grant or renewal of licences and authorization for any purpose specified in Clause 86 after all inspections, verifications and other pre- licensing requirements under this Act have been discharged.	Operational efficiency.
Clause 87 Requirements for denial of licenses and authorizations.	87. Marginal Note: Requirements for denial of licenses and authorizations.	Amend the marginal note in Clause 87 as follows: In the marginal note replace "requirements' with 'grounds" so that it reads as "Grounds for denial of licenses and authorizations"	For clarity.
Clause 88 Application for the grant or renewal of licenses or authorization.	88(l) Except where otherwise prescribed. an application for a licence or authorization under this Act shall - (a) contain such information as may be	Amend Clause 88 (1) (d) as follows: (d) be accompanied by a fishing plan which shall specify for each month of the full period of validity of a licence or authorization, the—	This increases the mandate to cover fishing related activities.

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	required in this Act or in writing by the Director-General or as may be prescribed; (b) be in such form as may be prescribed or such other form as may be approved by the Director-General: (c) in the case of industrial fishing vessels. be accompanied by an International Tonnage Certificate showing the gross tonnage issued under the international Tonnage Rules: (d) be accompanied for the case of fishing vessels by a fishing plan which shall specify for each month of the full period of validity of a licence or authorization, a fishing plan including the- (i) fishing gear to be used; (ii) species to be targeted for fishing and expected quantity: (iii) species that will constitute bycatch and (iv) area in which fishing or fishing will take place	(iv) area in which fishing and/or **fishing related activities** will take place.	
Clause 89 Terms and conditions of licences and authorizations.	89 (6) A person who contravenes subsection (3), (4) or (5) commits an offence and shall be liable on conviction to a fine not exceeding three hundred and fifty thousand or to a term of imprisonment not exceeding three years or to both.	Amend Clause 89 (6) as follows: (6) A person who contravenes subclause (3), (4) or (5) commits an offence and shall be liable on conviction to a fine not exceeding three hundred and fifty thousand **shillings** or to a term of imprisonment not exceeding three years or to both.	Inserted "shillings".

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Clause 90 Preference for employment of citizens of Kenya	90 (1) Where commercial employment is foreseen in relation to the activity for which the licence or authorization is sought, it shall be a condition of the licence or authorization that citizens of Kenya possessing the necessary qualifications and experience shall be given preference for employment, and such employment shall be in accordance with the Employment Act 2007.	Amend Clause 90 as follows: (1) Where commercial employment is foreseen in relation to the activity for which the licence or authorization is sought, it shall be a condition of the licence or authorization that citizens of Kenya possessing the necessary qualifications and experience shall be given preference for employment, and such employment shall be in accordance **with applicable labour laws and any other laws governing safety at sea**.	Compliance with relevant labour laws and laws relating to safety at sea.
Clause 91 Period of validity of licences and authorizations	A licence or authorization issued pursuant to this Act shall, unless otherwise provided, be valid for a maximum period of one year and may be renewable, subject to any fisheries management decision taken in accordance with this Act and the terms and conditions set out in the licence or authorization.	Amend Clause 91 as follows: 91 (1) A licence issued pursuant to this Act shall, unless otherwise provided, be valid for a maximum period of one calendar year and may be renewable, subject to any fisheries management decision taken in accordance with this Act and the terms and conditions set out in the licence 91 (2) An authorization issued pursuant to Clause 83 (5) shall be valid for a period prescribed by the Director-General	For clarity
Clause 99 Reporting requirements for industrial fishing vessels	99 (1) (a) maintaining a fishing log for each fishing trip in the area to which the relevant licence applies in the English language or other language approved by the Director-General, which shall include— (i) the gear type used; (ii) the noon position of the vessel and, where applicable, the set position of the fishing gear and soak time or the number of hooks and the sea surface temperature; (iii) the total number of hauls per day, aggregate time for each haul and total number of days fished per fishing trip;	Amend subclause 99 (1) (a) as follows: 99 (1) (a) maintaining a fishing **logbook** for each fishing trip in the area to which the relevant licence applies in the English language or other language approved by the Director-General, which shall include: (ii) the noon position of the vessel and, where applicable, the set **start and finish** positions of the fishing gear and soak time or the number of hooks and the sea surface temperature; Add new 99 (1) (a) (vi) as follows: 99 (1) (a) (vi) bycatches of non-target species 99 (1) (c) (ii) certifying that all information provided pursuant to subparagraphs **(a), (b) and (c)** is true, complete and correct.	For clarity.

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	(iv) the species of fish taken and the size and quantity of each species by weight or number as may be specified in the relevant reporting form; Reporting requirements for industrial fishing vessels. (v) the species of fish return ed from the vessel to the sea, the reason for the discard, the quantity of each species by weight or number; and (vi) such other information as may be prescribed or as the Director-General may require, (b) reporting information as may be prescribed or required approved by the Director-General relating to the position of. and the catch on board, the vessel and such other information that may be required by this Act or the Director-General at the following times - (i) at least twenty-four hours prior to the estimated time of entry into and departure from the Kenya fishery waters; (ii) each day while the vessel is in the Kenya fishery waters: (iii) at least twenty-four hours prior to the estimated time of entry or departure from port; and (iv) upon entry into or departure from a closed area or marine protected area (c) ensuring that any information or data which may be required to be transmitted		

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	by radio communication a transponder automatic location communicator or other component of a vessel monitoring system is transmitted continuously, accurately and effectively to the designated receiver; (i) providing such daily information as and in the form the Cabinet Secretary may require to give effect to its duty under international agreements and law: and (ii) certifying that all information provided pursuant to subparagraphs (a), (b), (c) and (d) is true, complete and correct.		
Clause 103 Registration of vessels	103 (5) (a) The Director-General shall maintain or cause to be maintained of Fishing Vessels Register in which shall be entered the following information in respect of the vessel— (a) the name, street address, telephone number, fax number and email address of the owner and where applicable, the previous owner;	Amend as follows: (5) The Director-General shall maintain or cause to be maintained a fishing vessels register in which shall be entered the following information in respect of the vessel - (a) the name, street address, telephone number and email address of the owner and where applicable, the previous owner; Amend Clause 103 as follows: Delete fax number in 103 5 (a) no longer in use.	Proposals provide clarity.
105 Conditions for recreational fishing vessels.	105 (1) Licences issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions— (a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the Director-General,	Amend Clause 105 (1) as follows: 105. (1) Licences issued to recreational fishing vessels for fishing or fishing related activities shall be subject to the following conditions— (a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by regulations Delete 105 (b).	These functions have been devolved to the counties and relevant regulations are in place.

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	(b) on receipt of an application for registration of a recreational fishing vessel, the Director-General shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if, upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the Director-General shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration; and		
Clause 117 Aquaculture Permits	117. (1) An application for an aquaculture permit shall be made to the Director-General in the prescribed form. (2) An aquaculture permit shall— (a) confer on the holder exclusive rights to harvest the products of the aquaculture establishment within the area specified in the permit; (b) be subject to such conditions as appear to the Director-General to be necessary or expedient for the regulation of aquaculture, the management of fisheries or for the economic benefit of Kenya and, without prejudice to the generality of the foregoing, may contain conditions relating to- (i) the siting, design and materials used in the construction of the aquaculture establishment; (ii) sanitary conditions for fish and fish products; (iii)! measures for the prevention of the escape of fish farmed for aquaculture; (iv)	This provision should be deleted	Given that under Clause 122 an aquaculture licence-holder has the exclusive rights to harvest their fish which requires an aquaculture permit, a licence is sufficient. It does not make sense to have both when one confers the same right that the other does.

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	measures for the prevention of fish diseases; (v) the marketing of the fish and fish products of the aquaculture establishment; and (vi) measures to be taken to minimize the escape of waste products and the pollution of land and water. (3) An aquaculture permit shall not be transferred without the prior written consent of the Director-General. (4) The Director-General may approve the application subject to the applicant being granted, where applicable, an environment impact assessment licence under the Environmental Management and Co-ordination Act, 1999.		
Clause 121 Conditions for Aquaculture licence	Clause 121. (3). The Director-General may require as a condition of licence that— (a) such licence for aquaculture automatically terminate if the facility is not developed within the period of time specified on the licence, (b) the cost of any destruction or damage during the licensing period that is caused by the negligence or malpractice of the licence holder, including the endemic spread of diseases, shall be borne by the licence holder.	Add new condition (c) under subclause 3 as follows: 121. (3)(c). "measures to be taken to minimize the escape of waste products and the pollution of land and water".	To include pollution mitigation measures.
Clause 122 Exclusive Rights	An aquaculture licence shall confer on the holder Exclusive rights, exclusive rights to harvest the products of the relevant	Amend Clause 122 to read as follows: 122. An aquaculture licence holder shall apply to the Director-General for an aquaculture permit as provided under the relevant regulations	For clarity given the proposed deletion of Clause 117.

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	aquaculture establishment within the area specified in the licence.	Amend the marginal note to read as "Aquaculture Permits"	The Aquaculture Regulations have substantive provisions on aquaculture permits
Clause 127 Fisheries Access	(1) The Cabinet Secretary may, on behalf of the Government of Kenya and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, and taking into account the advice of the Fisheries Advisory Council established under Section 6, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities (2) Permission under Subclause (1) may be given pursuant to (a) such international agreement, fisheries partnership agreement, joint venture or other written agreement or arrangement setting out the terms and conditions of fisheries access as are required pursuant to this Act and additional terms and conditions as may be recommended by the Director-General, with- (i) States or regional economic integration organisations: (ii) any fishing association or similar body; (iii) a publicly incorporated company: or	Amend 127 (1) to read as follows: (1) The Cabinet Secretary may, on behalf of the Government of Kenya and in accordance with the provisions of this Act, any applicable international agreement and national policies and strategies, permit access by foreign fishing vessels to the fishery waters for fishing or fishing related activities and taking into account the advice of the DG. Remove "and/or" at the end of subclause (2)(a)(iv). (iv) such other persons or bodies as the Cabinet Secretary considers appropriate; ~~and/or~~	Correcting a typographical error. To align with the proposed deletion of the provisions relating to the Fisheries Advisory Council. Replace Council with DG.

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	(iv) such other persons or bodies as the Cabinet Secretary considers appropriate; and/or		
Clause 133 Performance Bond	The Cabinet Secretary may require either as a precondition of issuing a licence to any fishing vessel other than a Kenya fishing vessel, or at any time during the licensing period, that a performance bond be provided by the applicant in accordance with such procedures and in such form as may be prescribed.	Amend the clause to read as follows: The Cabinet Secretary **shall** require either as a precondition of issuing a licence to any fishing vessel other than a Kenya fishing vessel, or at any time during the licensing period, that a performance bond be provided by the applicant in accordance with such procedures and in such form as may be prescribed.	Make the compensation compulsory
Clause 134 Force majeure or distress.	A foreign fishing vessel may be permitted entry into port for reasons of force majeure or distress exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.	Delete clause 134 and replace it with the following: Force majeure or distress 134 (1) Nothing in this Act or Regulations made thereunder affects the entry of a vessel to port in accordance with the laws of Kenya for reasons of force majeure or distress. (2) The Director-General may grant a vessel that falls within the scope of this Act entry into port for reasons of force majeure or distress, provided that: (a) the vessel may enter port under its claim of force majeure or distress for such period of time necessary to remedy such claim; and (b) the vessel is permitted entry exclusively for the purpose of rendering assistance to persons or vessels in danger or distress.	For clarity.
Clause 135 Authority and general powers of authorized officers	135. (1) An authorized officer may do all such acts and things and give such directions as are reasonably necessary for the purposes of exercising any of his/her powers under this Act.	Amend subclause 135 (1) as follows: (1) An authorized officer may give such directions as are reasonably necessary for the purposes of exercising any of his **or** her powers under this Act. Delete subclause (6) and in line with the added definitions of "monitoring", "control" and "surveillance".	For clarity and to harmonize with the new definitions of monitoring control and surveillance in Clause 2.

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	(6) Monitoring Control and Surveillance (MCS) in this section means "the mechanism for implementation of agreed policies, plans or strategies for oceans and fisheries management and includes collection, measurement and analysis of data and information on fishing activities and using the same to specify the terms and conditions under which fisheries resources can be harvested; checking and supervising fishing activities to ensure all applicable laws Authority and general powers of authorized officers and regulations are being observed by the fishers and all license holders and the components include surveillance on land, air and the sea."		
Clause 139 Powers of entry and search of authorized officers.	(i) any Kenya fishing vessel within and outside the Kenya fishery waters	Amend subclause 139 (1) as follows: (1) (i) any Kenyan fishing vessel within **or** outside the Kenya fishery waters.	Expansion of scope.
Clause 141	(1) An authorized officer may, arrest any person (a) whom he believes, on reasonable grounds, is committing or has committed an offence under this Act (b) who assault him or any other authorised officer, inspector, observer or fishery dock observer in the exercise of his powers or performance of bis functions under this Act, or (2) If an authorized officer arrests a person under subclause (1) the authorized officer shall cause the person to be delivered into the custody of a member of	Amend subclause 141 (1) as follows: Delete the 'or' between subclause 141 (1) (b) and subclause 141 (2).	Correcting a typographical error.

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	the Kenya Police Force as soon as practicable and that person shall thereafter be dealt with in accordance with the relevant law or laws,		
Clause 144 Removal of parts from seized vessels, etc	144 (1) An authorised officer may remove any part from the vessel seized pursuant to this Act for the purpose of immobilizing that vessel where the operator is in co-operative but in any event, the authorized officer shall take reasonable measures to ensure that such removal shall not cause a permanent or material damage to the vessel.	Amend subclause 144 (1) as follows: (1) An authorized officer may remove any part from the vessel seized pursuant to this Act for the purpose of immobilizing that vessel where the operator is **uncooperative**, but in any event the authorized officer shall take reasonable measures to ensure that such removal shall not cause a permanent or material damage to the vessel.	'in co-operative' changed to 'uncooperative'.
Clause 146 Observer programme	146 (1) There shall be established an observer programme Board for the purpose of collecting, recording and reporting reliable and accurate information for scientific, management, and compliance purposes including, among other things	Amend Clause 146 as follows: Delete the word 'Board' after programme in subclause 146 (1) Insert new subclause (3) and replace by the following: 146 (3) An observer shall on request identify himself or herself and produce proof of identification as an observer.	For clarity. The observer programme does not have a Board.
Clause 147 Appointment of, and identification by inspectors	147 (l) The Director-General may, in writing. appoint— (a) inspectors for purposes of monitoring compliance and management and auditing, including inspections of vessels, premises and facilities and aquaculture establishments to gather information, and report on the fulfilment of pre-licensing requirements and any obligations pursuant to this Act; and (b) observers for purposes of the observer programme established under clause 147, in accordance with such standards and	Amend clause 147 to read as below: 147 (l) The Director-General may, in writing appoint- (b) observers for purposes of the observer programme established under clause 147 or any international agreement and arrangements.	The word Board deleted for clarity.

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	procedures as may be prescribed or approved by the Board. (2) An inspector or observer shall on request identify himself and produce proof of identification as an inspector or observer.		
Clause 150 Duties of operators. etc, to inspectors and observers	1) The operator and each crew member of any vessel, or licence holder in respect of any vessel on which an observer is placed or to which an inspector or fishery dock observer has been assigned, shall allow and assist the inspector, observer or fishery dock observer, in the performance of his official duties, and shall allow the inspector, observer or dock observer to- (a) board such vessel at such time and place as the Director-General may require; (b) receive and transmit messages and communicate with the shore and other vessels by means of the vessel's communications equipment; (c) take photographs of the fishing operations. including fish, gear, equipment, documents. charts and records, and remove from the vessel such photographs or film as he may have taken or used on board the Vessel: (d) gather such information relating to fisheries as may be required for purposes of carrying out the objectives of this Act and	Add a new subclause (2) (2) Where any person mentioned in subclause (1) is forced by circumstances to stay on board the vessel for a prolonged period of time, provide him, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel, at the expense of the operator. Renumber current subclause (2) as subclause (3).	To align with best international practices.

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	(e) disembark at such time and place as the Director General may require or in accordance with an applicable access agreement provided it is in accordance with the safe operation of the vessel. (f) Where any person mentioned in subclause (1) is forced by circumstances to stay on board the vessel for a prolonged period of time, provide him, while on board the vessel, with food, accommodation and medical facilities equivalent to that accorded to officers of the vessel, at the expense of the operator.		
Clause 155 Obstruction, etc of authorized persons	(1) For the purposes of this Clause "'fail" includes any effort which does not result in meeting the specified requirement. (2) No person being the operator or a crew member of a vessel- (a) fail or refuse to allow and assist any person identified as an authorized person-	Amend 155 (2) by adding "shall" after the word "vessel" 155 (2) No person being the operator or a crew member of a vessel **shall-**	For clarity.
Clause 156 Vessel Monitoring Systems	(4) Where the mobile transceiver unit or other device ceases to operate as required, the operator shall immediately notify the Director-General and submit to him a report of the vessel's name, call sign, position expressed in latitude and longitudes to the minutes of arc and the date and time of the report at intervals of four hours or such other period as the Director-General may notify the operator. (5) The operator shall comply with such other conditions that may be	Amend subclause 156(4) to read as follows: (4) Where the mobile transceiver unit or other device ceases to operate as required, the operator shall immediately notify the Director-General and submit to him a report of the vessel's name, call sign, position expressed in latitude and longitudes to the minutes of arc, course and speed, and the date and time of the report at intervals of **one** hour or such other period as the Director-General may notify the operator, and— In subclause 156(5), add as (d) "accuracy requirements" and renumber the rest of the list as follows:	Alignment with best practices, and ensures better monitoring, control and surveillance.

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	prescribed and such additional conditions that may be required by the Director-General, including- (a) the type of vessel monitoring system equipment to be used (b) installation procedures; (c) operational requirements; (d) information requirements: (e) confidentiality: and (f) reports.	(5) The operator shall comply with such other conditions that may be prescribed and such additional conditions that may be required by the Director-General, including- (a) the type of vessel monitoring system equipment to be used (b) installation procedures; (c) operational requirements; (d) accuracy requirements (e) information requirements: (f) confidentiality: and (g) reports. Add as a subclause (6) the following: (6) The Director-General may require the operator of any fishing vessel, as a condition of licence or otherwise, to install, maintain and operate in accordance with such conditions as may be prescribed and such other conditions that may be required by the Director-General, remote electronic monitoring. Renumber current subclauses (6) and (7), subclauses (7) and (8) respectively.	
New clause before existing Clause 157. Designation of port.		Add Clause on "Designation of port" (1) The Cabinet Secretary shall designate and publicize by notice in the gazette, the port or ports to which vessels engaged in fishing and fishing related activities may request entry. (2) The Cabinet Secretary shall provide a list of ports designated pursuant to paragraph (1) to the Food and Agriculture Organisation of the United Nations and to any regional fisheries management organisation pursuant to applicable conservation and management measures.	Alignment with international obligations, specifically the Port State Measures Agreement. (PSMA).

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Clause 158 Vessels may be prohibited from entering port	158 (1) Authorization to enter a port shall be denied where there is sufficient proof that a vessel seeking entry into port has engaged in illegal, unreported and unregulated fishing, or in fishing-related activities in support of illegal, unreported and unregulated fishing, or appears on a list of vessels which have engaged in such fishing or fishing related activities adopted by a regional fisheries management organization in which Kenya is a member or cooperating non-member, in accordance with the rules and procedures of such organization and in conformity with international law (2) Without prejudice to subsection (1), authorization for a vessel to enter a port may be given exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring or eliminating illegal, unreported and unregulated fishing and fishing-related activities in support of illegal, unreported and unregulated fishing. (3) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not less than fifty million shillings or to imprisonment for a term not less than ten years or to both	Amend Clause 158 as follows: 158. (1) Authorization to enter a port shall be denied where there is sufficient proof that a vessel seeking entry into port: (a) has engaged in illegal, unreported and unregulated fishing, or in fishing-related activities in support of such fishing, or (b) appears on a list of vessels which have engaged in illegal, unreported and unregulated fishing or fishing related activities in support of such fishing adopted by a regional fisheries management organization. (2) Without prejudice to subclause (1), authorization for a vessel to enter a port may be given exclusively for the purpose of (a) inspecting the vessel; and (b) taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring or eliminating illegal, unreported and unregulated fishing and fishing-related activities in support of such fishing. (3) The Director-General shall communicate any decision taken pursuant to subclause (1) or (2) to the vessel or its representative. (4) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not less than fifty million shillings or to imprisonment for a term not less than ten years or to both.	For clarity.
Clause 160	In carrying out of inspections of fishing vessels in a port, authorized officers shall	Amend Clause 160 as follows:	For clarity.

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Inspection of foreign fishing vessels in port	follow such procedures prescribed or international agreements and arrangements.	(1) In carrying out inspections of **foreign** fishing vessels in port, authorized officers shall follow such procedures as may be prescribed or as the Director-General may require. (2) A report of the inspection shall promptly be provided to the Director-General in such form as may be prescribed or as the Director-General may require. Add 'foreign' between 'of' and 'fishing'.	
Clause 161		There is no clause 161.	
Clause 179 Onus of proof	179. (1) Where, in proceedings under this Act, a person is charged with having committed an offence involving an act for which a license, authorization or other permission is required, the onus shall be on that person to prove that at the relevant time, the requisite license or authorization or other permission was held by that person. (2) Where a person is charged with the contravention of clause 127, the onus shall be on that person to prove that his entry into the fishery waters was for a purpose recognized by international law. (3) Where a person is charged with the contravention of section 80, the onus shall be on that person to prove that the information given was true, complete and correct.	Amend clause 179 as follows: 179 (2) Where a person is charged with the contravention of clause 126, the onus shall be on that person to prove that his entry into the fishery waters was for a purpose recognized by international law. (3) Where a person is charged with the contravention of section 79, the onus shall be on that person to prove that the information given was true, complete and correct.	Correcting cross-referencing errors.
Clause 182. Decision to proceed administratively	182. (1) The Director-General may, after consultation with the Cabinet Secretary and the written consent of the Attorney-General, proceed administratively against	Amend Clause 182 by removing reference to the "Attorney General" and replacing it by "Director of Public Prosecution".	This is moved to the Director of Public Prosecutions who is responsible for charging criminal offences.

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	any person who has been charged with a contravention of this Act.		
Clause 198 -207	Establishment of the Fish Marketing Authority.	Delete.	In line with Cabinet directive dissolving the Fish Marketing Authority.
Clause 210 Transition Clause on Assets, Staff and Liabilities.	210 (1) The following Acts are repealed: (a) the Fisheries Act; (b) the Trout Ordinance; and (c) the Fisheries Protection Act. 210. (2). (b) all property, except such property as the Cabinet Secretary may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Fisheries Department, shall with approval of the Cabinet Secretary, and, upon the taking effect of a notice by the Cabinet Secretary published in the Gazette, and without further assurance, vest in the Service, subject to all interests, liabilities, charges, obligations and trusts affecting such property ; (c) except as otherwise provided in paragraph (b) in relation to property, all contracts, debts, obligations and liabilities of the Government attributable to the Fisheries Department immediately before the commencement of this Act shall, with the approval of the Cabinet Secretary, remain vested in the Government and may	Clause 210 should be amended as follows: 210 (1) The Fisheries Management and Development Act, Cap 378 is hereby repealed. 210 (2). (b)All property, except such property as the Cabinet Secretary may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority shall with approval of the Cabinet Secretary vest in the State Department for the Blue Economy and Fisheries and the Service, subject to all interests, liabilities, charges, obligations and trusts affecting such property; (c) Except as otherwise provided in paragraph (b) in relation to property, all contracts, debts, obligations and liabilities of the Government attributable to the Fish Levy Trust Fund and the Kenya Fish Marketing Authority immediately before the commencement of this Act shall, with the approval of the Cabinet Secretary, remain vested in the Government and may be enforced by or against the Government; (d) All persons, being public officers, who, immediately before the commencement of this Act, are employed by the Government for the purposes of the activities of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority, shall at the commencement of this Act be, deemed to be staff of the State Department for the Blue Economy and Fisheries and the Service, in accordance with this Act, or their deemed secondment otherwise ceases in accordance with the terms of such secondment;	The Bill should repeal the FMDA which already repealed the Fisheries Act, Trout Ordinance and Fisheries Protection Act. The transitional provisions should also be amended to align with the dissolution of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority. Clause 210(2)(b) be deleted as the same has been implemented during the period 2016-2023. Clause 210(2)(c) be deleted as the same has been implemented during the period 2016-2023. Clause 210(2)(d) be deleted as the same has been implemented during the period 2016-2023. Clause 210(2)(e) be deleted as the same has been

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
	be enforced by or against the Government; (d) all persons, being public officers, who, immediately before the commencement of this Act, are employed by the Government for the purposes of the activities of the Fisheries Department, shall at the commencement of this Act be, deemed to be on secondment to the Service in accordance with this Act, or their deemed secondment otherwise ceases in accordance with the terms of such secondment; (e) where, at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the Fisheries Department pursuant to disciplinary proceedings against such employee, and the penalty has not been or remains to be served by such employee, such employee shall, on his transfer to the Service, serve or continue to serve such penalty to its full term as if it had been imposed by the Service.	(e) Where, at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the Fish Levy Trust Fund and the Kenya Fish Marketing Authority pursuant to disciplinary proceedings against such employee, and the penalty has not been or remains to be served by such employee, such employee shall, on his transfer to the State Department for the Blue Economy and Fisheries and the Service, serve or continue to serve such penalty to its full term as if it had been imposed by the State Department and the Service.	implemented during the period 2016-2023.

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Clause 211 Consequential Amendments to other Acts	The Acts specified in the Fourth Schedule are amended in the manner specified in that Schedule.	Amendment of the Science, Technology and Innovation Act, Cap 511 to bring on board Kenya Marine Fisheries Research Institute (KMFRI) into the FMDA Bill.	This is a relevant institution within the Fisheries and the Blue Economy sector with the mandate of conducting research.
Second Schedule		Title should change to "Designated fish landing ports" and not "Designated fish landing stations" The correct cross-referencing Clause 50 (2) and not 53(2) Retain content as is.	Correcting a cross-referencing error.
Third Schedule	Conduct of the affairs of the Fish Marketing Authority Board.	Delete the Third Schedule	In line with Cabinet directive dissolving the Fish Marketing Authority.

ESTABLISHMENT OF THE KENYA MARINE FISHERIES RESEARCH INSTITUTE

Since the Kenya Fish Marketing Authority's functions are being taken over by the Ministry, it is the proposal of the State Department that Section 198 all the way to Section 207 be utilized by the introduction of Kenya Marine Fisheries Research Institute (KMFRI) as provided hereunder.

1. Establishment of the Institute.

(1) There shall be established an institute to be known as the Kenya Marine and Fisheries Research Institute (KMFRI) which shall be the successor to the Kenya Marine and Fisheries Research Institute (KMFRI) specified in paragraph 4 of the Fourth Schedule to the Science, Technology and Innovation Act, 2013.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and, in its corporate name, be capable of–

(a) suing and being sued;

(b) purchasing or otherwise acquiring, holding,

charging or disposing of movable and immovable property;

(c) entering into contracts;

(d) borrowing and lending money; and

(e) doing or performing all such other things or acts necessary for the performance of its functions, and which may lawfully be done or performed by a body corporate.

2. Mandate and functions of the institute.

The mandate and function for which the institute is established is to –

a) Conduct research in order to generate scientific data and information in "marine and freshwater fisheries, aquaculture, socioeconomics, environmental and ecological studies, and marine research including chemical and physical oceanography and hydrography, marine geology, minerology, bio-prospecting, and energy, for sustainable development of the blue economy;

b) Promote local, regional and international collaboration and partnerships;

c) Collaborate with other organizations and institutions of higher learning in competitive capacity development for exploitation of the blue economy;

d) Transfer innovative technologies in marine and freshwater fisheries, aquaculture and the blue economy to stakeholders;

e) Promote community participation and outreach programs,

f) Conduct capacity development on fisheries resources; and

g) Conduct all such things as appear to be necessary, desirable or expedient to carry out its functions.

3. Objectives of the institute.

The objectives of the institute shall be to –

a) undertake research and innovation to drive transformation of Blue Economy (BE) towards sustainable development;

b) disseminate scientific information to support blue economy development; and

c) strengthen community participation and integration of indigenous knowledge in research development.

4. Powers of the Institute.

The Institute shall have powers necessary for performance of its functions including entering contracts, and borrowing funds subject to approval.

5. National coordination mandate.

The Institute shall serve as the national coordinating institution for fisheries, marine, aquaculture, and socioeconomics research for blue economy development in Kenya.

6. Board of Management.

(1) The Institute shall be governed by a Board of Management.

(2) Board of Management shall consist of —

(a) a Chairperson appointed by the President;

(b) the Principal Secretary responsible for fisheries and blue economy;

(c) the Principal Secretary responsible for the National Treasury;

(d) a representative of the Attorney-General;

(e) four persons appointed by the Cabinet Secretary with relevant expertise; and

(f) the Director-General.

(3) Functions of the Board.

The functions of the Board shall be to –

a) carry out the objects and functions of the institute;
b) advise the Cabinet Secretary on matters of policy relating to marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;
c) oversee the effective co-ordination of the operations of the institute;
d) ensure that the activities of the institute are consistent with the policy and objectives of the Government, and the national priorities relating to marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;
e) approve, oversee and evaluate the organizational structure and on a continuing basis, the programs being implemented by the institute;
f) direct strategic research, prioritize and determine the research agenda;
g) co-operate with other lead agencies and organizations in carrying out marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;

h) develop an efficient and cost-effective internal management structure, strategic and annual plan of the institute;

i) implement and fulfil the policies and agreed objectives, performance targets and service standards of the institute;

j) administer the approved Human Resource instruments, including appointments, dismissals, remuneration and retiring benefits, of employees in the Institute;

k) manage the secondment of personnel to and out of the Institute in co-operation with the Ministry;

l) provide advice as required on all matters within the responsibility of the institute;

m) hire the Director General, Directors and Senior staff through the human resource (HR) instruments; and

n) perform such other functions as may be necessary for the exercise of its powers and functions under this Act.

(4) Powers and term of office of the Board.

(a) The Board shall have all the powers necessary for the proper performance of its functions under this Act and subject to the provisions of this Act, the Board shall have the power to –

i) enter into contracts;

ii) manage, control and administer the assets of the institute in such manner and for such purposes as best promotes the purpose for which the institute is established;

iii) receive gifts, grants, donations, fees or endowments made to the institute and make disbursement therefrom;

iv) open such bank accounts as may be necessary for the funds of the institute into which all moneys received by the institute shall be paid in the first instance and out of which all payments made by the institute shall be made;

v) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the institute; and

vi) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the institute's funds not immediately required for the purposes of this Act, as it may determine.

(b) The chairperson and members of the Board shall –

i) be appointed on such terms as the appointing authority may determine;

ii) have qualification of a minimum of Master's Degree in relevant field; and

iii) hold office for a term of three years' renewable for one further term.

(c) A person shall cease to be a member of the Board if such person –

i) is unable to perform the functions of his office by reason of mental or physical infirmity;

ii) is adjudged bankrupt;

iii) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;

iv) is absent from three consecutive meetings of the Board without the permission of the Board;

v) resigns in writing, addressed, in the case of the Chairman to the President, and in the case of any other member, to the Cabinet Secretary;

vi) fails to declare his interest in any matter being considered or to be considered by the Board; or

vii) violates Chapter Six of the Constitution.

(5) Committees of the Board.

(a) The Board may establish committees necessary for performance of its functions under this Act; and

(b) The Board may co-opt into the membership of a Committee established under subsection (5a), such other persons whose knowledge and skills are found necessary for the functions of the institute.

(6) Delegation by the Board.

The Board may delegate functions to committees or officers.

(7) Conduct of business and affairs.

The Board shall conduct its affairs in accordance with Mwongozo Code, but subject thereto, the Board may regulate its own procedures.

7. The Secretariat of the Board.

The Secretariat of the Board shall comprise of –

a) the Director General;

b) Directors;

c) Corporation Secretary; and

d) any other staff as directed by *Mwongozo* code of governance

8. Director-General.

(1) There shall be a Director-General of the Institute who shall be the chief executive officer of the Institute and who shall be appointed and serve in accordance with the provisions of this section. The Director-General shall be –

a) competitively appointed through HR instruments on such terms and conditions of service as the Board of Management shall determine, for a term of three years' renewable once based on performance;

b) an ex officio member of the Board of Management and shall have no right to vote at any meeting of the Board of Management; and

c) responsible to the Board of management for all the activities of the Institute.

(2) A person shall qualify for appointment as Director General if that person—

a) holds a Doctor of Philosophy (PhD) degree from a recognized institution in any of the following disciplines:

(i) fisheries,

(ii) aquaculture,

(iii)aquatic sciences,

(iv)marine sciences;

(v) Environmental science;

(vi)Economics in natural resources, fisheries, and environment; and

(vii) Any other related courses or equivalent from a recognized institution.

b) is a citizen of Kenya;

c) has at least fifteen (15) years' research experience in the above areas,

d) has at least five (5) years' experience in leadership or at senior management level in research; and

e) meets the requirements of chapter six of the Constitution.

(3) The Director-General shall be the chief executive officer of the Institute and shall be responsible to the Board of management for the day-to-day management of the affairs of the institute and shall, on behalf of the Board and subject to this Act, have the general superintendence of all research matters within the scope of this Act.

(4) Without prejudice to the generality of the foregoing, the Director-General shall—

a) Advice the Board of Management on all policies and strategies related to marine and freshwater fisheries, aquaculture, socioeconomics, and blue economy research;

b) Be responsible for the execution and communication of the Board strategies, decisions and policies;

c) Provide regular, thorough and prompt communication to the Board of Management on key technical, financial and administrative matters;

d) Serve as the link between the Board of Management and the Management;

e) Serve as the Secretary to the Board of Management;

f) Be responsible for the day to day operations of the institute;

g) Be responsible for the achievement of the objectives of the Institute;

h) Ensure that the Institute has effective management structures, processes and systems; and

i) Foster a corporate culture that promotes ethical practices and good corporate citizenship.

9. Directors.

(1) The Director shall be the head of the Directorate and shall be answerable to the Director General and the Board of Management for the day-to-day management of the affairs of the Directorate and shall, on behalf of the Director General and subject to this Act, have the general superintendence of all matters in the Directorate.

(2) The Director shall be competitively appointed on such terms and conditions of service through the HR instruments by the Board of Management for renewable term of five years based on performance.

10. Removal of Director General and Directors from office.

The Board may remove the Director-General and the Directors from office in accordance with the terms and conditions of service for:

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct or misbehavior; or

(c) incompetence or neglect of duty.

11. Staff of the Institute.

The Institute may appoint staff as necessary for its functions.

PART IV — FINANCIAL PROVISIONS

12. Funds of the Institute.

The funds of the institute shall comprise of—

(a) monies allocated by the National Assembly for the purposes of the Institute;

(b) monies accruing to or vesting in the Institute in the course of the exercise of its powers or the performance of its functions;

(c) fees and royalties from registered patents, inventions or improvements; and

(d) monies from any other source provided for or donated or loaned to the Institute.

13. Financial year.

The financial year of the institute shall be the period of twelve months beginning 1st July and ending on the 30th June each year.

14. Annual estimates.

(1) The Board shall prepare annual estimates of revenue and expenditure.

(2) The annual estimates shall make provision for all the estimated expenditure of the Institute for the financial year, and in particular, the estimates shall provide for–

(a) the payment of salaries, allowances and other charges in respect of the employees of the Institute;

(b) the payment of pensions, gratuities and other charges in respect of the employees of the Institute;

(c) monies to fund seed research programmes; and

(d) the proper maintenance of the buildings and grounds of the Institute.

15. Accounts and audit.

(1)The Board shall cause to be kept proper books of accounts and other books in relation thereto of all its undertakings, funds, activities and property of the institute.

(2)The Board shall ensure that all money received is properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets and liabilities.

(3)The accounts of the institute shall be audited in accordance with the Public Audit Act, 2015.

16. Annual reports.

The Board shall, within three months after the end of each financial year, submit to the Cabinet Secretary a report on the operations of the Institute for the immediately preceding financial year.

17. Borrowing powers.

The Board may, upon consultation with the Cabinet Secretary and from time to time, raise or borrow, either by way of mortgage, charge or overdraft from a bank or in such other ways as may be appropriate, such sums of money as it may consider necessary for or in connection with the exercise of its powers or performance of its functions and duties under this Act.

18. Investment powers.

The Institute may, from time to time and, subject to the provisions of this Act, invest any sums standing to the credit of the institute, whether in any fund established by it, in securities or in any form of property in which the Trustees are authorized to invest under the Trustee Act (Cap.167), and in such other securities or property as may be approved for the purpose by the Cabinet Secretary for the time being responsible for finance.

PART V — COLLABORATION AND RESEARCH

19. Partnerships and collaboration.

The Institute may collaborate with national, regional and international partners.

20. Technology and innovations transfer.

The Institute shall promote technology and innovations transfer of research outputs.

21. Data management.

The Institute shall maintain national research databases.

22. Intellectual property rights and scientific publications.

Intellectual property and scientific publications shall be managed in accordance with relevant laws.

PART VI — GENERAL PROVISIONS

23. Protection from liability.

No personal liability shall attach for actions done in good faith.

24. Disclosure of interest.

Members shall disclose conflicts of interest.

25. Regulations.

The Cabinet Secretary may make regulations for implementation.

PART VII — TRANSITIONAL AND SAVINGS

26. Commencement of the Act

Upon commencement of this Act—

(1) All the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former institute shall, by virtue of this subsection, vest in the Institute.

(2) All rights, powers and liabilities which immediately before such day were vested in, imposed on or enforceable against the former institute shall by virtue of this subsection, be vested in, imposed on or enforceable against the institute.

(3) Any reference in any written law or in any document or instrument to the former institute shall, on and after the commencement of this Act, be construed to be a reference to the Institute.

(4) The annual estimates of the former institute for the financial year in which this Act comes into operation shall be deemed to be the annual estimates of the institute for the remainder of that financial year: Provided that such estimates may be varied by the Institute in such manner as the Cabinet Secretary may approve.

(5) The administrative directions made by the former institute or by the Cabinet Secretary which were in force immediately before the commencement of this Act shall, on or after such day, have effect as if they were directions made by the institute or the Cabinet Secretary under this Act.

(6) Any person who was a member of the former institute immediately before the commencement of this Act shall remain in office for the unexpired period of that person's tenure.

(7) Any person who immediately before the commencement of this Act was the Director-General or employee of the former institute shall remain in office for the remaining period of his or her term of office.

(8) Any person who was an officer or employee of the former institute immediately before the commencement of this Act shall be deemed to be an officer or employee of the Institute subject to such terms of service as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

Annex 3

EXECUTIVE OFFICE *of*
THE PRESIDENT

PRESS RELEASE
(ED: 19:30 Hrs.)

ISSUE NO. 1 *of* 2025

DESPATCH FROM CABINET

HIS EXCELLENCY President William Samoei Ruto, PhD, CGH, has today chaired the inaugural Cabinet Meeting of 2025, which was held at the **State Lodge in Kakamega.** The three newly appointed Cabinet Secretaries attended their maiden Cabinet Meeting as part of the Broad-Based Government.

AFTER HIGHLIGHTING the diversity within the reconstituted Cabinet as seen from its **representation of Kenya's full political spectrum,** the Head of State and Government urged Cabinet Members to seize the historic opportunity presented by the **Broad-Based Administration** to lead Kenya into an era of **unprecedented national renewal and transformation** through exemplary discharge of their ministerial duties.

THE MEETING assessed the progress made in accelerating the realization of the national socio-economic agenda, as outlined under the **Bottom-Up Economic Transformation Agenda (BETA).** The seminal policies and programmes considered included: **harnessing national savings and social security** through the National Social Security Fund (NSSF); achieving Universal Health Coverage through **Taifa Care**; advancing the **Affordable Housing Programme**; investing in **education reforms**; and **revitalizing agriculture and livestock value chains** to improve household incomes.

ENTHUSED BY the enhanced tonnage of sugarcane milled in 2024, Cabinet was apprised of **efforts to revive the sugar sector**, which is a mainstay of western Kenya. These efforts were evident in the **832,000 metric tons of milled sugar**, the highest since independence.

THE MEETING also observed that **earnings from tea production** in 2024 were similarly the highest on record. **To consolidate the gains made in the agricultural sector** in realizing food security, as well as its role as the greatest contributor to our nation's exports, Cabinet considered and approved the **Plant Protection Bill, 2025**. The Bill seeks to strengthen the legal and institutional framework for enhancing crop productivity while safeguarding the environment from pests and diseases.

ONCE THE Bill is enacted into law, Kenya will adopt international best practices established under the International Plant Protection Convention (IPPC) for pest and disease control by **designating the Kenya Plant Health Inspectorate Service (KEPHIS)** as Kenya's National Plant Protection Organization (NPPO). The legislation will also repeal the Plant Protection Act (Chapter 324 of the Laws of Kenya), which was originally enacted in 1937 and later amended in 1979.

IN LINE with His Excellency's **commitment to enhance accountability in the governance of State Corporations** as part of the austerity measures announced in July 2024, Cabinet considered and approved the Memorandum on **Reforms of State Corporations**. These reforms seek to consolidate public finance sustainability by expanding the fiscal space through enhanced revenue generation and better expenditure control.

ADDITIONALLY, THE reforms seek to **complement ongoing fiscal consolidation measures** by addressing operational and financial inefficiencies, enhancing service delivery, and reducing reliance on exchequer support. In that regard, Cabinet sanctioned the immediate implementation of the reforms **through the following measures:**

I. **Merging 42 State Corporations into 20 entities** to improve operational efficiency and eliminate redundancy. The entities are set out in **Annex I;**

II. **Dissolving 25 State Corporations**, with their residual functions being transferred back to their parent ministries. The entities are set out in Annex II & III;

III. **Restructuring six (6) State Corporations** to align their mandates for improved performance. The entities are as set out in Annex IV;

IV. **Declassifying four (4) public funds** currently categorized as State Corporations and transferring their functions back to the relevant ministries. The entities are as set out in Annex V; and

V. **Declassifying 13 professional bodies**, which are currently categorized as State Corporations. The entities are as set out in Annex VI.

TO INSTITUTIONALIZE these reforms, Cabinet issued a moratorium on all affected State Corporations, prohibiting them from hiring additional staff, altering existing staff structures or salary scales, or undertaking major capital projects. In undertaking this process, **seamless delivery of service is expected** and staff in affected institutions will be absorbed into the public service. The transition process is expected to culminate by the end of the current financial year – FY 2024/25.

ADDITIONALLY, AS part of the parastatal reforms, Cabinet considered and approved the revival and commercialization of **Rivatex East Africa Limited** by onboarding non-equity strategic partner(s). This initiative will anchor the government's cotton revitalization plan by securing the uptake of cotton production while also providing alternative lint supplies for local apparel manufacturers.

AS PART of reforms to position **Kenya as an aviation hub** as well as a **premier destination for tourism and international conventions**, Cabinet reviewed the report of its **Working Group on Kenya's Visa-Free Regime.** The Working Group, was tasked by Cabinet in December 2024 to propose measures to enhance the Electronic Travel Authorization (eTA) system in response to the Visa Openness Index for Kenya, with the strategic goal of boosting efficiency and improving the overall travel experience.

CABINET CONSIDERED and adopted the Working Group's recommendations, that included **granting eTA exemptions to 52 African**

countries based on reciprocity and in alignment with the nation's commitment to fostering solidarity and fraternity with all African nations.

TO FURTHER enhance the effectiveness of the visa-free regime, **Cabinet authorized the introduction of an expedited eTA processing option**, allowing travelers to receive instant approvals with a maximum processing time of 72 hours. Additionally, the implementation of an Advanced Passenger Information/Passenger Name Record system will improve pre-screening, strengthen security, and **streamline passenger processing at entry points.**

IN RECOGNITION of the need to enhance the traveler experience at all entry points into Kenya, particularly at airports, Cabinet tasked the Working Group— comprising the Cabinet Secretaries for Interior & National Administration, The National Treasury & Economic Planning, Roads & Transport, and Tourism & Wildlife **with instituting additional measures to improve the traveler experience at all airports.** These additional measures are to be rolled out **WITHIN SEVEN DAYS.**

IN PROMOTING digital economy as an emerging driver of Kenya's expanding services sector, Cabinet considered and approved the **Kenya Cloud Policy.** The Policy seeks to **fortify Kenya's place as a leader in the Information, Communication and Technology (ICT) space** by accelerating the adoption of green cloud computing technologies. These emerging technologies have created a new model of data storage and transmission which in effect has reduced the total cost of ownership of ICT Infrastructure, ensured robust cybersecurity measures on data hosted on cloud; enabled collaboration and interoperability among entities; and promoted data residency and sovereignty.

THE POLICY also serves as a **useful guide to the private sector** as it continues to undertake digital transformation by further **harnessing the cloud-based information Technology (IT) deployment.**

TO CATALYZE the contribution of Micro, Small, and Medium Enterprises (MSMEs) to our nation's development agenda, Cabinet considered and approved the **Credit Guarantee Policy**. To support the

implementation of this policy, Cabinet also authorized the establishment of the **Kenya Credit Guarantee Company.**

THE POLICY complements other ongoing state initiatives aimed at enhancing **access to quality and affordable credit.** The policy proposition forms part of the response to market failures in the financial sector that discourage financial institutions from bridging the financing gap by providing credit to sectors perceived as risky. **The Credit Guarantee Scheme** was the precursor to the proposed **Kenya Credit Guarantee Company** and has been operating under the National Treasury since the year 2020.

THE PROPOSED Company will **support the growth of the existing guarantee scheme** and in keeping with the international best practice will feature minority shareholding by the government, with additional funds sourced from development partners, the private sector, and other investors.

TO PROVIDE a framework for structured cooperation between industry *(including cottage industries by MSMEs)* and training institutions, Cabinet approved the **Dual Training Policy**. The policy seeks to **increase industry involvement** in Technical Vocational Education and Training (TVET) and leverage the latest technologies, equipment, tools, and expertise available in industry to improve the demand-orientation and quality of TVET.

UPON IMPLEMENTATION of this policy, **the country will scale up work-based learning,** which has been ongoing through apprenticeship programs, mostly on a small scale by private sector entities. Under this programme, trainees will spend 50% to 70% of their training in industry and the rest in institutions, ensuring that they acquire the relevant, practical skills. This approach will **enable the production of work-ready graduates** who will not require re-training by the industry.

AS PART of the nation's human capital development and to ensure that our **public sector remains competitive**, Cabinet sanctioned the rollout of a **mandatory continuous personal development program for all staff in the public service.**

THE TRAINING will be in-house under the stewardship of the **Kenya School of Government**, with online modules offered through the **Open University of Kenya. The mandatory** training programs include: Strategic Leadership Development Program **(SLDP),** Senior Management Course **(SMC),** Supervisory Skills Development Course **(SSDC),** and an induction course for all staff in the public service.

TO SAFEGUARD Kenya's national interests at home and abroad, the nation's top policy organ considered and approved **the revised Kenya Foreign Policy (2024).** The policy seeks to **promote and safeguard our prioritized national interests,** which include: Territorial Integrity, Sovereignty, and Security of Citizenry; Economic Prosperity; Socio-Political Stability; National Values and Governance; Constitutionalism and the Rule of Law; Sustainable Development; and Global Influence and Competitiveness.

AS KENYA seeks to play a greater role in international affairs and in recognition of the consequence of foreign relations in furthering our national interests, Cabinet sanctioned the **transmittal of the policy to Parliament** as a **Sessional Paper on Kenya Foreign Policy, 2024**, for consideration and approval.

IN FURTHERANCE of our nation's foreign policy and to strengthen the long-standing ties between Kenya and the People's Republic of Bangladesh, Cabinet approved the **establishment of a resident diplomatic mission in Dhaka, People's Republic of Bangladesh.**

THE DIPLOMATIC mission will provide an opportunity for increased collaboration between the two nations in technology transfer and access to the expansive market for Kenyan goods. It will also foster partnership in the blue economy and address maritime security challenges within the Indian Ocean, as **members of the Indian Ocean Rim Association (IORA).**

CABINET ALSO considered and approved the **Intergovernmental Authority on Development (IGAD) Protocol on Transhumance.** The protocol seeks to facilitate the exploitation of the social and economic potential of the pastoral production system by enabling **free movement of**

pastoralists and their livestock across the borders in the IGAD region.

UPON ADOPTION by all IGAD member countries, the protocol will foster peace and security within the region by facilitating the sharing of rangeland resources, including water, pasture, and browse. This will help **strengthen cross-border community relations and promote peace.**

IN VIEW of the new realities of the **global coffee sector** and to put the sector back on a growth trajectory, Cabinet sanctioned Kenya's accession to the **Intra-African Coffee Organization (IACO) New Agreement,** subject to the treaty ratification process. The treaty repeals the 1960 constitutive agreement to which Kenya was a signatory. The new agreement brings together coffee-producing countries, consuming countries, and the private sector, and is expected to **spur the expansion of trade in coffee.**

TO STRENGTHEN the arc of governance **between the two levels of government** in the administration of additional allocations to county governments, Cabinet approved the **Public Finance Management (Amendment) Bill, 2024.** The Bill provides a framework for **seamless implementation of conditional allocations/grants to counties** while ensuring that there is no duplication in the processing and management of these conditional allocations.

IN CONCLUDING the day's meeting and in affirmation of the collaboration between the two levels of government, **Cabinet approved the financing framework for the Thika and Githunguri Water Supply and Sanitation Improvement Project.** This initiative underscores the commitment to providing clean, safe, reliable, and affordable water and sanitation services. The project comes as a timely relief to the residents of Thika and Githunguri, **addressing the current 50% deficit in water and sanitation services** within these two towns in Kiambu County.

CABINET OFFICE
EXECUTIVE OFFICE OF THE PRESIDENT
Tuesday, 21st January, 2025

ANNEXURES

REFORMS
of
STATE CORPORATIONS

ANNEX I

FORTY-TWO (42) STATE CORPORATIONS with duplicating, overlapping or related mandates are proposed for mergers to form twenty (20) Entities as detailed below:

S/NO.	STATE CORPORATION
1	University Fund Higher Education Loans Board
2	Kenya Tourism Board Tourism Research Institute
3	Export Processing Zones Authority Special Economic Zones Authority
4	Anti-Counterfeit Authority Kenya Industrial Property Institute
5	Kenya Copyright Board Kenya Industrial Research and Development Institute Kenya Industrial Estates
6	Agricultural Finance Corporation Commodities Fund
7	Kenya Forest Service Kenya Water Towers Agency

8	Agricultural Development Corporation Kenya Animal Genetic Resource Centre
9	National Irrigation Authority National Water Harvesting and Storage Authority
10	Kenya Law Reform Commission National Council for Law Reporting
11	Tourism Promotion Fund Tourism Fund
12	Commission for University Education Technical and Vocational Education and Training Authority Kenya National Qualifications Authority
13	Kenya Rural Roads Authority Kenya Urban Roads Authority
14	Kenya Investment Authority Kenya Export Promotion and Branding Agency
15	Water Services Regulatory Board Water Regulatory Authority Regional Center on Ground Water Resources, Education, Training and Research
16	Kenya National Trading Corporation National Cereals & Produce Board
17	Uwezo Fund Women Enterprise Fund Youth Enterprise Development Fund
18	Kenya Medical Research Institute Kenya Institute of Primate Research

19	Kenya Plant Health Inspectorate Service National Bio-Safety Authority
20	Agriculture and Food Authority

ANNEX II & III [25 State Corporations]

NINE (9) STATE CORPORATIONS whose mandates can be performed under the Ministry are proposed for dissolution after the functions are transferred back to the Ministry or other relevant State Corporations:

S/NO.	STATE CORPORATION
1	Kenya Tsetse Fly and Trypanosomiasis Eradication Council
2	Kenya Fish Marketing Authority
3	Centre for Mathematics, Science and Technology Education in Africa
4	President's Award – Kenya
5	Nuclear Power and Energy Agency
6	Kenya National Commission for UNESCO
7	Kenya Film Classification Board
8	National Council for Nomadic Education
9	LAPSSET Corridor Development Authority

SIXTEEN (16) STATE CORPORATIONS with outdated mandates or the good/service can be supplied by the private sector are proposed for divesture/dissolution:

S/NO.	STATE CORPORATION
1	Numerical Machining Complex
2	Scrap Metal Council
3	Kenya Fishing Industries Corporation
4	Jomo Kenyatta Foundation
5	Pyrethrum Processing Company of Kenya Ltd
6	Kenya National Shipping Line

7	School Equipment Production Unit
8	Kenya Yearbook Editorial Board
9	Kenya National Assurance Company
10	Coast Development Authority
11	Ewaso Ng'iro South Development Authority
12	Ewaso Ng'iro North Development Authority
13	Kerio Valley Development Authority
14	Lake Basin Development Authority
15	Tana and Athi Rivers Development Authority
16	Kenya Post Office Savings Bank

ANNEX IV

SIX (6) STATE CORPORATIONS are proposed for restructuring to align their mandates for better performance:

S/NO.	STATE CORPORATION
1	Kenya Utalii College
2	Postal Corporation of Kenya
3	Bomas of Kenya
4	National Syndemic Diseases Control Council
5	Kenya Roads Board
6	National Housing Corporation

ANNEX V

FOUR (4) PUBLIC FUNDS categorized as state corporations need to be declassified and reverted back to the Ministry with a strengthened/ more focused governance structure that will apply to all public funds:

S/NO.	STATE CORPORATION
1	Water Sector Trust Fund
2	National Environment Trust Fund
3	Sports, Arts and Social Development Fund
4	Fish Levy Trust Fund

ANNEX VI - 13 Professional Bodies and Welfare Society

THIRTEEN PROFESSIONAL BODIES currently categorized as state corporations should be declassified and should not be financed through budgetary allocations.

S/NO.	STATE CORPORATION
1	Hydrologists Registration Board
2	Clinical Officers Authority
3	Council of the Institute of Nutritionists and Dieticians
4	Kenya Health Professionals Oversight Authority
5	Kenya Medical Laboratory Technicians and Technologists Board
6	Kenya Medical Practitioners and Dentists Council
7	Public Health Officers and Technicians Council
8	Nursing Council of Kenya
9	Engineers Board of Kenya
10	Institute of Certified Investment and Financial Analysts
11	Institute of Human Resource Management
12	Kenya Institute of Supplies Management
13	Child Welfare Society of Kenya

ANNEX 7:

SUBMISSIONS BY KENYA FISH MARKETING AUTHORITY (KFMA)

REPUBLIC OF KENYA
MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS
STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES
Office of the Principal Secretary

Email:ps@blueeconomy.go.ke
Telephone:+254 (20) 2718870

When replying please quote;

SHA Building
Ragati Road
P.O. Box 58187-00200
Nairobi

Our Ref: MMBE&MA/SDBE&F/LEG/ VOL 1. 1

7th March, 2025.

Nicodemus Malwki
Pls facilitate
12/3/25 DDC
& 12/03/25

Mr. Samuel Njoroge, CBS
Clerk of the National Assembly
Parliament Building
Nairobi.

Dear

SUBMISSION OF MEMORANDUM AND PROPOSALS FOR CONSIDERATION IN THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO 29 OF 2023).

The above-captioned matter refers.

The Ministry of Mining, Blue Economy and Maritime Affairs through the State Department for the Blue Economy is in receipt of an invitation to submit memoranda on the Fisheries Management and Development Bill [National Assembly Bill No. 29 of 2023]. It is understood that the Bill has been read for the first time and referred to the Department Committee on Blue Economy, Water and Irrigation for consideration and reporting to the House.

It is noted that the Bill seeks to provide a comprehensive legislative framework for the development, governance and investment of the oceans and fisheries resources in line with the national development policy objectives envisaged in Vision 2030. It is further noted that the Bill seeks to align the governance of the Fisheries sector to the Constitution which calls for sustainable use of the natural resources for the benefit of the people of Kenya and governance at the national and county levels of government. This memorandum is therefore made pursuant to Article 10 and 69 of the Constitution in full compliance with the requirement s of parliament to comply with the provisions of Article 118 (1) (b) and standing order 127(3) of the National Assembly Standing Orders.

DIRECTOR RECEIVED 12 MAR 2025 6.00PM Directorate of Departmental Committees

NATIONAL ASSEMBLY RECEIVED 11 MAR 2025 CLERK'S OFFICE

Please find enclosed a matrix that will guide the process. The same has been prepared in this order; the clause, provision of the proposed law in the bill, proposed amendment from the ministry and the reasons and justification for the recommended proposals.

Submitted for your kind consideration.

Yours sincerely,

Betsy M. Njagi, CBS
PRINCIPAL SECRETARY

Encls.

Copy to: **Hon. Hassan Ali Joho, EGH**
Cabinet Secretary
Ministry of Mining, Blue Economy and Maritime Affairs
Works Building
Nairobi.

Rose ② Rose Wanjohi
pls deal
14/3/25

KENYA FISH MARKETING AUTHORITY
P.O. Box 47170–00100, Museum Hill
Nairobi Kenya
CELL: +254 721 424691
EMAIL: info@kfma.go.ke

KFMA
Fish for Health and Wealth

REPUBLIC OF KENYA

DIRECTOR
RECEIVED
14 MAR 2025
Directorate of Departmental Committees

MEMORANDUM ON THE ESTABLISHMENT OF THE KENYA FISH DEVELOPMENT AUTHORITY (KEFDA)

Date: 5th March 2025

NATIONAL ASSEMBLY
RECEIVED
14 MAR 2025
CLERK'S OFFICE
P.O Box 41842, NAIROBI

① DDC
14/03/25
③ Ms Laureen W.
Please deal
13/3/25

To:
Kenya National Assembly,
Parliament Buildings
P.O. Box 41842 - 00100
NAIROBI.

1. Introduction

The fisheries sector in Kenya is a critical component of the national economy, contributing significantly to food security, employment, and foreign exchange earnings. Kenya is endowed with vast inland water bodies, including Lake Victoria, Lake Turkana, and Lake Naivasha, as well as a long coastline along the Indian Ocean. Additionally, the potential for aquaculture remains largely untapped, representing a new frontier for economic growth. Despite this potential, the sector faces numerous challenges, including overfishing, illegal fishing, inadequate infrastructure, and weak regulatory frameworks.

The recent approval by the Cabinet to dissolve the Kenya Fish Marketing Authority (KFMA) and the ongoing debate in Parliament to replace the Fisheries Management and Development Act of 2016 present a unique opportunity to reimagine the governance and management of the fisheries sector. The KFMA Board, in consultation with stakeholders, proposes the establishment of a single, unified state corporation—the Kenya Fish Development Authority (KeFDA)—to manage and develop the fisheries sector in Kenya. This paper outlines the rationale, mandate, and functions of KeFDA, in line with international fisheries instruments, and provides a compelling case for its establishment.

2. Rationale for the Establishment of KeFDA

The fisheries sector in Kenya has the potential to contribute up to KES 100 billion annually to the national economy. However, this potential remains unrealized due to fragmented management, overlapping mandates, and inadequate coordination among existing institutions. The current regulatory framework, split between the Kenya Fisheries Service (KeFS) and KFMA, has led to inefficiencies and gaps in service delivery.

The establishment of KeFDA will address these challenges by:

- Streamlining Governance: KeFDA will consolidate the functions of KeFS and KFMA under a single authority, ensuring cohesive policy implementation and resource allocation.

- Enhancing Sector Coordination: By bringing together regulatory, marketing, and development functions, KeFDA will provide a unified approach to managing the fisheries sector.
- Promoting Sustainable Practices: KeFDA will align its operations with international fisheries instruments, such as the FAO Code of Conduct for Responsible Fisheries, to ensure sustainable exploitation of fisheries resources.
- Unlocking Aquaculture Potential: KeFDA will prioritize the development of aquaculture as a key driver of economic growth, leveraging Kenya's favorable climatic conditions and water resources.

3. Mandate of KeFDA

The mandate of KeFDA shall be to promote, regulate, and develop the fisheries sector in Kenya through sustainable management of fisheries resources, effective marketing strategies, and the promotion of aquaculture. KeFDA will operate as a state corporation under the Ministry of Agriculture, Livestock, Fisheries, and Cooperatives, with the following core objectives:

- To ensure sustainable exploitation and conservation of fisheries resources.
- To promote the development of aquaculture as a key pillar of the blue economy.
- To enhance the value addition and marketing of fish and fish products.
- To provide technical and financial support to fishers, fish farmers, and other stakeholders.
- To enforce compliance with national and international fisheries regulations.

4. Functions of KeFDA

KeFDA will be structured into specialized directorates, each responsible for specific functions currently under KeFS and KFMA. The proposed directorates and their functions are as follows:

4.1. Directorate of Fisheries Management

- Develop and implement policies for the sustainable management of fisheries resources.
- Monitor and control fishing activities to prevent overfishing and illegal fishing.
- Conduct research and data collection to inform fisheries management decisions.
- Promote community-based fisheries management initiatives.

4.2. Directorate of Aquaculture Development

- Develop and implement strategies for the growth of aquaculture.
- Provide technical support and training to fish farmers.
- Facilitate access to quality fish feeds, fingerlings, and other inputs.
- Promote public-private partnerships in aquaculture development.

4.3. Directorate of Marketing and Value Addition

- Develop and implement marketing strategies for fish and fish products.
- Establish and manage fish storage, processing, and cold chain facilities.
- Promote value addition and export of fish products.
- Facilitate market access for small-scale fishers and fish farmers.

4.4. Directorate of Compliance and Enforcement

- Enforce compliance with fisheries laws and regulations.
- Combat illegal, unreported, and unregulated (IUU) fishing.
- Conduct surveillance and patrols in fishing zones and landing sites.
- Collaborate with other law enforcement agencies to ensure compliance.

4.5. Directorate of Research and Development

- Conduct research on fish stocks, aquaculture technologies, and climate change impacts.
- Develop innovative solutions for sustainable fisheries management.
- Collaborate with academic and research institutions to advance fisheries science.
- Disseminate research findings to stakeholders.

4.6. Directorate of Finance and Administration

- Manage the financial resources of KeFDA.
- Develop and implement internal controls and accountability mechanisms.
- Provide administrative support to other directorates.
- Facilitate capacity building for KeFDA staff.

5. Alignment with International Fisheries Instruments

KeFDA will operate in accordance with international fisheries instruments, including:

- FAO Code of Conduct for Responsible Fisheries: KeFDA will promote responsible fishing practices and sustainable resource management.
- United Nations Sustainable Development Goals (SDGs): KeFDA will contribute to SDG 14 (Life Below Water) by conserving marine and inland fisheries resources.
- Port State Measures Agreement (PSMA): KeFDA will implement measures to combat IUU fishing in line with the PSMA.
- Convention on International Trade in Endangered Species (CITES): KeFDA will ensure that trade in fish and fish products complies with CITES regulations.

6. Conclusion and Recommendations

The establishment of KeFDA is a strategic intervention that will transform the fisheries sector in Kenya. By consolidating the functions of KeFS and KFMA, KeFDA will provide a unified and efficient framework for managing fisheries resources, promoting aquaculture, and enhancing the marketing of fish products. This will unlock the sector's potential to contribute KES 100 billion annually to the national economy, create employment opportunities, and improve food security.

The KFMA Board respectfully requests Parliament to consider this memorandum and enact legislation for the establishment of KeFDA. We believe that this initiative will position Kenya as a leader in sustainable fisheries management and aquaculture development in the region.

Martin Ogindo
Chairman, Board of Directors
KENYA FISH MARKETING AUTHORITY (KFMA)

ANNEX 8:

SUBMISSIONS BY LAKE VICTORIA AQUACULTURE ASSOCIATION (LVAA)

Rose Wanjohi, HOD
Pls place before the
Rgt. Comm. on Blue Econ
DM 11/04/25

(1) DDC
& 10/4/25

P. O. Box 7250 Kisumu, Kenya 40100 • Tel. +254715068511 • admin@lvakenya.org

(3) Nicodemus Malika
Pls T.N.A
BKW 14/4/25

10 April 2025

The Clerk
The National Assembly
P.O. Box 41842-00100
Nairobi

Dear Sir,

Re: Submission of Memorandum on the Fisheries Management and Development Bill, 2024

Further to my letter dated 7th April 2025, I am pleased to formally submit the attached memorandum from the Lake Victoria Aquaculture (LVA) Association in response to the call for stakeholder input on the Fisheries Management and Development (FMD) Bill, 2024.

The memorandum outlines the strong position I conveyed in my letter, that the Bill, in its current form, is fundamentally flawed and should not proceed without substantial revision. It presents key concerns from aquaculture stakeholders and offers constructive recommendations to support the development of a more inclusive, balanced, and constitutionally sound framework for managing Kenya's fisheries and aquaculture sector.

We have shared this memorandum with the State Department for Fisheries and the Blue Economy, and have requested the Principal Secretary to convene a meeting with us and other relevant stakeholders to discuss a more transparent and participatory process for reviewing and redrafting the Bill.

We trust that Parliament will take these perspectives into account and welcome the opportunity for continued engagement on this important matter.

Yours sincerely,

Ochieng Mbeo

Hon. Ochieng' Mbeo
Chairman

DIRECTORATE OF DEPARTMENTAL COMMITTEES
RECEIVED
11 APR 2025

Mr. Jeremiah M. Nyegenye, Clerk of the Senate

NATIONAL ASSEMBLY
RECEIVED
10 APR 2025
CLERK'S OFFICE
P.O Box 41842, NAIROBI

Memorandum on the Fisheries Management and Development Bill, 2024

Regulatory Impact Analysis for Aquaculture Practitioners

Executive Summary

This memorandum is submitted by the **Lake Victoria Aquaculture (LVA) Association** to the National Assembly in response to a call for stakeholder input on the parliamentary review of the Fisheries Management and Development Bill, 2024. It provides a detailed analysis of the proposed legislation, with particular emphasis on its implications for aquaculture practitioners in Kenya. The Bill introduces substantial reforms to the governance framework for fisheries and aquaculture, including the establishment of new institutional structures and regulatory requirements that will have a direct bearing on aquaculture investments and operations across the country.

The analysis acknowledges that an ideal African aquaculture law must prioritize sustainability, equitable access, and stakeholder participation, ensuring long-term resource management while supporting livelihoods and food security. Nonetheless, keen scrutiny of the current Bill raises the following critical concerns;

Core Legal and Regulatory Weaknesses of the FMD, Bill, 2024;

(a) Lack of Legislative Innovation and Vision

Unfortunately, the Fisheries Management and Development Bill 2024 **fully replicates** the Fisheries Management and Development Act of 2016, with little substantial progress or variation. This duplication signifies the Ministry's lack of policy imagination and commitment toward comprehensive sectoral reform. Given the significant shifts in aquaculture over the past decade, driven by climate change, innovation, and regional integration, the reintroduction of nearly identical legislative text fails to address current and future needs. The opportunity to reset the regulatory foundation for aquaculture has been lost due to a copy-paste approach.

(b) Absence of Targeted Development Measures for the Aquaculture Sector.

The Bill lacks specific provisions for targeted development measures to address aquaculture's unique challenges and opportunities. While Section 30 enables the Director-General to promote development through various measures, these broadly apply to all fisheries sectors rather than tailored to aquaculture's distinct needs.

In particular, the Bill omits:

- Specific incentives for aquaculture investment and expansion
- Targeted research and technology transfer programs for aquaculture
- Specialized extension services for aquaculture producers
- Dedicated credit facilities or risk-sharing mechanisms for aquaculture operations

These omissions may limit the Bill's effectiveness in driving aquaculture development, particularly for small and medium-scale producers who often face significant barriers to entry and growth. Further,this limited recognition represents a missed opportunity to position aquaculture as a strategic growth sector rather than simply another regulated activity. Without explicit recognition of aquaculture's development potential, there's a risk that implementation will focus disproportionately on compliance rather than promotion.

(c) Absence of a Dedicated National Policy or Strategic Framework

The Bill seems to operate in a policy vacuum. There is no reference to a national aquaculture development policy or an overarching strategy that informs its regulatory framework. Sound legislative processes dictate that laws should be driven by policy. In this case, the lack of a guiding policy framework renders the Bill directionless, reactive, and susceptible to inconsistencies in implementation. It becomes impossible to discern the government's long-term vision for aquaculture, including whether the intent is regulation, development, commercialization, or merely administrative control.

(d) Continued Subordination of Aquaculture under Capture Fisheries

The Bill perpetuates an outdated view of aquaculture as a sub-sector of capture fisheries rather than recognizing it as a distinct economic pillar. This subordination is evident in the generic institutional structures and standardized licensing requirements. Globally, aquaculture is acknowledged as a rapidly growing, independent sector with specific regulatory, investment, and innovation needs. A separate Aquaculture Development and Regulation Act, distinct from capture fisheries, should be enacted to fully support its growth, aligning with international best practices and regional commitments under the African Union Blue Economy Strategy.

(e) Failure to Recognize Devolution

Aquaculture is a constitutionally devolved function. However, the Bill's centralization of authority, particularly in Sections 7–29 and 33–37, fails to meaningfully incorporate county governments into decision-making. This creates fertile ground for jurisdictional friction, duplication of functions, and regulatory confusion. A genuinely progressive Bill should reflect a cooperative and coordinated framework, enabling counties to take the lead in localized aquaculture development while being guided by a harmonized national policy.

(f) Fragmented Governance Structure

The division of responsibilities between national and county levels, while constitutionally necessary, creates potential coordination challenges that could hamper coherent sector development. Section 34 allows counties to develop fisheries management plans, and Section 65 assigns counties responsibility for monitoring aquaculture activities, but the Bill provides limited mechanisms for harmonizing these approaches across counties.

This fragmentation could lead to inconsistent development approaches, creating an uneven playing field for aquaculture operators in different counties. Without effective coordination mechanisms, the sector may develop in a patchwork fashion rather than through a coherent national strategy.

(g) Lack of Prioritization of Research and Development

The Bill fails to place research and development (R&D) at the core of aquaculture transformation. While Section 27 establishes a Fisheries Research and Development Fund, there is no specific allocation or framework aimed at aquaculture-related innovation. Given the sector's dependence on adaptive breeding, disease control, feed efficiency, and climate resilience, R&D must be integrated as a strategic priority. Legislative acknowledgment of R&D funding, incubator programs, and innovation partnerships (particularly with universities and the private sector) is crucial for sectoral progress.

(h) Overregulation and Limited Innovation

The Bill emphasizes compliance and control mechanisms but overlooks support for innovation and investment incentives. Sections 114–123 impose layered licensing, registration, and inspection processes without exceptions for pilot projects or incubation schemes. Furthermore, there is no provision for aquaculture research incubation or the promotion of technological innovation.

(i) Licensing Complexity and Uniformity

Sections 84, 86, and 123 create a consistent licensing system for all aquaculture activities, regardless of scale or environmental risk. Furthermore, the annual renewal process outlined in Section 122 adds to bureaucracy and impedes long-term investment planning.

(j) Surveillance-Heavy Enforcement:

Part XIII (Sections 136–152) grants inspectors extensive enforcement powers, such as warrantless entry (Section 140) and administrative proceedings without thorough judicial review (Sections 182–183). These provisions pose legal and operational risks for investors and small operators.

(k) Overcentralized Institutional Structure:

Although the Kenya Fisheries Service (Sections 7–29) and the Fish Marketing Authority (Sections 198–207) are established, decision-making remains overly centralized in the hands of the Cabinet Secretary and Director-General. Sections 33–37 do not sufficiently clarify the roles between the county and national levels, leading to potential jurisdictional overlap.

(l) Weak Investment and Sector Support

The Bill lacks incentives for innovation, investment zones specific to aquaculture, and frameworks for capacity building. The Fish Levy Trust Fund (Section 28) is poorly structured and offers no dedicated support for R&D or disease management in Aquaculture. Further, sections 65–70 address fish health, the Bill does not establish a national disease response mechanism, aquatic animal health protocols, or designated quarantine and disease zones.

(m) Public Participation Deficiencies

Section 119 enables the Director-General to make licensing decisions without consulting the public. Section 83 permits the discretionary publication of information without requiring transparency or stakeholder involvement in spatial planning or regulatory reforms.

RECOMMENDED LEGISLATIVE APPROACH:

The following measures should be considered as legislative amendments or accompanying policy actions to address these core structural deficits.

(a) Draft a standalone **Aquaculture Development and Regulation Bill**, separate from the FMD Bill, with specific investment, innovation, commercialization, and environmental protection provisions. Additionally, define the roles and responsibilities for government agencies and stakeholders.
(b) Mandate the creation and release of a **National Aquaculture Policy and Strategic Plan** before or simultaneously with any regulatory framework. Additionally, ensure that aquaculture policies align with broader national development goals, including food security, economic growth, and environmental sustainability.
(c) **Aquaculture Regulations:** Establish clear regulations for aquaculture development, including site selection, water quality standards, and disease management to minimize environmental impacts.
(d) Legislate precise R&D funding mechanisms supported by law, including aquaculture incubators and grants.
(e) Establish a **Devolution Coordination Mechanism (Intergovernmental Coordination Framework)** featuring a statutory intergovernmental forum to align county and national strategies regarding Aquaculture.
(f) Provide secure tenure rights to aquaculture operators, ensuring long-term investment and sustainable practices.
(g) **Small-Scale Fisheries Support:** This program should focus on the needs of small-scale aquaculture producers by providing access to credit, technology, and training.

SECTIONS REVIEW OF THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2024.

Policy, Institutional, and Regulatory Analysis

1. Policy Issues

Issue	Sections	Impact on Aquaculture
Overemphasis on Conservation vs. Economic Growth	Part V (Sections 30–53), Part VIII (Sections 61–74)	Strict conservation measures may limit aquaculture expansion and innovation, imposing additional costs through enhanced environmental compliance requirements
Ecological Sustainability and Community Access	Sections 5, 63, 64	Could restrict operational expansion and impose additional costs due to increased environmental compliance and community negotiations
Subsistence Fishing Exemptions	Section 85	Risks market distortion if subsistence fishers transition to commercial activities without proper oversight, creating unfair competition
Precautionary Approach in Aquaculture	Sections 66, 70	Mandatory environmental impact assessments and restrictions on drug/chemical use could delay operations and increase compliance costs
Harmonization with County Plans	Sections 33-37	Requires alignment of county fisheries management plans with national policies, potentially causing bureaucratic delays
Transboundary Collaboration Requirements	Section 73	Obligations to align with neighboring states' aquaculture policies may complicate operations in shared water bodies

2. Institutional Framework Concerns

Concern	Sections	Impact on Aquaculture
Establishment of Kenya Fisheries Service (KFS)	Sections 7-29	Creates a centralized authority requiring new relationships; over-reliance on the Director-General for approvals may lead to bureaucratic delays
Creation of the Kenya Fisheries Council	Section 6	Introduces a high-level advisory body that will shape policy affecting aquaculture, potentially without sufficient industry representation
Establishment of Fish Marketing Authority	Sections 198-207	While providing marketing infrastructure, FMA's control over trade may restrict private-sector pricing autonomy and market strategies

Relations between County & National Government	Sections 33-37	Dual regulatory oversight requiring compliance with both jurisdictions; conflict between county-level plans and national directives could create regulatory inconsistency
Observer Programme Implementation	Sections 147-152	Mandatory observer deployments could increase operational costs and create logistical challenges for aquaculture operations
Coordination Between Levels of Government	Sections 33-37, 65	Lack of clear coordination mechanisms between national and county governments may lead to confusion and compliance challenges

3. Licensing and Operational Requirements

Requirement Area	Sections	Impact Assessment
Commercial Aquaculture Licensing	Sections 61, 84(1)(d), 113-123	Complex mandatory licensing for all commercial operations with new prerequisites and conditions may deter investment and delay project launches
Environmental Compliance	Sections 48, 62, 68, 119(2)-(3)	More stringent environmental impact assessment requirements for aquaculture establishments adding to start-up costs and timeframes
Aquaculture Site Inspection	Section 121	Mandatory pre-approval inspections with associated fees adding to establishment costs
License Validity and Renewal	Section 122	10-year license with annual renewal requirement creates both stability and regular administrative burden
Permit Conditions	Sections 118, 122	Extensive conditions covering facility construction, species control, safety standards, etc., increasing compliance complexity

4. Operational Regulations and Compliance

Regulatory Area	Key Sections	Implications
Fish Disease Management	Sections 65-67, 70, 122(2)	Strict compliance requirements for disease prevention and control, with county governments empowered for stringent management including stock destruction
Waste Management Obligations	Section 68	Mandatory waste management practices with potential redesign requirements; costs of treating/securing waste could strain small-to-medium enterprises
Escaped Fish Management	Section 69	Liability for fish escapement with immediate reporting requirements; strict penalties may disproportionately affect smaller operators

Use of Chemicals and Pharmaceuticals	Section 70, 122(2)(i)	Restrictions on use of drugs, chemicals, antibiotics with prior approval required, potentially limiting productivity and innovation
Record Keeping	Section 122(2)(p)	Extensive record keeping obligations adding administrative burden
Data Reporting and Confidentiality	Part IX (Sections 75-83)	Mandatory disclosure of sensitive operational data risking intellectual property security

5. Species and Breeding Controls

Control Mechanism	Relevant Sections	Impact
Introduction of Exotic/GM Species	Section 66	Written permission required with environmental assessment prerequisites, potentially limiting innovation
Fish Transfer Regulations	Sections 54-56, 66	Restrictions on movement of fish, eggs, fingerlings between establishments adding operational complexities
Information Requirements	Section 71	Mandatory collection and reporting of data on wild and GM species creating additional administrative requirements

6. Marketing and Trade Provisions

Area	Sections	Implications
Fish Marketing Framework	Sections 57, 198-207	New structured marketing system through Fish Marketing Authority potentially limiting market autonomy
Quality and Safety Standards	Sections 58-60	Comprehensive quality control and safety requirements increasing monitoring and compliance costs
Export Restrictions	Sections 54-55	Regulated export of live fish with additional compliance requirements potentially restricting market access

7. Enforcement and Penalties

Enforcement Aspect	Key Sections	Assessment
Inspection Powers	Sections 111, 140-141	Broad powers for inspectors to access facilities, documents, and data creating operational disruption risks
Monitoring and Surveillance	Sections 20-21	Enhanced monitoring capabilities through dedicated units increasing scrutiny of operations

Penalties for Non-Compliance	Various penalty clauses	Significant fines (up to KES 5 million) and imprisonment terms for infractions could cripple businesses financially
Administrative Proceedings	Sections 182-183	Possibility of summary administrative proceedings for violations without full judicial oversight

8. Community and Traditional Rights Protection

Protection Measure	Sections	Implication
Traditional Access Rights	Section 64	Explicit prohibition against depriving communities of traditional access requiring proactive community engagement strategies
Consultation Requirements	Section 119(4)	Public notice and stakeholder consultation requirements for new aquaculture licenses potentially delaying approvals
Beach Management Units	Section 37	Recognition of structured community participation in management requiring additional stakeholder engagement

9. Financial and Administrative Concerns

Concern	Relevant Sections	Impact
Allocation of Fish Levy Trust Fund	Section 28	Proposed allocation of funds to counties could either support or burden aquaculture development depending on implementation
High Penalties	Multiple sections	Severe financial penalties for non-compliance creating disproportionate risks especially for smaller operators
Cost of Compliance	Multiple sections	Cumulative cost of meeting multiple regulatory requirements potentially affecting business viability

Critical Issues Concerns based on the Review of the Bill:

2. **Regulatory Burden**: Multiple new licensing, reporting, and compliance requirements create significant administrative burden and costs.
3. **Dual Oversight**: Overlapping national and county jurisdiction may lead to regulatory confusion and conflicting requirements.
4. **Environmental Assessment Requirements**: More stringent EIA requirements might delay project approvals and increase start-up costs.
5. **Broad Enforcement Powers**: Extensive inspection and enforcement powers with significant penalties increase operational risks.
6. **Operational Restrictions**: New limitations on species, chemicals, feeds, and management practices may constrain operational flexibility.
7. **Product and Market Controls**: Quality standards and marketing restrictions may limit market access for some producers.

8. **Disproportionate Penalties**: Severe penalties may particularly impact smaller operators with limited resources for compliance infrastructure.

Recommendations

1. **Streamline Licensing Processes**:
    - Introduce fast-track approvals for low-risk aquaculture activities
    - Clearly delineate licensing authority between county and national governments
    - Implement digital licensing platforms to reduce bureaucratic delays
2. **Balance Conservation and Commercial Needs**:
    - Exempt closed-system aquaculture from certain marine protected area restrictions
    - Allow conditional use of growth-enhancing drugs under veterinary oversight
    - Develop tiered regulatory approaches based on operation size and environmental impact
3. **Mitigate Financial Burdens**:
    - Provide subsidies or tax incentives for waste management infrastructure development
    - Cap penalties for SMEs based on revenue thresholds
    - Develop clearer compensation mechanisms for disease-related stock destruction
4. **Enhance Data Protections**:
    - Strengthen confidentiality safeguards for proprietary aquaculture data
    - Limit disclosure requirements to essential regulatory information
5. **Clarify Institutional Roles**:
    - Establish clear procedures and timelines for intergovernmental coordination
    - Ensure aquaculture industry representation in both Kenya Fisheries Council and Fish Marketing Authority
    - Define specific appeal mechanisms for resolving national-county regulatory conflicts.
6. **Implement Phased Compliance**:
    - Develop transition periods for existing operations to meet new requirements
    - Establish graduated compliance schedules based on enterprise size and capacity
7. **Support Technical Capacity Development**:
    - Allocate resources from the Fish Levy Trust Fund to support compliance capacity building
    - Develop industry-specific guidance documents and training for new regulatory requirements
8. **Governance and Policy Framework:**
    - Establish a clear and comprehensive legal framework for aquaculture, while equally defining the roles and responsibilities of government agencies and stakeholders.
    - Data and Information: Invest in data collection, monitoring, and research to back evidence-based decision-making in fisheries and aquaculture management.
    - Transparency and Accountability: Promote transparency and accountability in fisheries and aquaculture governance by guaranteeing public access to information and creating mechanisms for dispute resolution.

9. To effectively support aquaculture, the following measures should be integrated into our legal and policy framework:
    (a) Infrastructure Development: The government must invest in rural infrastructure- roads, water, electricity, digital connectivity, and social services- to unlock the aquaculture potential in underserved areas.
    (b) Modern Legal Framework: An appropriate legal regime should streamline licensing, acknowledge devolved roles, and minimize duplication while clearly distinguishing between aquaculture and capture fisheries.
    (c) Promotion of R&D: Increase funding and establish national aquaculture research centers focusing on species selection, disease control, and climate adaptation.
    (d) Monitoring & Evaluation Systems: Integrate robust M&E systems to track performance, identify biosecurity threats, and assess policy impact.
    (e) Land and Water Access: Implement clear legal mechanisms and incentives that facilitate access to land and water resources for aquaculture.
    (f) Private Sector Enablement: Enact measures to attract private investment, mitigate risks associated with innovations, and create favorable conditions for value chain development.
    (g) Community Engagement: Institutionalize public participation mechanisms in policy development and implementation, acknowledging community rights and knowledge systems.
    (h) Public-Private Partnerships: Encourage PPPs in research, extension services, infrastructure, and market development through clearly defined legal provisions.

Comparative Lessons from South Africa

South Africa's Aquaculture Development Bill (2023) provides a targeted and strategic approach to aquaculture regulation. Its strengths encompass tiered licensing systems, transformation targets, aquaculture development zones (ADZs), aquatic disease control protocols, and participatory institutional structures. Kenya can improve its legislation by adopting these mechanisms to promote inclusive, investment-friendly, and innovative aquaculture governance.

Recommendations based on Best Practice (South Africa)

- Establish a comprehensive Aquaculture Development Act that emphasizes sector growth and sustainability.
- Introduce tiered licensing systems with streamlined procedures for low-risk or small-scale aquaculture.
- Establish Aquaculture Development Zones (ADZs) with government-funded infrastructure and environmental clearance.
- Require public consultation in licensing, policy planning, and spatial mapping processes.
- Establish a national aquatic animal health authority equipped with surveillance, laboratory, and quarantine capabilities.
- Empower counties by utilizing intergovernmental coordination forums and implementing devolved regulatory timelines.

- Revise the Fish Levy Trust Fund to designate funding for innovation, training, and biosecurity systems.
- Limit enforcement powers while ensuring due process safeguards and including investor protection provisions.

Conclusion

The Fisheries Management and Development Bill, 2024 represents a necessary modernization of Kenya's blue economy governance. However, in its current form, it risks deterring investment, stifling innovation, and overwhelming practitioners with excessive regulation. By adopting a more enabling legal framework inspired by South Africa's approach, Kenya can unlock the full potential of its aquaculture sector in alignment with Vision 2030 and the AU Blue Economy Strategy.

P. O. Box 7250 Kisumu, Kenya 40100 • Tel. +254715068511 • admin@lvakenya.org

Critical Issues with the FMD) Bill

The Lake Vicytoria Aquaculture (LVA) Association submits that the FMD Bill is not fit for purpose. It repeats past mistakes, undermines devolution, overregulates without enabling growth, and risks stifling aquaculture. We must push for its withdrawal and replacement with a modern, enabling framework that empowers farmers and unlocks aquaculture's full potential. Following is a summary of the critical issues we have raised in a formal Memorandum submitted to Parliament:

1. **Copy-Paste Law:**
The Bill is almost a duplicate of the 2016 Fisheries Act, with no real reforms despite major sector changes since then.

2. **Aquaculture Neglected:**
The Bill treats aquaculture as a minor sub-sector of capture fisheries, instead of recognizing it as a fast-growing independent industry.

3. **No Clear Policy Foundation:**
There is no national aquaculture policy or strategy guiding this law, making it directionless and reactive.

4. **Unconstitutional on Devolution:**
The Bill ignores that auaculture is devolved under the Constitution. It centralizes power at the national level and sidelines counties.

5. **Overregulation, Little Support:**
Heavy licensing, fees, inspections, and compliance rules are imposed without incentives, research funding, or support for farmers.

6. **Stifling Innovation & Investment:**
The Bill lacks provisions for research, new technology, incubation, or risk-sharing—discouraging private investment and innovation.

7. **Confused Governance:**
Roles of the Cabinet Secretary, the Kenya Fisheries Service (KeFS), and counties are unclear, risking conflicts and duplication.

8. **Weak Support Structures:**
No targeted programs for small-scale aquaculture, limited credit facilities, and poorly structured funds like the Fish Levy Trust Fund.

9. Harsh Enforcement:
Gives inspectors sweeping powers (e.g., warrantless entry) and imposes heavy fines/jail terms that could cripple small operators.

10. Public Participation Deficient:
The Bill allows licensing and regulatory decisions without genuine stakeholder consultation or transparency.

11. Risk of Legislative Confusion:
Reports of a parallel fisheries bill in the Senate risk creating contradictions and confusion in the legal framework.

Key Recommendations (Our Position)

1. Withdraw the current Bill and start a fresh, inclusive, transparent process.
2. Draft a standalone Aquaculture Development & Regulation Bill, separate from capture fisheries.
3. Develop a National Aquaculture Policy & Strategic Plan before passing any law.
4. Embed aquaculture as a distinct economic pillar with investment incentives, innovation support, and R&D funding.
5. Ensure counties are fully integrated into decision-making, with clear county–national coordination.
6. Create simpler, tiered licensing (especially for small-scale/low-risk farms).
7. Provide credit access, training, and technology support for small and medium producers.
8. Learn from South Africa's approach (Aquaculture Development Bill, 2023) which includes:
    - Tiered licensing
    - Dedicated aquaculture zones
    - Innovation and disease control systems
    - Clear county-national collaboration

ANNEX 9: SUBMISSIONS BY LAKE NAIVASHA BASIN LANDSCAPE ASSOCIATION (LANABLA)

Mr. Maluki
Please deal
25/03/25

DIRECTORATE OF DEPARTMENTAL COMMITTEES
RECEIVED
25 MAR 2025

Lake Naivasha Basin Landscape Association (LANABLA)

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Naivasha.

Email: lakenaivashanetwork@gmail.com
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9th March 2025

The Clerk,
The National Assembly of the Republic of Kenya,
P. O. Box 41842 – 00100
Nairobi.

Rose Wanjohi
Pls facilitate
26/3/25

RE: MEMORANDUM ON FISHERIES MANAGEMENT AND DEVELOPMENT BILL 2024

INTRODUCTION

Lake Naivasha Basin Landscape Association (LANABLA) was formed to bring together all stakeholders in natural resources to advocate for natural resources management in the Lake Naivasha Basin. Lake Naivasha Basin Landscape Association (LANABLA) draws its membership from Community Forest Associations, Water resource Users Association, Beach Management Units, Other Civil Society Organizations, Community based Organizations, Self Help Groups, Faith Based organizations and private alliances involved in natural resource management. The Mission of the organization is to engage and participate in sustainable natural resource management, policy formulation, equitable access through representation in decision-making process at Local, County, and National levels.

The forum provides an important platform for effective engagement with governments both at national and county levels as it seeks to consolidate voices and strategies of member organizations on specific issues to avoid duplication of efforts. The forum was established as a vehicle through which the rights of citizens to participate in public affairs and decision making processes, and can be realized through civic engagement and information sharing.

The Fisheries Management and Development Bill 2024 is a legal framework that will oversee the sustainable management and development of the fisheries sector in Kenya fishery waters when enacted.

LANABLA in collaboration with other stakeholders in Lake Naivasha Basin reviewed the Fisheries Management and Development Bill 2024 currently in the Senate of the Republic of Kenya to identify any existing gaps and propose amendment to enhance it.

LANABLA and stakeholders identified the following gaps and proposed the following recommendations for incorporation into the bill.

NATIONAL ASSEMBLY
RECEIVED
24 MAR 2025
CLERK'S OFFICE
P.O Box 41842, NAIROBI

OUR SUBMISSIONS

Provision in the Bill	**Our Recommendation**	**Justification**
Sec 2: Interpretation Fisheries Standing committee Technical Committee	Fisheries: Means all activities relating to the management and utilization of fish resources and its environment starting from preproduction, production, processing until marketing and includes a place where fish is caught for commercial purposes. Standing committee: Means an advisory or regulatory committee focused on maintaining and improving the quality standards of fish and fishery products. Technical Committee: Means a Committee tasked with formulating and overseeing the implementation of quality and safety standards for fish and fishery products.	The terms should be defined to make it easier to understand the intent and scope of legislation
Sec. 11(1)(c) five members, not being public officers, openly appointed by the Cabinet Secretary for their longterm knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;	Insert the words "one whom shall be a representative of the BMU at the National Level" immediately after public officers to read:- Sec. 11(1)(c) five members, not being public officers, one whom shall be a representative of the BMU at the National Level openly appointed by the Cabinet Secretary for their longterm knowledge and experience in the conservation, management, development and sustainable use of fisheries resources,;	To articulate the issues of fisherfolks.
34. (1) Each County may develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in	Delete "May" and replace with "Shall" to read:- 34. (1) Each County shall develop fisheries management measures and plans for fisheries resources within its	To make it mandatory for counties to develop the fisheries management plans

the Fourth Schedule to the Constitution.	jurisdiction as provided in the Fourth Schedule to the Constitution.	
Sec 37	Insert the following 7 sub-sections immediately after sub section 37(2) to read:- "(3) A Beach Management Unit under this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108). (4) A Beach Management Unit registered in accordance with this section may apply to the County Director of Fisheries for permission to participate in the conservation and management of a fishery: (5)Provided no such application shall be made where there is an existing prior agreement or license in relation to that fishery. (6) An application made in accordance with this section shall be in the prescribed form and shall provide— (a) a list of the members of the association and its address; (b) the Constitution of the association; (c) the association's financial regulations; (d) the area of fishery for which the association proposes to undertake conservation and management; (e) the association's proposals concerning-— (i) use of fishery resources; (ii) methods of conservation of biodiversity; (iii) methods of monitoring and protecting wildlife and plant populations and enforcing such protection; and (f) any other consideration the Director may deem necessary. (7) Where the Director grants permission in accordance with	BMUs need to be legally registered Anchoring BMUs network in the law Formalized and strengthen and co-management working relationship between National government, county government and BMUs

	this section, he/she may impose such conditions as it may deem fit including the development of a fisheries co-management plan in accordance with this Act. (8) The Director shall enter into Co-Management Agreement with BMU in respect to the fisheries co-management plan (9) There shall be a Beach Management Unit Network in a Fishery where more than one BMU share a common resource. The Umbrella Beach Management Unit in this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108)."	
Sec. 42	Insert a sub section immediately before sub section 42 (3) to read:- 42 (3) The Cabinet secretary shall develop regulations and Management plans to give guidelines on mesh Size for specific water bodies and fish species in the fresh water fisheries.	This shall ensure that mesh size shall take into consideration the characteristics of each fisheries thus ensuring its sustainable utilization
Sec 50(1)	Insert a subsection above Sec 50(1) to read " Sec 50(1) the Cabinet Secretary may, on the recommendation of the Director-General provide guidelines for;- (a)Fish landing stations (b) designated fishing ports, and (c) protected fish breeding grounds"	There lacks guidelines for the establishment of (a)Fish landing stations (b) designated fishing ports, and (c) protected fish breeding grounds"
Sec. 58(2) The Cabinet Secretary shall establish a standing committee and a technical committee on Fish Quality and Safety.	Insert a clause immediately after Sec. 58(2) to read: Sec. 58(3) the standing committee and a technical committee shall be composed of:-	It removes the ambiguity in establishing the committees.

	(a) Kenya Fisheries Service (b) Kenya Marine and Fisheries Research Institute (c) Kenya Bureau of Standards (d) County Government (e) Ministry of Agriculture, Livestock and Fisheries (f) Ministry of water and sanitation (g) Ministry of Health	
Sec. 67(2) The Director-General may seize, hold, quarantine, disinfect or destroy any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and shall take such measures where it is determined that the species are diseased or highly invasive.	Delete "May" and replace with "Shall" to read:- Sec. 67(2) The Director-General shall seize, hold, quarantine, disinfect or destroy any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and shall take such measures where it is determined that the species are diseased or highly invasive.	To make it mandatory for Director General ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya
Sec 88(1)(g) within the previous six years, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, has been convicted of a serious offence pursuant to this Act, any relevant international conservation and management measures or any international agreement and has not complied with a judgment or administrative determination unless, in respect of a vessel there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new owner(s), and the new owner(s) do not have a history of engaging in	Insert the following words immediately after previous "two years for artisanal, four years for semi-industrial and 6 years for industrial" to read:- Sec 88(1)(g) within the previous two years for artisanal, four years for semi-industrial and 6 years for industrial, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, has been convicted of a serious offence pursuant to this Act, any relevant international conservation and management measures or any international agreement and has not complied with a judgment or administrative determination unless, in respect of a vessel there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new	The length of punishment following a conviction is disproportionately long. Amend to ensure that the penalties imposed are commensurate with the gravity of the infraction. Reduce the length of punishment to two years for artisanal offenses, 4 years for semi-industrial and 6 years for industrial as it seems reasonable as a measure of enforcing discipline and will

illegal, unreported or unregulated fishing;	owner(s), and the new owner(s) do not have a history of engaging in illegal, unreported or unregulated fishing;	help deter repeat offenses.
Sec 90(6) A person who contravenes subsection (3), (4) or (5) commits an offense and shall be liable on conviction to a fine not exceeding three hundred and fifty thousand or to a term of imprisonment not exceeding three years or to both	Sec 90(6) A person who contravenes subsection (3), (4) or (5) commits an offense and shall be liable on conviction to a fine not less than Thirty Five thousands and not exceeding three hundred and fifty thousand or to a term of imprisonment not exceeding three years or to both	For sustainability purposes, there's a need for a minimum threshold to deter any repeat offenders
Sec. 98(1) There is established a body to be known as the Kenya Fish Marketing Authority. (2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of— (a) suing and being sued; (b) taking, purchasing and disposing of movable and immovable property; and (c) doing such other things necessary for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate. (3) The headquarters of the Fish Marketing Authority shall be in Nairobi.	-	Abolish the fish marketing authority. Establish a directorate in the Kenya Fisheries Service to play this role. To remove the duplication of roles, bureaucracy and wastage of resources
Sec 124(3) A person who contravenes subsection (1) commits an offense and shall be liable on conviction to a fine not exceeding five hundred thousand or to a term of imprisonment not	Sec 124(3) A person who contravenes subsection (1) commits an offense and shall be liable on conviction to a fine not less than Fifty Thousand and not exceeding five hundred thousand or to a term of imprisonment not	For sustainability purposes, there's a need for a minimum threshold to deter any repeat offenders

exceeding five years or to both.	exceeding five years or to both.	
Sec. 163(1) Where a person is released without being charged or where prosecution is not instituted within thirty days after a person is charged, all items seized shall be returned to the person.	Insert "Except for Perishable items listed in Section 166(1)" immediately after items seized. To read:- Sec. 163 (1) Where a person is released without being charged or where prosecution is not instituted within thirty days after a person is charged, all items seized "Except for Perishable items listed in Section 166(1)" shall be returned to the person.	To account for items such as fish which might cause the state to incur unnecessary cost
165. (1) Any item seized pursuant to this Act shall be delivered into the custody of the Director-General	Insert the words immediately after this Act "shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered" to read:- 165. (1) Any item seized pursuant to this Act shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered into the custody of the Director-General	Not all seized items are deemed to be under the custody of director general
Sec. 165(2) A written notice shall be given to the person from whom any article or item was seized or to any other person whom the fisheries inspector believes is the owner or person otherwise entitled to possession of the article or item seized and the grounds for such seizure shall be stated in the receipt.	Insert "inform of seizure notice signed by both parties" To read:- Sec. 165(2) A written seizure notice signed by both parties shall be given to the person from whom any article or item was seized or to any other person whom the fisheries inspector believes is the owner or person otherwise entitled to possession of the article or item seized and the grounds for such seizure shall be stated in the receipt.	For the notice to be signed by both parties to serve as a seizure evidence
Sec.166(2)(b) Provided that if, after making all reasonable efforts, the Director-General is unable	Delete the words "in such other manner as he deems fit" and replace with the words: "In accordance to the applicable	This removes biasness in how the DG disposes the seized

to sell the fish or other thing, or where such fish or other things are unfit for sale, he may dispose of the same in such other manner as he deems fit, including by destruction.	laws" to read:- Sec.166(2)(b) Provided that if, after making all reasonable efforts, the Director-General is unable to sell the fish or other thing, or where such fish or other things are unfit for sale, he may dispose of the same in accordance to the applicable laws, including by destruction.	items.
178. (1) All fish found on board any fishing vessel which has been used in the commission of an offence under this Act shall unless the contrary is proved, be presumed to have been caught during the commission of that offence.	Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- 178. (1) All fish found on board any fishing vessel, vehicle, aircraft or items which has been used in the commission of an offence under this Act shall unless the contrary is proved, be presumed to have been caught during the commission of that offence.	Mode of carriers are not inclusive and only focuses on fishing vessel
Sec 178(2) All fish found on board any fishing vessel in respect of which false or misleading information or no information has been provided prior to the vessel's entry into port as required pursuant to this Act, shall unless the contrary is proved, be presumed to have been caught during the commission of an offence or during illegal, unreported or unregulated fishing activities.	Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- Sec 178(2) All fish found on board any fishing vessel, vehicle, aircraft or items in respect of which false or misleading information or no information has been provided prior to the vessel's entry into port as required pursuant to this Act, shall unless the contrary is proved, be presumed to have been caught during the commission of an offence or during illegal, unreported or unregulated fishing activities.	Mode of carriers are not inclusive and only focuses on fishing vessel
195. Where a person has been convicted of an offence against this Act, the Court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person be banned from going on or remaining	Delete words: "going on or remaining aboard any fishing vessel in the Kenyan fishery waters" and replace with "engaging in any fishing related activities within Kenya and Kenyan fishery waters" to read:- 195. Where a person has been convicted of an offence	Anyone convicted with offences under illegal, unreported and unregulated fishing activities should be banned from engaging in any

aboard any fishing vessel in the Kenyan fishery waters.	against this Act, the Court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person be banned from engaging in any fishing related activities within Kenya and Kenyan fishery waters.	fishing related activities

Signed by:



Paul Ruoya
Chairperson
Lake Naivasha Basin Landscape Association (LANABLA)
P.O. Box 335 – 20117 Naivasha
E-mail: lakenaivashanetwork@gmail.com
Tel: 0748 422 585

Mr. Maluki
TNA 24/03/25

DDC 21/03/25

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Cellphone: +254 (0) 748 422 585

9th March 2025

The Clerk,
The National Assembly of the Republic of Kenya,
P. O. Box 41842 – 00100
Nairobi.

RE: MEMORANDUM ON FISHERIES MANAGEMENT AND DEVELOPMENT BILL 2024

INTRODUCTION

Lake Naivasha Basin Landscape Association (LANABLA) was formed to bring together all stakeholders in natural resources to advocate for natural resources management in the Lake Naivasha Basin. Lake Naivasha Basin Landscape Association (LANABLA) draws its membership from Community Forest Associations, Water resource Users Association, Beach Management Units, Other Civil Society Organizations, Community based Organizations, Self Help Groups, Faith Based organizations and private alliances involved in natural resource management. The Mission of the organization is to engage and participate in sustainable natural resource management, policy formulation, equitable access through representation in decision-making process at Local, County, and National levels.

The forum provides an important platform for effective engagement with governments both at national and county levels as it seeks to consolidate voices and strategies of member organizations on specific issues to avoid duplication of efforts. The forum was established as a vehicle through which the rights of citizens to participate in public affairs and decision making processes, and can be realized through civic engagement and information sharing.

The Fisheries Management and Development Bill 2024 is a legal framework that will oversee the sustainable management and development of the fisheries sector in Kenya fishery waters when enacted.

LANABLA in collaboration with other stakeholders in Lake Naivasha Basin reviewed the Fisheries Management and Development Bill 2024 currently in the Senate of the Republic of Kenya to identify any existing gaps and propose amendment to enhance it.

LANABLA and stakeholders identified the following gaps and proposed the following recommendations for incorporation into the bill.

DIRECTOR
RECEIVED
24 MAR 2025
Directorate of Departmental Committees

NATIONAL ASSEMBLY
RECEIVED
21 MAR 2025
CLERK'S OFFICE
P.O Box 41842, NAIROBI

OUR SUBMISSIONS

Section of the regulations	Provision by the regulations	Proposed / Recommended sections	Justification
Part 1 Interpretation		Define the following words:- 1. Catchment 2. environmental easement.	The words have been used occasionally and thus, their definition should be clear
Part II- Inventory of Wetlands Section 5.1	Section 5.1 Within three (3) years from the date of commencement of these Regulations, the Authority shall, in consultation with relevant lead agencies and stakeholders, prepare and maintain an inventory of all wetlands in Kenya and shall cause such measures, including the development of integrated wetland management plans, to prevent and control degradation of such wetlands.	Section 5.1 Within three (3) years from the date of commencement of these Regulations, the Authority shall, in consultation with relevant lead agencies and stakeholders, prepare and maintain a joint inventory of wetlands in Kenya and shall facilitate such measures, including the development of integrated wetland management plans, to prevent and control degradation of such wetlands.	To create a platform for ease of access of Data of all wetlands and to create ownership as well as localize integrated approach. Stakeholders & lead agencies to take lead in developing and implementation of the integrated management plan through NEMA
Part II- Inventory of Wetlands Section 5.5	Section 5.5 The Authority may register any changes in the boundaries of wetlands on maps in the inventory referred to in sub-regulation	Section 5.5 The Authority shall register any changes in the boundaries of wetlands on maps in the inventory referred to in sub-regulation	Make it mandatory to register the changes to necessitate actions.

	(1) and such changes shall be registered in consultation with the relevant lead agencies.	(1) and such changes shall be registered in consultation with the relevant lead agencies.	
Part II- Inventory of Wetlands Section 5.8 (proposed)		Propose the addition of the following sub sections: Section 5.8 A data sharing framework shall jointly be developed by lead agencies and stakeholders Section 5.9 Develop a data tool kit	This is to facilitate the lead agencies to harmonize data collection and sharing protocols since different state agencies have varying data sharing policy Harmonize data collection & submission format tool
Part II- Protected Wetlands Section 6 (1)	Section 6 (1) The Authority shall, in consultation with all stakeholders, cause such measures, including the development of integrated wetland management plans, to prevent and control further degradation of wetlands.	Section 6 (1) The Authority shall, in consultation with all Local stakeholders, cause such measures, including the development of integrated wetland management plans, to prevent and control further degradation of wetlands.	This shall ensure the participation of stakeholders at the local level, community, and government officers at the local level as they understand the issues regarding the wetland. This will enhance ownership, collaboration and leverage on indigenous knowledge
Part II- Protected Wetlands Section 7 (1)	Section 7 (1) The Cabinet Secretary may on the advice of the Authority and by notice in the Gazette , declare an area to be a protected wetland where such area has national or international significance due to its-	Section 7 (1) Within 6 months upon receiving advice of the Authority, the Cabinet Secretary in consultation with cabinet secretaries for the time being responsible for Water and Wildlife shall by notice in the Gazette , declare an area to be a protected wetland	This shall provide emphasizes on timelines upon which a wetland can be gazzetted. This also ensures the consultation and engagement by relevant line ministries

		where such area has national or international significance due to its-	
Part II- The procedure for a declaration of a protected wetland Section 8(1) c, d, Proposed		Proposed the addition of the following sub sections: - Section 8(1) d) incorporate grassroots' approach e) Use of local media	This shall ensure mobilization for wider local circulation, and participation of the community thus facilitating ownership
Part II- The procedure for a declaration of a protected wetland Section 8(2)	Section 8(2) Where the Authority is satisfied with the findings under sub-regulation (1) (c)(, it shall submit its recommendations to the Cabinet Secretary for the gazettement of the wetland; and prepare an integrated wetland management plan by, incorporating the views of the people inhabiting the areas contiguous to the wetland in accordance to sub-regulation 7 (1);	Section 8(2) 8 (1) (c) referenced in 8 (2) is missing	Provide 8 (1) (c)
Part II- The procedure for a declaration of a protected wetland Section 8(3)	Section 8(3) Where a lead agency, county government, a member of the public or a registered civil society organization petitions the Authority to initiate the process for declaration of an area as a protected wetland, the Authority shall consider the petition and may initiate the process as	Section 8(3) Where a lead agency, county government, a member of the public or a registered civil society organization petitions the Authority to initiate the process for declaration of an area as a protected wetland, the Authority shall consider the petition and shall initiate the process as set out in sub-	The petition should have a timeline for consideration and adequate time for the resource mobilization to initiate the process

	set out in sub-regulation (1);	regulation (1); within a period of 2 years	
Part II- The procedure for a declaration of a protected wetland Section 8(5)	Section 8(5) Where the petitioner is not satisfied by the decision of the Authority in sub-regulation (4), he or she may appeal to the Tribunal.	Section 8(5) Where the petitioner is not satisfied by the decision of the Authority in sub-regulation (4), he or she may appeal to the Tribunal Within 90days	The timeline will allow the petitioner to to have adequate time to prepare for an appeal while not leaving it open
Part II- The procedure for a declaration of a protected wetland Section 8(6) proposed		Proposal for addition of the following sub Section 8(6) Section 8(6) The authority shall provide a written feedback to the petitioner within 30 days	All (positive/negative) feedback should be communicated to the petitioner in writing within 30 days
Part II- Protection of Riparian Reserves Section 9 (4)	Section 9 (4) The Rivers specified in the Second Schedule to these Regulations shall have a protection zone of thirty (30) metres measured inland from the highest water mark of the river.	Section 9 (4) The Rivers specified in the Second Schedule to these Regulations shall have a protection zone of minimum ten (10) meters and maximum thirty (30) metres taking into account the management measures recommended in the integrated wetland management plan measured inland from the highest water mark of the river.	The 30 meters may not be practical in all circumstances, the protection zone (minimum 10m & maximum 30 m taking into account the management measures recommended in the integrated wetland management plan.

Part II- Protection of Riparian Reserves Section 9 (7)	Section 9 (7) Swamps and marshes with an average size of one acre and above a protected zone of 30m measured inland from the high-water mark shall be maintained. For swamps less than an acre in size, a protected zone of 15m measured inland from the high-water mark shall be maintained.	Section 9 (7) Swamps and marshes with an average size of one acre and above a protected zone of minimum Fifteen (15) meters and maximum thirty (30) metres 30m measured inland from the high-water mark shall be maintained. For swamps less than an acre in size, a protected zone of 15m measured inland from the high-water mark shall be maintained.	This shall ensure taking into account the existing cadastral boundary
Part II- Protection of Riparian Reserves Section 9 (12) proposed		Section 9 (12) The boundary of the existing gazette Lakes shall remain as specified in the gazette notice at the time of gazettement.	Taking into account the existing gazetted wetland boundary and cadastral boundary
Part II- **Permitted** change this to **(prohibited)** Uses of Wetlands Section 11	Section 11 The following uses of wetland resources are permitted subject to wise-use and sustainable use principles – Section 11 (a) subsistence harvesting of papyrus and other grasses, medicinal plants, thatch, fodder, trees and reeds; Section 11 (b) any cultivation within the riparian reserve that is not likely to adversely affect the wetland; Section 11 (d) abstraction of water for domestic use	Section 11 The following uses of wetland resources may be prohibited depending on specific wetland characteristics subject to wise-use and sustainable use principles – Section 11 (a) harvesting of papyrus and other grasses, medicinal plants, thatch, fodder, trees and reeds; Section 11 (b) cultivation within the riparian reserve that is not likely to adversely affect the wetland; Section 11 (d)	This shall allow for the authority to specify the prohibited activities and give access to use based on wise use and sustainable principle. Rephrase the subsections to read the prohibited activities such to other legislations

	subject to the provisions of the Water Act Cap 372;	abstraction of water subject to the provisions of the Water Act Cap 372;	
Part II- Permitted Uses of Wetlands Section 11 (k-o) proposed		Propose the adding of the following sub sections:- Section 11 (k) Dumping of solid waste, Section 11 (l) effluent discharge Section 11 (m) Back filing Section 11 (n) Construction of permanent building Section 11 (o) Any other activity that may be injurious to the wetland	
Part II- Temporary permits Section 12 (2)	The temporary permit required under this regulation **may** be in the form of a letter of approval	The temporary permit required under this regulation **shall** be in the form of a letter of approval	This to ensure that there is a written approval when such is granted
Part iv Waste Management Section 18(1)	Section 18(1) Each county government shall, in consultation with the Authority, take adequate measures to manage and minimize solid waste and wastewaters in wetlands in	Section 18(1) Each county government shall in consultation with the Authority, take adequate measures to ensure compliance with waste management regulations, water act and other relevant laws.	Promote accountability and compliance with waste Management regulations as well as the water act to ensure effluent discharged into a wetland

	accordance with the Act and other relevant laws.		
THIRD SCHEDULE WETLAND WATER QUALITY MONITORING FORM	Physio-Biochemical Heavy metals Biological(flora & fauna)	Add the following parameters Salinity Arsenic Invertebrates Birds Mammals Fish Plants Amphibians Reptile	They are major indicators that need to be considered
FIFTH SCHEDULE INTEGRATED WETLAND MANAGEMENT PLAN GUIDELINES		Add (i) Monitoring and Evaluation	There is need to provide for a section on Monitoring and Evaluation of the Integrated Wetland Management Plan

Signed by:



Paul Ruoya
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9th December 2024

The Clerk,
The National Assembly of the Republic of Kenya,
P. O. Box 41842 – 00100
Nairobi.

Through:
Office of the Senator,
Nakuru County.

(1) D/DC
Please deal.
10/12/24

Mr. Maluki
p/s TNA.
A-Wasike-PCA I
13/12/24

(2) Ms. Laureen Nesonga, Ag. HOD
p/s inform the Dept. Comm. on Blue Economy.
DM 11/12/24

RE: MEMORANDUM ON FISHERIES MANAGEMENT AND DEVELOPMENT BILL 2024

INTRODUCTION

Lake Naivasha Basin Landscape Association (LANABLA) was formed to bring together all stakeholders in natural resources to advocate for natural resources management in the Lake Naivasha Basin. Lake Naivasha Basin Landscape Association (LANABLA) draws its membership from Community Forest Associations, Water resource Users Association, Beach Management Units, Other Civil Society Organizations, Community based Organizations, Self Help Groups, Faith Based organizations and private alliances involved in natural resource management. The Mission of the organization is to engage and participate in sustainable natural resource management, policy formulation, equitable access through representation in decision-making process at Local, County, and National levels.

The forum provides an important platform for effective engagement with governments both at national and county levels as it seeks to consolidate voices and strategies of member organizations on specific issues to avoid duplication of efforts. The forum was established as a vehicle through which the rights of citizens to participate in public affairs and decision making processes, and can be realized through civic engagement and information sharing.

The Fisheries Management and Development Bill 2024 is a legal framework that will oversee the sustainable management and development of the fisheries sector in Kenya fishery waters when enacted.

10 DEC 2024
NATIONAL ASSEMBLY
RECEIVED
10 DEC 2024
CLERK'S OFFICE
P.O Box 41842, NAIROBI
DIRECTOR
10 DEC 2024
Directorate of Departmental Committees

LANABLA in collaboration with other stakeholders in Lake Naivasha Basin reviewed the Fisheries Management and Development Bill 2024 currently in the Senate of the Republic of Kenya to identify any existing gaps and propose amendment to enhance it.

LANABLA and stakeholders identified the following gaps and proposed the following recommendations for incorporation into the bill.

OUR SUBMISSIONS

Provision in the Bill	Our Recommendation	Justification
Sec 2: Interpretation Fisheries Standing committee Technical Committee	Fisheries: Means all activities relating to the management and utilization of fish resources and its environment starting from preproduction, production, processing until marketing and includes a place where fish is caught for commercial purposes. Standing committee: Means an advisory or regulatory committee focused on maintaining and improving the quality standards of fish and fishery products. Technical Committee: Means a Committee tasked with formulating and overseeing the implementation of quality and safety standards for fish and fishery products.	The terms should be defined to make it easier to understand the intent and scope of legislation
Sec. 11(1)(c) five members, not being public officers, openly appointed by the Cabinet Secretary for their longterm knowledge and experience in the conservation, management, development and sustainable use of fisheries resources;	Insert the words "one whom shall be a representative of the BMU at the National Level" immediately after public officers to read:- Sec. 11(1)(c) five members, not being public officers, one whom shall be a representative of the BMU at the National Level openly appointed by the Cabinet Secretary for their longterm knowledge and experience in the conservation, management, development and sustainable use of fisheries resources,;	To articulate the issues of fisherfolks.
34. (1) Each County may develop fisheries management measures and plans for fisheries resources within its jurisdiction as provided in	Delete "May" and replace with "Shall" to read:- 34. (1) Each County shall develop fisheries management measures and plans for fisheries resources within its	To make it mandatory for counties to develop the fisheries management plans

the Fourth Schedule to the Constitution.	jurisdiction as provided in the Fourth Schedule to the Constitution.	
Sec 37	Insert the following 7 sub-sections immediately after sub section 37(2) to read:- "(3) A Beach Management Unit under this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108). (4) A Beach Management Unit registered in accordance with this section may apply to the County Director of Fisheries for permission to participate in the conservation and management of a fishery: (5)Provided no such application shall be made where there is an existing prior agreement or license in relation to that fishery. (6) An application made in accordance with this section shall be in the prescribed form and shall provide— (a) a list of the members of the association and its address; (b) the Constitution of the association; (c) the association's financial regulations; (d) the area of fishery for which the association proposes to undertake conservation and management; (e) the association's proposals concerning— (i) use of fishery resources; (ii) methods of conservation of biodiversity; (iii) methods of monitoring and protecting wildlife and plant populations and enforcing such protection; and (f) any other consideration the Director may deem necessary. (7) Where the Director grants permission in accordance with	BMUs need to be legally registered Anchoring BMUs network in the law Formalized and strengthen and co-management working relationship between National government, county government and BMUs

	this section, he/she may impose such conditions as it may deem fit including the development of a fisheries co-management plan in accordance with this Act. (8) The Director shall enter into Co-Management Agreement with BMU in respect to the fisheries co-management plan (9) There shall be a Beach Management Unit Network in a Fishery where more than one BMU share a common resource. The Umbrella Beach Management Unit in this section shall be registered in accordance with the provisions of the Societies Act (Cap. 108)."	
Sec. 42	Insert a sub section immediately before sub section 42 (3) to read:- 42 (3) The Cabinet secretary shall develop regulations and Management plans to give guidelines on mesh Size for specific water bodies and fish species in the fresh water fisheries.	This shall ensure that mesh size shall take into consideration the characteristics of each fisheries thus ensuring its sustainable utilization
Sec 50(1)	Insert a subsection above Sec 50(1) to read " Sec 50(1) the Cabinet Secretary may, on the recommendation of the Director-General provide guidelines for;- (a)Fish landing stations (b) designated fishing ports, and (c) protected fish breeding grounds"	There lacks guidelines for the establishment of (a)Fish landing stations (b) designated fishing ports, and (c) protected fish breeding grounds"
Sec. 58(2) The Cabinet Secretary shall establish a standing committee and a technical committee on Fish Quality and Safety.	Insert a clause immediately after Sec. 58(2) to read: Sec. 58(3) the standing committee and a technical committee shall be composed of:-	It removes the ambiguity in establishing the committees.

	(a) Kenya Fisheries Service (b) Kenya Marine and Fisheries Research Institute (c) Kenya Bureau of Standards (d) County Government (e) Ministry of Agriculture, Livestock and Fisheries (f) Ministry of water and sanitation (g) Ministry of Health	
Sec. 67(2) The Director-General may seize, hold, quarantine, disinfect or destroy any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and shall take such measures where it is determined that the species are diseased or highly invasive.	Delete "May" and replace with "Shall" to read:- Sec. 67(2) The Director-General shall seize, hold, quarantine, disinfect or destroy any live fish that have been imported or that are destined for import or export for purposes of aquaculture, and shall take such measures where it is determined that the species are diseased or highly invasive.	To make it mandatory for Director General ensure that there is introduction of fish in Kenya that may compromise any fishery in Kenya
Sec 88(1)(g) within the previous six years, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, has been convicted of a serious offence pursuant to this Act, any relevant international conservation and management measures or any international agreement and has not complied with a judgment or administrative determination unless, in respect of a vessel there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new owner(s), and the new owner(s) do not have a history of engaging in	Insert the following words immediately after previous "two years for artisanal, four years for semi-industrial and 6 years for industrial" to read:- Sec 88(1)(g) within the previous two years for artisanal, four years for semi-industrial and 6 years for industrial, the applicant, or a vessel or person closely connected with the applicant in respect of activities falling within the scope of this Act, has been convicted of a serious offence pursuant to this Act, any relevant international conservation and management measures or any international agreement and has not complied with a judgment or administrative determination unless, in respect of a vessel there has been a change of ownership of the vessel and there is no connection between the former owner(s) and the new	The length of punishment following a conviction is disproportionately long. Amend to ensure that the penalties imposed are commensurate with the gravity of the infraction. Reduce the length of punishment to two years for artisanal offenses, 4 years for semi-industrial and 6 years for industrial as it seems reasonable as a measure of enforcing discipline and will

illegal, unreported or unregulated fishing;	owner(s), and the new owner(s) do not have a history of engaging in illegal, unreported or unregulated fishing;	help deter repeat offenses.
Sec 90(6) A person who contravenes subsection (3), (4) or (5) commits an offense and shall be liable on conviction to a fine not exceeding three hundred and fifty thousand or to a term of imprisonment not exceeding three years or to both	Sec 90(6) A person who contravenes subsection (3), (4) or (5) commits an offense and shall be liable on conviction to a fine not less than Thirty Five thousands and not exceeding three hundred and fifty thousand or to a term of imprisonment not exceeding three years or to both	For sustainability purposes, there's a need for a minimum threshold to deter any repeat offenders
Sec. 98(1) There is established a body to be known as the Kenya Fish Marketing Authority. (2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of— (a) suing and being sued; (b) taking, purchasing and disposing of movable and immovable property; and (c) doing such other things necessary for the proper discharge of its functions under this Act, which may be lawfully done or performed by a body corporate. (3) The headquarters of the Fish Marketing Authority shall be in Nairobi.	-	Abolish the fish marketing authority. Establish a directorate in the Kenya Fisheries Service to play this role. To remove the duplication of roles, bureaucracy and wastage of resources
Sec 124(3) A person who contravenes subsection (1) commits an offense and shall be liable on conviction to a fine not exceeding five hundred thousand or to a term of imprisonment not	Sec 124(3) A person who contravenes subsection (1) commits an offense and shall be liable on conviction to a fine not less than Fifty Thousand and not exceeding five hundred thousand or to a term of imprisonment not	For sustainability purposes, there's a need for a minimum threshold to deter any repeat offenders

exceeding five years or to both.	exceeding five years or to both.	
Sec. 163(1) Where a person is released without being charged or where prosecution is not instituted within thirty days after a person is charged, all items seized shall be returned to the person.	Insert "Except for Perishable items listed in Section 166(1)" immediately after items seized. To read:- Sec. 163 (1) Where a person is released without being charged or where prosecution is not instituted within thirty days after a person is charged, all items seized "Except for Perishable items listed in Section 166(1)" shall be returned to the person.	To account for items such as fish which might cause the state to incur unnecessary cost
165. (1) Any item seized pursuant to this Act shall be delivered into the custody of the Director-General	Insert the words immediately after this Act "shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered" to read:- 165. (1) Any item seized pursuant to this Act shall be deemed to be part of evidence and where administrative action need to be taken shall be delivered into the custody of the Director-General	Not all seized items are deemed to be under the custody of director general
Sec. 165(2) A written notice shall be given to the person from whom any article or item was seized or to any other person whom the fisheries inspector believes is the owner or person otherwise entitled to possession of the article or item seized and the grounds for such seizure shall be stated in the receipt.	Insert "inform of seizure notice signed by both parties" To read:- Sec. 165(2) A written seizure notice signed by both parties shall be given to the person from whom any article or item was seized or to any other person whom the fisheries inspector believes is the owner or person otherwise entitled to possession of the article or item seized and the grounds for such seizure shall be stated in the receipt.	For the notice to be signed by both parties to serve as a seizure evidence
Sec.166(2)(b) Provided that if, after making all reasonable efforts, the Director-General is unable	Delete the words "in such other manner as he deems fit" and replace with the words: "In accordance to the applicable	This removes biasness in how the DG disposes the seized

to sell the fish or other thing, or where such fish or other things are unfit for sale, he may dispose of the same in such other manner as he deems fit, including by destruction.	laws" to read:- Sec.166(2)(b) Provided that if, after making all reasonable efforts, the Director-General is unable to sell the fish or other thing, or where such fish or other things are unfit for sale, he may dispose of the same in accordance to the applicable laws, including by destruction.	items.
178. (1) All fish found on board any fishing vessel which has been used in the commission of an offence under this Act shall unless the contrary is proved, be presumed to have been caught during the commission of that offence.	Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- 178. (1) All fish found on board any fishing vessel, vehicle, aircraft or items which has been used in the commission of an offence under this Act shall unless the contrary is proved, be presumed to have been caught during the commission of that offence.	Mode of carriers are not inclusive and only focuses on fishing vessel
Sec 178(2) All fish found on board any fishing vessel in respect of which false or misleading information or no information has been provided prior to the vessel's entry into port as required pursuant to this Act, shall unless the contrary is proved, be presumed to have been caught during the commission of an offence or during illegal, unreported or unregulated fishing activities.	Insert "vehicle, aircraft or items" immediately after fishing vessel to read:- Sec 178(2) All fish found on board any fishing vessel, vehicle, aircraft or items in respect of which false or misleading information or no information has been provided prior to the vessel's entry into port as required pursuant to this Act, shall unless the contrary is proved, be presumed to have been caught during the commission of an offence or during illegal, unreported or unregulated fishing activities.	Mode of carriers are not inclusive and only focuses on fishing vessel
195. Where a person has been convicted of an offence against this Act, the Court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person be banned from going on or remaining	Delete words: "going on or remaining aboard any fishing vessel in the Kenyan fishery waters" and replace with "engaging in any fishing related activities within Kenya and Kenyan fishery waters" to read:- 195. Where a person has been convicted of an offence	Anyone convicted with offences under illegal, unreported and unregulated fishing activities should be banned from engaging in any

aboard any fishing vessel in the Kenyan fishery waters.	against this Act, the Court may in addition to any other penalty or forfeiture, order that for a period not exceeding five years that person be banned from engaging in any fishing related activities within Kenya and Kenyan fishery waters.	fishing related activities

Signed by:



Paul Ruoya
Chairperson
Lake Naivasha Basin Landscape Association (LANABLA)
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E-mail: lakenaivashanetwork@gmail.com
Tel: 0748 422 585

ANNEX 10: SUBMISSION BY COMMUNITY ACTION FOR NATURE CONSERVATION (CANCO)

DDC
8
19/09/25

file dead
22/9/25

CANCO Nairobi Office: Danny's Court Mombasa Road, opposite Next Gen Mall (South B side), apartment B13; P.O. Box 76668 – 00508 Nairobi; Tel +254 728607519 Email: info@cancokenya.net; canco8@gmail.com; Website: http//www.cancokenya.net

MEMORANDUM ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2023 FROM KWALE COUNTY

1.0 INTRODUCTION

The implementation of devolved functions within the Fisheries sector, as mandated by the Constitution, has yielded significant successes while simultaneously revealing substantive challenges in their full execution by county governments.

The Fisheries Management and Development Bill, 2023, currently undergoing public participation, proposes the 're-centralization' of several functions constitutionally assigned to counties. In Kwale, a county public hearing on the Bill (National Assembly Bill No. 29 of 2023) was held by the National Assembly, Departmental Committee on Blue Economy, Water and Irrigation on 2nd September 2023. However, the discussions during the hearing were not exhaustive enough, and this generated considerable concern regarding the alignment of the Bill with the devolution framework.

In response, Community Action for Nature Conservation, the County Government of Kwale, in collaboration with local fishing communities, the Kwale Youth Assembly, and other key stakeholders, convened to deliberate on these issues. This submission presents their consolidated recommendations for the consideration of this House.

1.1 The Kenya Gazette

The Kenya Gazette Volume 219, released on 16th December 2024, clearly outlines the mandates of the National and County Governments in the fisheries sector. However, in the 2023 Fisheries Management and Development Bill, some of the functions constitutionally allocated to counties have been reassigned to the national government. This raises overlaps and risks of inefficiency in fisheries governance.

The table below provides a detailed comparison of areas of misalignment and the recommendations arising from discussions held on 8th and 9th September 2024 at the Titanic Hotel, Msambweni Sub-County, Kwale County.

19 SEP 2025

NATIONAL ASSEMBLY
RECEIVED
17 SEP 2025
CLERK'S OFFICE
P O Box 41842, NAIROBI

AREA	NATIONAL	COUNTY	BILL, 2023	REMARKS
Fisheries Extension Services	Build capacity and provide technical assistance to county governments.	Provide capacity building and technical assistance to communities.	Function of the service: provide education to create public awareness and support for fisheries conservation, management, development and sustainable use	The function put in the bill is too general; the aspect of technical assistance to counties is missing
Up scaling seaweed, fin fish and crustacean culture (aquaculture)	Develop a national aquaculture policy.	Implement the national aquaculture policy.	County governments shall monitor aquaculture and mariculture practices and operations in areas under their respective jurisdictions pursuant to this Act	The function put in the bill does not align to what is in the gazette notice, County governments shall implement, promote and regulate aquaculture within the county
	Develop national standards and norms in aquaculture.	Implement national standards and norms in aquaculture.		
		Promote and regulate aquaculture within the county.		
Collection of fish production statistics	Develop a national fish information system	Collect, capture and share fish statistics data.	Function of the service: Collect and analyse data in relation to resources and activities falling with the scope of this Act	The function put in the bill does not align to what is in the gazette notice, the national government develop national fish information system and not collecting data

2.0 PURPOSE

The purpose of this memorandum is to provide comments, highlight gaps, and make recommendations on specific sections of the Fisheries Management and Development Bill, 2023.

2.1 Key Observations and Recommendations

Part I – Preliminary (Section 2)

Beach Management Unit

- *Observation:* The definition in the bill reads:
"...means an organization of fishers, fish traders, boat owners, fish processors and other beach stakeholders who traditionally depend on fisheries activities for their livelihoods."

- *Remarks:* Important category missing - seaweed farmers. The word "traditionally" should be replaced with "primarily."

- *Recommendation:* Redefine as:
"An organization of fishers, fish traders, boat owners, seaweed farmers, fish farmers, and other stakeholders who primarily depend on fisheries activities for their livelihoods."

Buyer

- *Observation:* definition in the bill - *"means any person who buys."*
- *Remarks:* Too general; misses fisheries context.
- *Recommendation:* Amend to: *"Any person who buys fish and fish products."*

Fish Landing Station

- *Observation:* Defined as a point designated by the Director-General (DG).

- *Remarks:* Since the County Executive Committee Member (CECM) establishes BMUs, he/she understands the landing sites. This role should not be reserved for Director General. Section 36 (1) already gives counties this mandate.

- *Recommendation:* Amend to read:
"...a point on the shore of any waters or coastline of which the County Executive Committee Member in charge of fisheries, has by notice in the Gazette designated as a point to land fish."

Fisheries Officers

- *Observation:* Defined as Director General and Kenya Fisheries Service employees.

- *Remarks:* County fisheries officers are excluded.

- *Recommendation:* Define as: *"The Director and any person in the public service of or above the rank of Assistant Fisheries Officer."*

Kenya Fishing Vessel

- *Observation:* Current definition uses "traditionally."
- *Remarks:* Should be "primarily."
- *Recommendation:* Define as "- means a fishing vessel which is registered under the Merchant Shipping Act, and does not hold any other registration, or is wholly Owned and crewed by residents of Kenya or by other persons gazetted by the Service as persons who primarily fish in Kenya fishery waters, and which meets such other conditions as may be prescribed

Definition of "Fish"

- *Observation:* Defined broadly to include any aquatic plant or animal.

- *Remarks:* Marine plants should be specific. General wording creates confusion e.g., mangroves.

- *Recommendation:* Refine definition to specify marine/aquatic plants relevant to fisheries.

Part III – The Kenya Fisheries Service (Section 8)

Function (e): Provide education/public awareness.

- Remarks: National Government should build capacity and provide technical assistance to counties. Counties should extend this to communities. (Refer to Gazette notice 2024)

- Recommendation: Amend to: "Provide education to create public awareness and support for fisheries conservation, management, development, and sustainable use, and provide technical assistance to county fisheries departments."

Function (h): Collect and analyze data.

- Observation: Current function overlaps

- Recommendation: National government to develop a national fish information system, while counties collect and share fish statistics.

Part V - Fisheries Conservation, Management and Development

Section 39 (1): Director General may impose conservation measures.

- Remarks: This omits the county role, despite counties signing management plans.

- Recommendation: Amend to: "The Director General in collaboration with the county governments, shall, in accordance with the best scientific advice and such other relevant information as may be available, with the approval of the Cabinet Secretary by notice in the Gazette, impose, inter alia, any of the following measures for the conservation and management of any fishery

Section 41 (1i): Such other gear as prescribed prohibited by regulations established under this Part

- Remarks: Unclear if spear guns are legal or illegal.

- Recommendation: Clarify legality in regulations.

Section 42 (2c): Reporting vessel entanglement.

- Remarks: Should involve county directors for artisanal vessels.

- Recommendation: Amend to: "...Where **an artisanal** vessel becomes entangled with fixed fishing gear or other objects referred to in subsection (1), the master shall make a full report of the incident and steps taken by him or her to the Director-General through the County Director at the earliest opportunity

Section 46 (1): Declaration of MPAs.

- Remarks: Use of "may" weakens intent.

- "may" to be replaced with "shall"

Recommendation. The Cabinet Secretary **shall,** in consultation with the Kenya Fisheries Advisory Council, stakeholders, and the Board, by notice in the Gazette, declare any area of the Kenya fishery waters to be a Marine Protected Area and shall, as part of such declaration, identify its components, including the following

Section 49 (1): Establishment of fish landing stations, ports, breeding grounds.

- Remarks: Landing stations fall under county mandate.
- Recommendation: Omit (a) fish landing stations.

The Cabinet Secretary may, on the recommendation of the Director-General as endorsed by the Board establish by a notice in the Gazette **(a) designated fishing ports,** and **(b) protected fish breeding grounds.**

Part VIII - Aquaculture (Section 64)

- Observation: The Roles of National vs County governments are not clearly demarcated. (Refer to Gazette notice, 2024)

- Recommendation: County Governments: Implement, promote, and regulate aquaculture and mariculture.

Part IX - Information, Data and Records (Section 80)

- Observation: The Director General is solely responsible for the license register.

- Remarks: Counties should access the register.

Part X - Licensing and Registration

Section 83 (1): Omit reference to artisanal fishing vessels under national licensing.

Section 83 (2): Counties should issue licenses not only for recreational fishing, but also for artisanal fishing, artisanal vessels, and small-scale aquaculture and/or mariculture. (Refer to gazette notice 2024 where counties have been mandated to limit access to fishing, and this can be through licensing)

Section 102 (2): Vessel registration applications should be in consultation with the counties

Section 105: Recreational vessel registration and licensing should be a fully county function (Refer to section 83 (2)

a) the vessel shall be duly registered in accordance with this Act, and the registration number shall be prominently displayed thereon in a manner and format prescribed by the Director General **in consultation with the relevant county government**

b) On receipt of an application for registration of a recreational fishing vessel the **county government** shall as soon as practicable, cause the vessel to which the application refers to be inspected, and if upon such inspection, the vessel is found to be fit for fishing and meets the prescribed safety standards, the **county government** shall assign identification markings to the vessel and upon payment by the applicant of such registration fee as may be prescribed, issue to the owner of the vessel a certificate of registration.
Section 117 (1): Aquaculture permits should be applied through counties as a fully devolved function.
Application for an aquaculture permit shall be made to the **county government** in the prescribed form
Amendments to be made from **section 115 to section 122**
Part VIII - Monitoring, Control and Surveillance (Section 156)

- Observation: The operator of each fishing vessel shall comply with all licence conditions and requirements imposed pursuant to subsection (2). Wording too broad.

- Recommendation: Specify applicability only to **semi-industrial and industrial fishing vessels.**

The operator of each **semi-industrial and industrial fishing vessel** shall comply with all licence conditions and requirements imposed pursuant to subsection (2)

3.0 CONCLUSION

The above recommendations ensure the Bill reflects the letter and spirit of devolution, and harmonizes roles between national and county governments. Adoption will enhance governance, strengthen accountability, and avoid overlaps in fisheries management.

ANNEX 11:

SUBMISSIONS FROM LAMU COUNTY

Outlook

② Mr Maluki
Deal
9/9/25

NATIONAL ASSEMBLY
RECEIVED
08 SEP 2025
CLERK'S OFFICE
P.O. Box 41842, NAIROBI

RE MEMORANDUM ON PUBLIC PARTICIPATION

From fuad sheyumbe <mwenyealy@gmail.com>
Date Fri 09/05/2025 7:31 PM
To Clerk of the National Assembly Kenya <cna@parliament.go.ke>

*REPORT ON PUBLIC PARTICIPATION FOR FISHERIES MANAGEMENT AND DEVELOPMENT ACT 2023

② DPC
Please deal
08/09/25

To: The Parliamentary Committee on Blue Economy and fisheries.

Subject: Proposal for a Management Plan for Beach Seine Fishing in Lamu

Introduction

As representatives of the fisher folks in Lamu, we appreciate the opportunity to engage in public participation on the proposed management plan for beach seine fishing. Our community relies heavily on fishing for livelihood, and it is essential that any regulations or management plans are informed by the needs and experiences of the local fishermen. After thorough consultation with the community, we propose a comprehensive management plan that balances sustainability with the socio-economic needs of our people.

Proposed Management Plan

The proposed management plan outlines specific measures to ensure the sustainability of beach seine fishing while minimizing its environmental impact. Key components include:

1. *Specific Mesh Size*: Implementing a minimum mesh size of 45 mm (2 inches) for beach seine nets to reduce bycatch and protect juvenile fish.
2. *Areas of Operation*: Designating specific zones for beach seine fishing, ensuring a minimum distance of 1 nautical mile from coral reefs to minimize habitat damage and reduce conflicts with other fisheries.
3. *Specific Months*: Establishing a closed season for beach seine fishing during peak breeding and spawning periods to protect fish stocks and ensure sustainability.
4. *Limited Number of Fishermen*: Introducing a licensing system to limit the number of fishermen engaged in beach seine fishing, based on scientific research and community input.

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Additional Measures

To ensure the effective implementation of the management plan, we propose the following additional measures:

- *Conflict Resolution*: Establishing conflict resolution committees within Beach Management Units (BMUs) to handle disputes and ensure smooth implementation of the management plan.
- *Monitoring and Enforcement*: Strengthening monitoring, control, and surveillance (MCS) to ensure compliance with regulations and prevent destructive fishing practices.

DIRECTORATE OF FISHERIES
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- *Community Engagement*: Engaging with local communities and fishers to raise awareness about the importance of sustainable fishing practices and involve them in the decision-making process.
- *Research and Review*: Conducting regular research and review of the management plan to ensure its effectiveness and make necessary adjustments.

Existing Frameworks for Reference

The Prawn Fishery Management Plan and Ringnet Fishery Management Plan can serve as models for developing the beach seine management plan. Additionally, the Fisheries Management and Development Act (FMDA) 2016 provides a framework for fisheries management and development in Kenya.

Conclusion

We believe that the proposed management plan for beach seine fishing strikes a balance between sustainability and the socio-economic needs of our community. We urge the parliamentary committee to consider our proposal and work with us to ensure the effective implementation of the management plan. We are confident that with collaborative efforts, we can ensure the long-term sustainability of our fisheries resources and the well-being of our community.

Recommendations

1. Adopt the proposed management plan for beach seine fishing.
2. Engage with local communities and fishers in the decision-making process.
3. Strengthen monitoring, control, and surveillance to ensure compliance with regulations.

Note

Prohibiting beach seine fishing and declaring it an illegal fishing gear is not an option. Instead, we propose a management plan that balances sustainability with the socio-economic needs of our community.

Signed

Fuad Sheyumbe
Chairman
Lamu county fisheries Development agency

ANNEX 12:

SUBMISSION FROM KILIFI COUNTY-SHELLA BMU

3RD September 2025

MEMORANDUM ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2023

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1. Introduction

We, the fishermen of Kilifi County, submit this memorandum to the National Assembly Parliamentary Committee on Blue Economy Water and Irrigation regarding the Fisheries Management and Development Bill, 2023. While we appreciate the government's effort to modernize and regulate fisheries, we strongly oppose Section 41(1)(e) which prohibits the use of monofilament nets and Section 41(1)(i) which prohibits the use of beach seines. These provisions, if passed, will directly affect our livelihoods, culture, and food security. We therefore request that Section 41(1)(e) and Section 41(1)(i) be expunged from the Bill in its entirety.

2. Historical Background of Fishing in Malindi, Kilifi County

Fishing in Malindi is not only an economic activity but also a cultural tradition that dates back centuries. Malindi fishermen have always depended on artisanal methods to harvest fish from the Indian Ocean. Traditional fishing gear included woven nets, hand lines, traps, and spears. However, as populations grew and markets expanded, fishermen adapted by adopting modern gear such as monofilament nets and beach seines.

For decades, beach seines have been used along the shores of Mayungu, Malindi, Mambrui, Ngomeni, Kipini and other parts of Kilifi County to catch sardines, mullet, and anchovies. These species form the backbone of local diets and are affordable for poor households. Monofilament nets

were introduced later as a cost-effective and efficient alternative to cotton and multifilament nets which were expensive and prone to damage.

The colonial government and later the post-independence state recognized artisanal fishing as the foundation of the coastal economy. Fishermen were allowed to use nets as long as they did not block entire river mouths or lagoons. It is only in recent years, with the rise of conservation debates, that a blanket condemnation of these gears has emerged. Yet historical evidences show that art is an algear like beach seines and monofilament nets sustained both livelihoods and marine ecosystems when managed responsibly.

3. Socioeconomic Importance of Monofilament Nets and Beach Seines in Malindi/Kilifi County

Monofilament nets and beach seines are not simply tools rather they are life lines for thousands of families. In Kilifi County, an estimated 65 percent of households along the shoreline derive direct or indirect income from artisanal fishing.

i. **Affordability** - Monofilament nets are cheaper to buy and maintain compared to multifilament nets. Poor fishermen with limited capital can afford them. Banning these nets without providing affordable alternatives will exclude the poorest from fishing.

ii. **Accessibility**: Beach seines can be used without sophisticated boats.

iii. **Employment**: Hauling a beach seine requires between 15 and 20 men. This cooperative system has provided jobs for young people, reducing idleness and crime.

4. Challenges Already Facing Fishermen in Kilifi County

Foreign industrial trawlers, often operating illegally, reduce local catches and destroy artisanal gear. Security restrictions, including the night

fishing ban, have further reduced access to fishing grounds.

Additionally, lack of infrastructure such as cold storage and modern landing sites means that fishermen often sell their catch at throwaway prices or experience post-harvest losses. During COVID-19, the collapse of the tourism sector led to massive income losses for fishing households. In this context, imposing additional restrictions such as banning monofilament nets and beach seines amounts to punishing communities that are already struggling for survival.

5. Critique of Section41 (1)(e) and Section 41(1)(i)

Section 41(1)(e) prohibits monofilament nets while Section 41(1)(i) prohibits beach seines. These prohibitions are presented as conservation measures but they lack scientific and social justification when applied indiscriminately in Malindi Kilifi County.

- **Lack of Alternatives**: The Bill does not propose affordable alternatives to monofilament nets. Multifilament nets are costly and inaccessible to small-scale fishers.
- **Selective Enforcement**: In past experiences, bans on certain gears have been enforced harshly against poor artisanal fishers while industrial trawlers that cause greater ecological harm continue to operate.
- **Disregard for Local Knowledge**: Fishermen in Malindi have traditional knowledge of where and when to deploy their gear without damaging reefs or catching juvenile fish. A blanket ban ignores this wisdom.
- **Contradiction with Livelihood Rights**: The Constitution of Kenya recognizes the right to livelihood and the need for equitable sharing of natural resources. Criminalizing poor fishermen for using affordable nets undermines these rights.

6. Alternative Proposals

1. Regulate the mesh size of beach seines and monofilament nets to prevent juvenile overfishing.
2. Involve Beach Management Units (BMUs) in monitoring and enforcing responsible fishing practices.
3. Provide subsidized access to alternative gears if prohibition is unavoidable.
4. Invest in cold storage, processing, and marketing
5. Crack down on illegal industrial trawlers that are the real threat to marine ecosystems.

7. Conclusion and Prayer

We reiterate that Section 41(1)(e) and Section 41(1)(i) of the Fisheries Management and Development Bill, 2023, should be expunged in their entirety. These clauses unfairly target the poorest artisanal fishermen in Kilifi who have historically sustained their families and communities through responsible use of monofilament nets and beach seines.

Banning these gears without viable alternatives will destroy livelihoods, undermine cultural traditions, and increase poverty and hunger in our county. The government should instead embrace a collaborative approach that empowers fishermen, protects the marine environment, and promotes sustainable use of resources.

Submitted on behalf of the fishing community of Kilifi County

3RD September 2025



KHALDUN VAE
CHAIRMAN
SHELLA BMU CO-OPERATIVE SOCIETY L.T.D

ANNEX 13:

SUBMISSION FROM INDIAN OCEAN BODY BMU NETWORK

NATIONAL ASSEMBLY
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Our Ref: IOWB/Department Committee Blue Economy/FMDA 2023/2025/1 15.09.2025
Your Ref: TBA

The Chairperson
Departmental Committee on Blue Economy,
Water and Irrigation,
National Assembly
NAIROBI
Email: cna@parliament.go.ke

Dear Sir,

RE: SUBMISSION OF FEEDBACK ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2023

The Indian Ocean Body Beach Management Unit (BMU) Network wishes to express sincere appreciation to the National Assembly Committee on Blue Economy, Water and Irrigation (the 'Committee') for the opportunity to participate, develop and submit comments in the law-making process.

We are pleased to forward herewith the consolidated Feedback Tool of Inputs and Recommendations arising from the recent BMU Stakeholder Engagement Forum to review the Fisheries Management and Development Bill, 2025 held on 13th and 14th September 2023 in Kilifi. This document reflects the voices, rights, and priorities of artisanal or small-scale fishers and coastal communities from across the coastal counties and builds upon both constitutional principles and Kenya's international obligations under biodiversity conservation and human rights frameworks.

The BMU Network remains eager to work with the Committee to ensure the inclusive and effective implementation of Fisheries laws and policies.

We look forward to continued collaboration and to engaging further in the refinement and operationalization of the Fisheries Bill, 2023. We would also welcome the opportunity to appear before the Committee to make oral submissions in support of these written inputs.

We look forward to continued collaboration and to engaging further in the refinement and operationalization of the Fisheries Bill, 2023.

Yours faithfully,



Somo M. Somo
Chairman
Indian Ocean Water Body (IOWB) Beach Management Units (BMU) Network

NATIONAL ASSEMBLY COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION
THE FISHERIES DEVELOPMENT AND MANAGEMENT BILL, 2023
PUBLIC PARTICIPATION FEEDBACK COLLECTION TOOL

1. **General observation /comments /suggestions on key areas of the Fisheries Bill 2023**

i. The National Assembly Departmental Committee on Blue Economy, Water, and Irrigation recently held public participation meetings in the coastal counties and Nyanza to gather views on the Fisheries Development and Management Bill, 2023. Article 10 of the Constitution obligates all State agencies and officers to uphold national values and principles, including meaningful public participation. Unfortunately, Beach Management Units (BMUs) in Lamu, Kilifi, Kwale, Tana River, and Mombasa have formally expressed dissatisfaction with the process. Public participation must not only be conducted but also be seen to be inclusive, transparent, and genuine. In Lamu, for example, the public participation meeting was held in Faza, yet the official communication indicated it would take place in Lamu Island. This inconsistency appears to have misled artisanal fishers, who are among the most critical stakeholders in the marine sector and ocean governance, thereby undermining their ability to effectively engage.

We therefore urge the Committee to uphold, to the highest standards, the constitutional principles of transparency, accountability, and public participation in this important legislative process

ii. The Bill's Table of Contents (ToC) does not align with the main text. For instance, Clause 4 in the Table of Contents is titled *"Applications"*, which correctly corresponds with the text. However, Clause 5 in the ToC is titled *"Objective and Guiding Principle"*, yet this same title also appears under Clause 4 in the text, creating a duplication. As a result, all subsequent clauses are misnumbered and do not correspond with the ToC.

We therefore urge that the text be renumbered to properly align with the ToC. For the purposes of this submission, our comments and recommendations follow the numbering as it appears in the text. This, however, should not in any way diminish the weight or substance of our submissions.

This section will focus on specific areas of the Fisheries Management and Development Bill, 2023 It will look at specific parts and sections, the current text, vis-à-vis the suggested draft and comments.

Part/section	Current text	Comments	Suggested draft text
PART I: PRELIMINARY			
Clause 4	The short title is "Objective and guiding principles.	Numbering error: clause number 4 is repeated	We suggest clause 4 short title remains as it appears in the ToC and short tile in the text Application while Clause 5 short title be "Objective and guiding principles" as it appears in the ToC We also urge that subsequent text be renumbered to properly align with the Table of Contents
Clause 2 Interpretation		Interpretation of the word fisheries is missing in the Bill despite being featured in schedule 4 part 2 of the Constitution of Kenya 2010 under the functions and the powers of the County.	We recommend that the term "Fisheries" be defined in this Bill.
	Fishers means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but	This definition excludes other groups for instance foot fishers	We recommend that this definition be amended as follows: Fishers means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a

	excluding pilots, naval personnel, other persons in the permanent service of the government, shore-based persons carrying our work aboard a fishing vessel and fisheries observers.		share of the catch, and foot fishers but excluding pilots, naval personnel, other persons in the permanent service of the government, shore-based persons carrying our work aboard a fishing vessel and fisheries observers.
	Protected Fish breeding grounds	Clause 49 (1) refers to protected fish breeding grounds, but no definition has been provided for the term.	We recommend that the term "protected fish breeding grounds" be defined.
	"Fish landing station" means a point on the shore of any waters or coastline of which the Director General has by notice in the Gazette designated as a point to land fish; "Fishing Port" means a place on a lake or sea front where fishing vessels may resort for shelter, servicing, loading and off-loading of fish and fishing equipment;	The Bill refers to *fish landing stations* and *fishing ports and* provides definitions for both. However, the term *fish landing sites* is frequently used in practice, often interchangeably with *fish landing stations*. It is not clear from the Bill whether these terms are intended to denote distinct facilities or whether they are to be understood as synonymous. Such clarification is necessary given the central role of fish landing stations/fish landing sites in advancing human rights, ensuring food security, eradicating poverty, sustaining livelihoods, promoting	We recommend that the Bill expressly clarify the relationship between *fish landing sites* and *fish landing stations*. If they are intended to have different meanings, a definition of *fish landing sites* should be incorporated into the Bill.

		social stability, securing housing, fostering economic growth, and supporting rural and social development for artisanal and small-scale fishers.	
PART III: THE KENYA FISHERIES SERVICE			
Clause 10 (1)(c) Membership of the Board	Five members, not being public officers, openly appointed by the cabinet secretary for their long-term knowledge and experience in the conservation, management, development, and sustainable use of fisheries resources;	It is not clear from the Bill who the five members referred to are. We recommend that the provision be clarified to specify the composition of these members as follows: Two members should be drawn from fishers' organizations, one representing inland (freshwater) fishers and one representing marine fishers. This clarification is necessary to ensure inclusivity, transparency, and representation of both inland and marine fishing communities in the governance and management of fisheries resources.	Five members, not being public officers, openly appointed by the cabinet secretary for their long-term knowledge and experience in the conservation, management, development, and sustainable use of fisheries resources. Of these, two shall be drawn from the fishing community, with one representing inland (freshwater) fishers and one representing marine fishers.
Clause 10(5)	A Person shall be qualified to be appointed under subsection 1(c) if, in addition to the requirement of that subsection, such person holds	The high academic qualifications set out under subsection (1)(c) are necessary to ensure that members bring professional expertise to the	We recommend the following amendments: 5(1) A Person shall be qualified to be appointed under subsection 1(c) if, in

	a university degree of its equivalent in (a) Natural resource or environmental management. Development or science; (b) Fisheries studies. Including fisheries governance, management. Development or science; (c) Marine affairs. (d) Port management; (e) Aquatic science; or (f) Any other matters related to the functions of the body.	body. However, applying these requirements to artisanal fishers would unfairly exclude or sideline them, despite their critical role and indigenous knowledge in fisheries management. Fishing representatives should therefore be exempted from the degree requirement and instead be appointed based on their practical experience, age, knowledge of fishing practices and the ocean, and ability to articulate community concerns in Kiswahili. Appointment in consultation with the BMU Network ensures legitimacy, inclusivity, and proper representation of fishing communities.	addition to the requirement of that subsection, such person holds a university degree of its equivalent in (a) Natural resource or environmental management. Development or science; (b) Fisheries studies. Including fisheries governance, management. Development or science; (c) Marine affairs. (d) Port management; (e) Aquatic science; or (f) Any other matters related to the functions of the body. 5(2) The qualification requirements under subsection (1) shall not apply to representatives of the fishing community. Fishing representatives shall instead: (a) not be active public officers; (b) be at least eighteen years of age; (c) possess demonstrated indigenous knowledge of the ocean and fishing practices; and (d) be able to articulate themselves effectively in Kiswahili. 5(3) The Cabinet Secretary shall appoint such representatives in consultation with the Beach Management Unit (BMU) Network.

PART IV: FINANCIAL AND ADMINISTRATIVE PROVISIONS			
Clause 26(1) Fisheries Research and Development Fund	There is established a fund to be known as the Fisheries Research and Development Fund which shall be administered by the Director General.	We note that there already exists a national research institution, the Kenya Marine and Fisheries Research Institute (KMFRI), that is vested with the statutory mandate of undertaking fisheries and marine research. There is therefore a need to avoid duplication of mandates and to ensure alignment with existing legal frameworks.	We propose the following amendment: There is established a fund to be known as the Fisheries ~~Research and~~ Development Fund which shall be administered by the Director General.
PART V: FISHERIES CONSERVATION, MANAGEMENT AND DEVELOPMENT			
Clause 40 Limitation of fishing and fishing related activities	40.(1) The Director-General may take fisheries management measures to limit fishing and fishing related activities in accordance with the objective and principles of this Act and shall communicate such measures by notice in writing to the persons affected (2) A person aggrieved by the action taken by the Director-General pursuant to	Directing grievances to the Cabinet Secretary risks undermining the principle of impartiality. An independent and specialized tribunal offers a fairer, transparent, and more credible mechanism for dispute resolution. Tribunals are quasi-judicial bodies designed to handle appeals efficiently, guided by law and evidence, while reducing the risk of political interference. Routing grievances to a	40.(1) The Director-General may take fisheries management measures to limit fishing and fishing related activities in accordance with the objective and principles of this Act and shall communicate such measures by notice in writing to the persons affected (2) A person aggrieved by the action taken by the Director-General pursuant to subsection (1) may appeal in writing <u>to the Fisheries Tribunal established under this Act</u>

	subsection (1) may appeal in writing to the Cabinet Secretary	tribunal will therefore strengthen accountability, enhance access to justice, and align with constitutional principles of fair administrative action under Article 47 of the Constitution of Kenya.	
Clause 41(1) Prohibited fishing gears and methods	No person shall use, permit to be used or attempt to use or carry on board a vessel (e) Monofilament net for the purpose of fishing	The coastal small-scale and artisanal fishing communities rely heavily on fishing for their livelihoods. It is therefore essential that any law, regulation, or management plan is informed by the lived realities, needs, and experiences of local fishers. We propose the development of fisheries management plans that provide for the sustainable use of monofilament gear for fishing purposes. Monofilament gear is an important tool for artisanal fishers, particularly those targeting mullet and demersal species. An outright prohibition would have significant socio-economic impacts on small-scale fishing communities who depend on this gear for income, food security, and sustainable livelihoods. To inform evidence-based decision-making, we recommend that research be undertaken on the	We recommend that Clause 41(1)(e) be deleted and a provision requiring the establishment of a fisheries management plan for the use of monofilament gear by artisanal fishers. This approach balances ecological sustainability with the socio-economic needs of small-scale fishing communities. Proposed Management Framework for Monofilament Gear (1) Stationary Gear Use. Monofilament gear should be restricted to stationary use only, in order to minimize bycatch and reduce the risk of habitat destruction. (2) Designated Fishing Areas. Specific areas should be designated for the use of monofilament gear, ensuring that the rights and needs of other fisheries stakeholders are respected while safeguarding sensitive ecosystems. (3) Ecosystem Protection. The use of monofilament gear in a manner that

		ecological impacts of monofilament gear, particularly its effects on marine ecosystems and coastal waters. We further urge the authorities to engage meaningfully with artisanal fishers and their representative organizations to co-develop a fisheries management plan that both safeguards the marine environment and ensures the continued livelihoods and socio-economic stability of small-scale fishing communities This recommendation is anchored in the constitutional right to life, human dignity, economic and social rights, including the right to food and social security (Article 43, Constitution of Kenya), as well as the right to fair administrative action (Article 47). Ensuring that artisanal fishing communities are not excluded or unduly burdened by regulatory measures promotes equity, inclusivity, and justice in fisheries governance.	endangers critical habitats, or marine ecosystems should be expressly prohibited. Additional Measures to Support Implementation - Monitoring and enforcement. Strengthen monitoring, control, and surveillance (MCS) systems to ensure compliance with regulations and prevent destructive or unsustainable fishing practices. - Community engagement. Involve artisanal fishers and local communities in the development, implementation, and oversight of the management plan, while raising awareness on sustainable fishing practices. - Research and review. Undertake continuous research on the impacts of monofilament gear and provide for periodic review of the management plan to ensure its effectiveness and adapt to emerging challenges.
	(i) A beach seine net for the purpose of fishing	We therefore propose the formulation of management plans for the	We recommend that Clause 41(1)(h)(i)(j) be deleted and a provision be developed

	(j) A seine net in any body forming part of the riverine system	sustainable use of the beach seine gears for fishing purposes.	establishing a fisheries management plan for the use of beach seine gear by artisanal fishers. This approach would safeguard livelihoods while minimizing the ecological impacts associated with beach seine fishing. Proposed Management Framework for Beach Seine Fishing (1) Specific Mesh Size. Require a minimum mesh size of 45 mm (2 inches) for beach seine nets to reduce bycatch and protect juvenile fish populations. (2) Areas of Operation. Designate specific fishing zones for beach seine use, with a minimum distance of 1 nautical mile from coral reefs to minimize habitat destruction and avoid conflicts with other fisheries. (3) Closed Seasons. Establish closed seasons during peak breeding and spawning periods to protect fish stocks and ensure long-term sustainability. (4) Licensing and Participation Limits. Introduce a licensing system to regulate the number of fishers engaged in beach seine fishing, based on scientific research and community input.

			Additional Measures for Implementation - Conflict resolution. Establish conflict resolution committees within Beach Management Units (BMUs) to address disputes and support smooth implementation of the management plan. - Monitoring and enforcement. Strengthen monitoring, control, and surveillance (MCS) to ensure compliance and prevent destructive practices. - Community engagement. Actively involve artisanal fishers and local communities in awareness-raising, decision-making, and co-management processes. - Research and review. Undertake continuous research on the ecological and socio-economic impacts of beach seine fishing, with periodic reviews to update and strengthen the management plan.
		There are more harmful fishing gears which have not been listed among prohibited gears, that should.	We propose that the following fishing gears/ methods are listed and prohibited: (l) Mosquito net;

			(m) hooker; (n) scuba fishing; (o) Such other gear as may be prescribed or prohibited by regulations established under this part.
Clause 42(1,2,3) Damage, destruction to, and interference with fishing gear, vessel, person prohibited	1)No person shall while using a vessel, wilfully and negligently damage, destroy, interfere with endangered or cause injury... 2) where a vessel becomes entangled with fixed fishing gear or other objects referred to in subsection (1).... 3) where events referred to in subsection (1) or (2) occur, the master shall, immediately a) where any person has been injured or harmed in any way- i) rescue such person from the sea; ii)administer all possible first aid or medical treatment; and iii) steam directly to shore and seek further medical treatment.	Clause 42 provides safeguards against damage caused by vessels to endangered species and other protected objects. While this is important for conservation, the Bill is silent on two critical issues affecting artisanal fishing communities: Human-Wildlife Conflict. Artisanal fishers are often exposed to harm caused by protected marine species (e.g., stingrays, stonefish, sharks) during fishing activities. These encounters can result in serious injury or even loss of life. The Bill should therefore include provisions to ensure treatment, compensation, and other protective measures for fishers affected by such human–wildlife conflict.	We recommend the insertion of additional subsections under Clause 42 to provide that: (4) Where artisanal fishers suffer injury, harm, or loss as a result of encounters with protected species, the State shall establish a mechanism for treatment, support, and compensation. (5) Where fishing gear belonging to artisanal fishers is destroyed, damaged, or displaced by vessels or other maritime users, the responsible party shall be liable for compensation, and the State shall provide a framework for enforcement and redress.

		Protection of Fishing Gear. Artisanal fishers frequently lose their fishing gear when vessels, including industrial fishing vessels or other maritime users, veer into fishing sites and destroy or displace fixed gear. Given that fishing gear represents significant capital investment for artisanal communities, the Bill should establish clear provisions for liability, compensation, and restitution in such cases.	
Clause 42(4)	A person who contravenes sub-section (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term for a term of imprisonment not exceeding one year or to both, and in addition that person shall fully compensate the owner of the fishing gear for any damage or injury caused under civil law as a consequence of the action unless there is sufficient proof that the damage, destruction, interference or endangerment took place in an area where the person or vessel that caused such	Delete repeated phrases	A person who contravenes sub-section (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term for a term of imprisonment not exceeding one year or to both, and in addition that person shall fully compensate the owner of the fishing gear for any damage or injury caused under civil law as a consequence of the action unless there is sufficient proof that the damage, destruction, interference or endangerment took place in an area where the person or vessel that caused such consequence were legally entitled ~~vessel that caused such consequence were legally entitled~~ to be at that time

	consequence were legally entitled vessel that caused such consequence were legally entitled to be at that time and it was not reasonably possible to detect the fishing gear or vessel and any relevant fishing gear was not marked in accordance, with the requirements pursuant to this Act.		and it was not reasonably possible to detect the fishing gear or vessel and any relevant fishing gear was not marked in accordance, with the requirements pursuant to this Act.
Clause 44 (1) and 2) Declaration of endangered species of fish	(1) The Cabinet Secretary may, by notice in the Gazette, declare any species of fish to be endangered or threatened with extinction, and shall, to the extent possible, include those species relevant to Kenya that have been declared endangered or threatened under any international agreement or instrument to which Kenya is party. (2) Unless otherwise provided by the Cabinet Secretary, no person shall engage is fishing for, catch, possess, buy or sell any species of fish declared endangered or threatened with extinction pursuant to subsection (1).	Publishing a Schedule listing the endangered and threatened species ensures that communities, enforcement agencies, and other stakeholders have a clear and accessible reference point. This prevents confusion over which species are protected and reduces the risk of arbitrary enforcement. Many international environmental agreements (e.g., CITES, Convention on Biological Diversity) maintain annexes or schedules listing species subject to protection. By adopting a similar approach, Kenya aligns domestic law with international standards, while tailoring it to the national context.	We propose the following amendment: (1) The Cabinet Secretary shall, by notice in the Gazette, publish and regularly update a Schedule listing species of fish that are declared endangered or threatened with extinction. In preparing and updating the Schedule, the Cabinet Secretary shall take into account: (a) species relevant to Kenya that have been declared endangered or threatened under any international agreement or instrument to which Kenya is a party; and (b) scientific assessments, traditional knowledge, and the views of affected communities. (2) Unless otherwise provided in the Schedule or by regulations made by the Cabinet Secretary, no person shall fish

		The artisanal fishers/ small scale fishers have raised concerns that a blanket ban on certain species, such as all sharks, could threaten food security and local livelihoods. The law should clarify that only species listed in the Schedule are prohibited, while sustainable use of non-threatened species remains permissible. Allowing the Cabinet Secretary to update the Schedule by Gazette notice ensures that the law can respond quickly to new scientific data, changing conservation statuses, or emerging community needs, without requiring a full statutory amendment.	for, catch, possess, buy, or sell any species of fish listed as endangered or threatened. (3) For clarity, the declaration of endangered or threatened status shall apply only to the species specified in the Schedule. Species not listed therein, including shark species not identified as endangered, shall not be subject to a blanket prohibition, provided that their harvesting is carried out in a sustainable manner consistent with this Act and any regulations made under it.
Clause 47(2) Fisheries Impact Assessments	Where an application is made under subsection (1), the Director General shall refer the matter to the National Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat and possible means of preventing or minimizing adverse impact	It should be specified to be the National Environment Management Authority and other rightfully stakeholders	Where an application is made under subsection (1), the Director General shall refer the matter to the National Environment Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat and possible means of preventing or minimizing adverse impact.

Clause 49 (3) (4) Fish landing stations, etc.	(3) No person other than a sport fisherman shall land any fish at any point except at a fish landing station or port. '(4) A person who contravenes the provisions of subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both in case of fish landing stations or to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both in case of ports.	Accurate data on fish landings is essential for effective fisheries management, monitoring of fish stocks, and compliance with both national and international obligations. Requiring all fishers to land their catch at gazetted fish landing stations/ sites ensures reliable data collection while also improving traceability in the fisheries value chain. Gazettement, delineation, and titling of fish landing stations/ sites to Beach Management Units (BMUs) will enhance local management, protect these community assets from encroachment, and strengthen accountability. Updating the Second Schedule to include landing stations with GPS coordinates will provide clarity, prevent disputes, and ensure transparency in the administration of fisheries resources. This approach balances conservation, governance, and community rights, and is consistent with the principles of sustainable fisheries management under the Constitution of Kenya and the FAO Voluntary Guidelines for	We recommend the following amendments: That the short title be amended to read "Fish landing, stations, fish landing sites and fishing ports (3) No person ~~other than a sport fisherman~~ shall land any fish at any point except at a fish landing station, site or port. (4A) To ensure sustainable fisheries management: (a) the Cabinet Secretary shall, in consultation with relevant authorities, gazette, delineate, and cause titles to be issued to Beach Management Units (BMUs) for the designated fish landing stations/ sites, for purposes of management and protection; and (b) the Second Schedule to this Act shall be updated to include an official register of fish landing stations, fish landing sites and fishing ports, incorporating the respective GPS coordinates.

		Securing Sustainable Small-Scale Fisheries (SSF Guidelines).	
PART VII- FISH QUALITY AND SAFETY			
Clause 57(2) Competent Authority.	57. (1) The Ministry responsible for the Service shall be the competent authority responsible for the official control of the safety of fish, fish products and fish feed. (2) The Cabinet Secretary shall establish a standing committee and a technical committee on Fish Quality and Safety	There is need to clearly describe who will be the members of these committees (i.e., standing committee and a technical committee) and how different their functions would be from the Keny Bureau of Standards (KEBS)	We recommend that "standing committee" and "technical committee". The bill should also
PART IX: INFORMATION, DATA AND RECORDS			
Clause 74(3) Information, data and records	The Director General may for purposes of verification of accounts, records, documents, returns or information required to be kept, furnished or communicated in any manner or form under sub section (1) or (2)	To align with the devolved governance framework under the Constitution of Kenya, 2010, the Bill should explicitly provide for the involvement of county governments in fisheries oversight. Such inclusion will enhance accountability and promote cooperative governance in accordance with Articles 6 and 189 of the Constitution	The Director General, in consultation with the relevant fisheries county executive committee member may for purposes of verification of accounts records, documents, returns, or information to be kept furnished or communicated in any manner or form under sub section (1) or (2)
Clause 74(4)	Commits an offence and shall be liable on conviction of a fine not exceeding three hundred thousand	To ensure penalties are more proportionate to the nature of the offence, upholding Article 50(2)(p) of	Commits an offence and shall be liable on conviction of a fine not exceeding twenty thousand or a term of

	shillings or a term of imprisonment of not exceeding of five years or to both.	the Constitution on fair trial and proportional punishment. It prevents excessive penalization while still deterring non-compliance.	imprisonment not exceeding three months or to both.
Clause 75 ownership of information	Ownership of all information required to be reported, notified or otherwise given to the government and all information generated by automatic location, communicate on similar device that is part of vessel monitoring system under this act is vested in the government	This clause ought to recognize the shared mandate over natural resources under the Fourth Schedule of the Constitution. This prevents conflict between levels of government and secures equitable access to data needed for policy and management.	Ownership of all information required to be reported, notified or otherwise given to the government and all information generated by automatic location communicate on similar device that is part of vessel monitoring system under this act is vested to both national and county governments
Clause 76 (3) Information in partnership agreement between vessel agents and vessel owners	A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of one million thousand shillings or a term of imprisonment not exceeding three years or to both.	This clause does not provide stronger deterrence against serious violations, reflecting the economic and ecological importance of fisheries. Our recommendation aims to align penalties with the principle of sustainability and precautionary management.	A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of five million or a term of imprisonment not exceeding ten years or to both.
Clause 77(2) Information on labels of containers etc., containing fish harvested in Kenya fishery waters	A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of three hundred thousand shillings or a term of imprisonment not exceeding three years or to both.	Our recommendation aims to harmonize penalties with the gravity of offences, ensuring consistency and proportionality. It also reflects the economic value of fisheries resources being protected.	A person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of one million shillings or a term not exceeding five years or to both.

Clause 78(2) Information to be true, complete and correct	A person who keeps, furnishes, or communicates any accounts, records, returns or information by or under this act and gives, furnishes and maintains information which is false, misleading or inaccurate is in contravention of subsection (1) in any material respect, commits an offence and shall be liable on conviction to a fine of three hundred and fifty thousand shillings or to a term of imprisonment of not exceeding three years or to both and any relevant license issued pursuant in this act which is held by such a person may be revoked.	Penalties should be proportionate to the nature of the offence. For minor infractions, such as providing inaccurate or misleading information, sanctions should avoid criminalizing administrative lapses while still ensuring accountability and safeguarding data integrity.	A person who keeps, furnishes or communicates any accounts, records, returns or information by or under this act and gives, furnishes and maintains information which is false , misleading or in accurate in contravention of subsection (1) in any material respect commits an offence and shall be liable on conviction to a fine of not exceeding fifty thousand shillings or a term of imprisonment of not exceeding three months.
Clause 79 (7) Confidential information	Any information designated as confidential shall maintain such a classification for a period of five years from the time of such a designation and expiry of five years the Cabinet Secretary in consultation with the Director General may extend such a clarification for a further period.	Strengthens transparency and intergovernmental collaboration by including the Council of Governors. This ensures both national and county interests are represented in classification and disclosure decisions, consistent with Article 35 on access to information.	Any information designated as confidential shall maintain such a classification for a period of five years from the time of such a designation and expiry of five years the Cabinet Secretary in consultation with the Director General and the Council of Governors may extend such a clarification for a further period.
Clause 79(2)	The Cabinet Secretary in consultation with the Director	The Bill should strike a balance between confidentiality and the need	The Cabinet Secretary in consultation with the Director General and the

	General may designate any information as confidential, and in doing so may also exempt general summaries of aggregated information from confidentiality requirement.	for transparency and accountability by protecting sensitive information, while allowing limited exceptions for purposes such as statistical reporting, law enforcement, and matters of public interest.	Council of Governors may designate any information as confidential and in doing so may also exempt general summaries of aggregated information from confidentiality requirement. Notwithstanding subsection (2) the following information shall be confidential unless the cabinet secretary in consultation with the director general and the council of governors otherwise directs.
Clause 79(5)(c)	Information may be disclosed to the extent - (c) Necessary to enable the Director general to publish statistical information relating to fisheries sector;		Information may be disclosed to the extent - (c) Necessary to enable the Director General and the county executive committee member to publish statistical information relating to fisheries sector
Clause 79 (5) (d)	Information may be disclosed to the extent - Necessary for enforcement of Kenya laws by other ministries and agencies of the Government of Kenya;		Information may be disclosed to the extent - Necessary for enforcement of Kenya laws by other ministries and agencies of both national and county governments.
Clause 79 (5) (f)	Information may be disclosed to the extent -		Information may be disclosed to the extent -

	(f) Necessary to enable advice to be given to director general		Necessary to enable advice to be given to director general and the county executive committee member.
Clause 79 (6)(c)	The Cabinet Secretary, in consultation with the Director General may authorise the release of any information- (c) Designated as confidential for such purposes as the cabinet secretary may approve or as may be prescribed.		The Cabinet Secretary, in consultation with the Director General may authorise the release of any information- (c) Designated as confidential for such purposes as the cabinet secretary in consultation with the relevant county executive committee member.
PART X: LICENSING AND REGISTRATION			
Clause 83 (5) (g) Licenses and authorizations required	The supply of food in case of emergency	To clarify responsibility in emergencies and integrates humanitarian actors, ensuring efficient and lawful supply of food aid in crisis situations.	The supply of food by industrial vessels or food aid organisations in case of emergencies
Clause 84 (2) Subsistence exemption from license requirement	The cabinet secretary may by order published in the gazette determine the quantity of fish which may be deemed to be fish for own consumption under subsection (1) and different quantities may be determined for different areas of Kenya	The proposed amendment is to give effect to the fourth schedule of the Constitution by ensuring county participation in determining fish quality standards. This strengthens legitimacy and inclusivity, especially for county-level consumption practices.	The cabinet secretary in consultation with the director general and council of governors may by order published in the gazette determined the quantity of fish which may be deemed to be fish for own consumption under subsection (1) and different quantities may be deemed for different areas of Kenya.

Clause 87 (1) (a) Requirements for denial of licences and authorizations	A relevant vessel is not intended for use as a fishing vessel	The wording "not fit" provides clearer regulatory language, reducing ambiguity and enhancing enforceability of vessel standards.	A relevant vessel is <u>not fit for</u> use as a fishing vessel.
Clause 102 (3) Registration of artisinal fishing vessels	Any person who contravenes subsection (1) commits an offence and shall be liable to conviction to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding one year.	Need to make punishment more proportionate to the minor offences while still acting as a deterrent.	Any person who contravenes subsection (1) commits an offence and shall be liable to conviction to a fine not exceeding <u>twenty thousand shillings or to a term of imprisonment not exceeding three months</u>
Clause 103 (8) Registration of vessels	Where a fishing vessel is operated in contravention of subsection (1) the master, owner and charterer of the vessel each commit an offence and shall each be liable upon conviction to a fine not exceeding three hundred thousand shillings or imprisonment for a term not exceeding one year or to both	It is important to ensure penalties remain fair, accessible, and enforceable. We recommend that the short title be amended to reflect registration of industrial vessels	Where <u>an industrial</u> fishing vessel is operated in contravention of subsection (1) the master, owner and the charterer of the vessel each commit an offence and shall each be liable upon conviction to a fine not exceeding three <u>million</u> shillings or imprisonment for a term not exceeding one year or to both
Clause 106 (2) (e) Requirement for transhipment	The intended date and arrival time in Mombasa in order that supervisory arrangements can be made	Need to expand scope to reflect decentralization of port facilities and new designated entry points to ensure effective supervision across all operational fisheries ports.	The intended date and arrival time in Mombasa and <u>other identified port areas</u> in order that supervisory arrangements can be made.
Clause 108 (4)	Any person who contravenes subsection (2) commits an offence	Need to avoid excessive punishment for less serious breaches.	Any person who contravenes subsection (2) commits an offence and shall be

Designated fish aggregating devise	and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to term of imprisonment not exceeding one year or to both,		liable on conviction to a fine not exceeding fifty thousand and a term of imprisonment not exceeding three months.
PART XI: COMPLIANCE WITH ACT, LICENSES, AUTHORIZATIONS AND REQUIREMENT FOR FISHING VESSELS ENTERING, NAVIGATING, OR EXITING THE KENYA FISHERIES WATER			
Clause 123(2) Unlicensed activities prohibited	For the purpose of this Act, where a vessel is used in the commission of an offense, the owner, operator, master and charterer shall each be deemed to have committed the offense	The existing provision imposes strict liability on vessel owners, operators, masters, and charterers for any offence committed using the vessel, even where the actual offender may be a third party. This may unfairly penalize vessel owners and masters who are not directly responsible for the offence. The proposed amendment introduces a due diligence defence while also extending liability to the hirer or person in control of the vessel at the time of the offence. This ensures that responsibility lies with the party who actually committed or enabled the offence, while still holding owners and operators accountable where they fail to exercise oversight. This adjustment promotes fairness, prevents abuse of hired vessels by	123(2) For the purpose of this Act, where a vessel is used in the commission of an offence- (a) the master, owner, operator, or charterer of the vessel shall each be deemed to have committed the offence, unless they can demonstrate that the offence was committed without their knowledge, consent, or connivance and that they exercised all due diligence to prevent its commission; and (b) where the vessel has been hired or otherwise placed under the control of another person, that person shall also be deemed liable for the offence.

		third parties, and enhances accountability in line with the principles of justice and proportionality under Article 50 of the Constitution of Kenya.	
Clause 124 Foreign fishing vessels	Where a foreign fishing vessel- (a) enters the Kenyan fishery waters except for a purpose recognised by international law or relevant law of Kenya; (b) fishes within the territorial sea of Kenya, or (c) is used for fishing or fishing related activities in the fisheries waters, except pursuant to the requirement of this Act, The operator and master each commits and offense and shall each be liable on conviction to a fine not exceeding fifty million or to an imprisonment of a term of more than one year or to both.		Where a foreign fishing vessel- (a) enters the Kenyan fishery waters except for a purpose recognised by international law or relevant law of Kenya; (b) fishes within the territorial sea of Kenya, or (c) is used for fishing or fishing related activities in the fisheries waters, except pursuant to the requirement of this Act, The operator and master each commits and offense and shall each be liable on conviction to a fine not exceeding fifty million or to an imprisonment of a term of more than ten years or to both.
PART XII: REQUIREMENTS FOR FOREIGN FISHING VESSELS OR VESSELS FISHING UNDER CHARTER ARRANGEMENTS			
Clause 127(2)(b) Fisheries access	An access right granted by the cabinet secretary taking into account the provisions of	Need to promote economic, social and cultural rights by ensuring local communities benefit directly from	An access right granted by the cabinet secretary taking into account the provisions of subsections (1) and (2) and

	subsections (1) and (2) and in consultation with the Director General, in accordance with such conditions as he require and as may be prescribed, including the i. Maximum number of such rights to be granted for a given period of time; ii. Maximum period of time during which such right can be held; iii. Fishery or fisheries to which rights-based access applies; iv. Qualifications of applicants for such rights; v. Procedures for application for such rights; vi. Criteria for the grant of such rights; vii. Conditions for the use of such rights; viii. Transferability of such rights; and ix. Conditions for the cancellation or	fisheries access agreements. This operationalizes Article 69(1)(a) on sustainable exploitation and equitable sharing of benefits.	in consultation with the Director General, in accordance with such conditions as he require and as may be prescribed, including the i. Maximum number of such rights to be granted for a given period of time; ii. Maximum period of time during which such right can be held; iii. Fishery or fisheries to which rights-based access applies; iv. Qualifications of applicants for such rights; v. Procedures for application for such rights; vi. Criteria for the grant of such rights; vii. Conditions for the use of such rights; viii. Transferability of such rights; and

	revocation of such rights; or		ix. Conditions for the cancellation or revocation of such rights; x. The requirement for equitable benefit-sharing arrangements with local fishing communities, including revenue allocation, investment in local infrastructure, and measures to safeguard community livelihoods; or
Clause 127(4)	The Director -General shall, in respect of each proposed arrangement, right and license for fisheries access determine- a. The estimated value of the fisheries to the other party; and b. The designated area, an access fee and other required benefits to Kenya except that such fee or	There is a need to strengthen accountability and ensure revenues from fisheries access directly support community livelihoods, consistent with the Public Finance Management Act and constitutional principles on equity.	The Director-General shall, in respect of each proposed arrangement, right, and licence for fisheries access, determine— a. the estimated value of the fisheries to the other party; b. the designated area, an access fee, and other required benefits to Kenya, including a mandatory and equitable benefit-sharing mechanism with local fishing communities, ensuring that a defined proportion of access fees and related benefits directly

	benefits shall not include development assistance or benefits that are unrelated to the value of the fisheries access		support community livelihoods, fisheries management, and local development initiatives;
Clause 127(6)	No licence or other authorization for fishing or fishing related activities shall be issued to a foreign fishing vessel unless fisheries access has been granted in accordance with this Act.	The current provision is not sufficient. The proposed amendments ensure foreign access does not undermine local livelihoods but instead contributes to socio-economic development in fishing communities. This aligns with SDG 14	No licence or other authorization for fishing or fishing-related activities shall be issued to a foreign fishing vessel unless fisheries access has been granted in accordance with this Act and the access agreement or license includes enforceable provisions for equitable benefit-sharing with local fishing communities in the designated area, ensuring that such communities receive direct social, economic, or livelihood benefits arising from the access arrangement.
Clause 129(2) Fisheries access review	Fisheries access may be terminated or suspended at any time by the Cabinet Secretary on the advice of the Advisory Council and Director General- a. according to its terms or upon material non-compliance by the other party with this Act or any other requirement for fisheries access and other party shall be given reasonable notice of such	There is a need to ensure local communities grievances are heard and enforced, enhancing participatory governance and social safeguards against exploitative fishing practices.	Fisheries access may be terminated or suspended at any time by the Cabinet Secretary, on the advice of the Fisheries Advisory Council and the Director-General— a. according to its terms, or upon material non-compliance by the other party with this Act or any other requirement for fisheries access, and the other party shall be given reasonable notice of such termination or suspension to ensure the

	termination or suspension to ensure the prompt termination of fishing or fishing related activities; or b. that continued fishing at current levels would pose a risk to the fish stocks based on a precautionary approach, or on such other ground for suspension or limitation as may be specified in this Act		prompt termination of fishing or fishing-related activities; b. where continued fishing at current levels would pose a risk to the fish stocks based on a precautionary approach, or on such other grounds for suspension or limitation as may be specified in this Act; or c. where a justifiable claim is raised by affected local fishing communities concerning the conduct of the operator, including violations of community rights, failure to meet benefit-sharing obligations, or harmful impacts on community livelihoods or marine ecosystems. In such cases, the Cabinet Secretary shall, within a reasonable time, investigate the claim in consultation with the Fisheries Advisory Council and may order the suspension or termination of access

			rights where the claim is substantiated.
Clause 129(3)	Suspension of fisheries access or fishing in accordance with subsection (2) and (3) may be for such time or until such conditions are met as the Cabinet Secretary may require.	There is a need to ensure counties are consulted where access decisions affect their fisheries. This avoids conflict and ensures inclusivity	Suspension of fisheries access or fishing in accordance with subsections (2) and (3) may be for such time or until such conditions are met as may be determined by the Cabinet Secretary, acting on the advice of the Fisheries Advisory Council, in consultation with the Director-General and the relevant County Executive Committee Member responsible for fisheries in the affected area
Clause 133(3) Perfomance bond	The amount of financial assurance provided under this section shall be determined by the Director -General in consultation with the Board and having regard to any applicable fishery management plan and value of the relevant fishery	It is critical to guarantee sufficient security for fisheries management and compensation in case of breaches. This strengthens financial accountability and aligns with global best practice.	The amount of financial assurance provided under this section shall be set at a minimum of 10% of the estimated value of the fishery to ensure adequate financial assurance and maximum determined by the Director -General in consultation with the Board and having regard to any applicable fishery management plan and value of the relevant fishery.
Clause 134 Force majeure or distress	A foreign fishing vessels may be permitted entry into port for reasons of force majeure or distress exclusively for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.	The provision is clear but could specify reporting requirements for such entries. Reporting ensures proper documentation and prevents misuse of this provision.	Introduce subsection (2) 134 (2) Vessels entering ports under force majeure or distress shall submit a

			detailed report to the Director-General within 24 hours of entry
PART XIII: MONITORING, CONTROL AND SURVEILLANCE			
Clause 139 (1)(b) Power of entry and search of authorized officers	An authorized officer, may in the performance of his functions under this Act, without a warrant at any reasonable time b) enter, examine and search any premises or place other than premises used exclusively as a dwelling house, or which are part of or attached to a dwelling house, which the authorized officer reasonably suspects are used for activities falling within the scope of this Act and -	To align with constitutional requirements on the rights of an arrested person and the right to fair hearing, ensuring that searches without a warrant are strictly limited. This balances enforcement needs with human rights.	An authorized officer may, in the performance of his or her functions under this Act, at any reasonable time— b) enter, examine, and search any premises or place, other than premises used exclusively as a dwelling house or which are part of or attached to a dwelling house, provided that such entry and search without a warrant shall only be conducted where there exists reasonable suspicion of an offence under this Act. In exercising these powers, the officer shall ensure full compliance with Article 49 of the Constitution of Kenya, including the rights of any person arrested or affected by such search to be informed promptly of the reasons, to communicate with counsel or other persons of their choice, and to be treated with dignity.
Clause 147(1) Appointment of and identification by inspectors and observers	The Director-General may, in writing, appoint_	To implement the fourth schedule and enhancing legitimacy of fisheries officers operating at county level	Section 147 (1) The Director-General in consultation with the relevant County Executive Committee Member responsible for fisheries, may in writing, appoint-...
PART XIV – REQUIREMENT FOR ARRESTED PERSONS AND SEIZED ITEMS			

Clause 162 (2) Arrest or detention and release of foreign fishing vessels, crew members	Any foreign fishing vessel and its crew arrested for the contravention of any provision of this Act that governs any act of fishing or fishing related activities shall be promptly released upon the posting of a reasonable bond or other security	Bonds or sanctions applicable in respect of violations should be adequate in severity to be effective in securing compliance and to discourage violations wherever they occur and should deprive offenders of the benefits accruing from their illegal activities.	
Clause 163 (2) Prompt judicial or administrative proceedings for arrested persons	Where a person is released without being charged or where prosecution is not instituted within 30 days after a person is charged all items seized shall be returned to the person	The timeline provided is quite high and does not take into account the effect it has on the needs of artisanal fishers, who depend on the day to day fishing for employment, income and food security. We recommend that the time stipulated be reduced.	Where a person is released without being charged or where prosecution is not instituted within <u>fourteen (14)</u> days after a person is charged, all items seized shall be returned to the person
Clause 166 (2) (b) Disposal of perishable items	Cause the sell of the fish or other thing at a price which is reasonable in the circumstances, and, if court proceedings are instituted, pay the proceeds of the sale into a suspense account of the Service pending a court order in respect of the forfeiture of the proceeds or if no proceeding are instituted, release the proceeds to the person from whom the fish or other thing was seized provided that if, after making all reasonable efforts the DG is unable to sell the fish or	The current provision empowers the Director-General (DG) to sell seized fish or, where such fish is deemed unfit for sale, to dispose of it in any manner including destruction. This broad discretion lacks sufficient safeguards to protect the livelihoods of small-scale and artisanal fishers whose catch may be seized. The provision does not require the DG to make reasonable efforts to preserve the value of the fish before resorting to disposal.	Cause the sale of the fish or other thing at a price which is reasonable in the circumstances, and, if court proceedings are instituted, pay the proceeds of the sale into a suspense account of the Service pending a court order in respect of the forfeiture of the proceeds, or if no proceedings are instituted, release the proceeds to the person from whom the fish or other thing was seized ~~provided that if, after making all reasonable efforts the DG is unable to sell the fish or other thing or where such fish or other things are unfit for sale, he may dispose off the~~

	other thing or where such fish or other things are unfit for sale, he may dispose off the same in such other manner as he deems fit including by destruction	Artisanal and small-scale fisheries contribute significantly to employment, household income, and food security. Recognizing their importance, States are encouraged under the FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries to protect the rights and interests of small-scale fishers. To align with these obligations, the law should require the DG to take reasonable steps to preserve seized fish, such as placing it in cold storage, and to prioritize sale at a fair market price. This would minimize unnecessary loss of income for fishers and provide greater fairness in enforcement actions.	~~same in such other manner as he deems fit including by destruction~~ Provided that the Director-General shall make all reasonable efforts to preserve the fish, including by placing it in cold storage, and to sell the fish at a fair market value before considering disposal. In cases where the fish is unfit for sale despite such efforts, the Director-General may dispose of it in such other manner as is appropriate, having due regard to the rights and livelihoods of artisanal and small-scale fishers
Clause 171 (3) Unlawful removal of seized goods	A person who contravenes subsection 1 commits an offense and shall be liable on conviction to a fine not exceeding 5000 shilling or to a term of imprisonment not exceeding 5 years or to both	This clause does not separate penalties for local artisanal fishers and foreign/industrial actors, because their impact and capacity differ.	We recommend that the Clause be amended as follows: A person who contravenes subsection (1) commits an offence and shall be liable on conviction: (a) in the case of a Kenyan citizen or resident artisanal fisher, to a fine not exceeding Kenya Shillings Five Thousand (Kshs. 5000) or to

			imprisonment for a term not exceeding three months, or to both; (b) in the case of a foreign person or foreign fishing vessel operator, to a fine not exceeding Kenya Shillings Five Million (Kshs. 5,000,000) or to imprisonment for a term not exceeding five years, or to both.
172 Liability for loss, damage or deterioration of things in custody	The State shall not be liable to any person for any loss, damage, to or deterioration in the condition of any vessel, vehicle, aircraft or other items while in the custody of the state, pursuant to this act, provided that the state takes responsible care given the circumstances	Maintaining custody of seized vessels, vehicles, and aircraft can be very costly in terms of storage, maintenance, and security. In practice, there is a likelihood that seized items may not receive adequate maintenance, leading to deterioration in value and unfair loss to the owner. To address these challenges, it is more practical and equitable to allow the release of seized items to their owners under a bond or security arrangement. This ensures that the items remain available for legal proceedings when required, that the owners retain responsibility for maintenance and upkeep, and the State is shielded from unnecessary	We recommend the following amendment: 172(1) Where a vessel, vehicle, aircraft or other item is seized pursuant to this Act, the State shall, wherever practicable, release such item to the owner on bond or other suitable security sufficient to guarantee its availability for any further proceedings. (2) The State shall not be liable for any loss, damage, or deterioration of an item while in its custody, except where such loss, damage, or deterioration results from the gross negligence or wilful misconduct of the State or its agents.

		storage costs and liability, while still being accountable for cases of gross negligence or willful misconduct. This approach strikes a balance between enforcement needs and protection of property rights, while also reducing the financial and administrative burden on government agencies.	
PART XVI SUMMARY ADMINISTRATIVE PROCEEDING			
182 (3) Decision to proceed administratively	An offense small be compounded under section where the person charged, admits in writing to the offense and	Grammatical error	An offense shall be compounded under section where the person charged, admits in writing to the offense and
	(a) Consent to compounding proceeds after being fully informed about these proceedings	Grammatical error	(a) Consent to compounding proceedings after being fully informed about these proceedings
182 (4) (a)	Not engage in any activity within the scope of this act until the penalty has been paid in full,	This penalty can be very harsh on small-scale/artisanal fishers. as they risk losing their daily livelihood, which can push them and their families into poverty. For industrial operators, this may be fair, but for	We recommend that this be amended as follows: Not engage in any activity within the scope of this Act until the penalty has been paid in full, provided that, in the case of artisanal or small-scale fishers,

		subsistence fishers, it is disproportionate. There is a need to protect livelihoods while ensuring compliance.	the competent authority may permit continued engagement in fishing activities subject to reasonable conditions, including payment of the penalty by instalments, performance of community service, or other alternative compliance measures that ensure livelihoods are not unduly disrupted
182(4)(b)	Be deemed to have consented to any seizure in accordance with this act in relation to the offense, and to have waived any right to a hearing in the judicial processes	Consent does not automatically waive a person's due process rights.	Any seizure carried out in accordance with this Act shall be subject to the rights of the person concerned to be informed of the reasons for the seizure and to seek redress or a hearing before a competent authority or court. Provided that a person may, in writing, consent to the seizure and waive the right to a hearing where they voluntarily elect to settle the matter through administrative or alternative procedures prescribed under this Act
182 (6)	Where the person fails to respond to the DGs written notice within 24 hours, the D G shall refer the matter to prosecution	This timeline is quite rigid. For trawlers and their fishing operations, 24 hours may not be practical as they could be at sea, in remote areas, or without immediate access to communication. If left as it, is could unfairly criminalize operators simply because they could not respond fast enough	We recommend the following amendments: Where the person fails to respond to the Director-General's written notice within the prescribed period, the Director-General shall refer the matter to prosecution: (a) Provided that in the case of trawlers or other fishing operations where

			communication or logistical constraints make a response within twenty-four hours impracticable, the Director-General may extend the response period to a reasonable time not exceeding seven days upon receipt of the communication.
Clause 200 Functions of the Fish Marketing Authority		Local fishers, especially artisanal and small-scale operators, are often disadvantaged by exploitative middlemen and foreign traders who dictate prices, leaving fishers with minimal returns for their labor. This undermines livelihoods, discourages sustainable fishing practices, and threatens household food security. Fishers should receive a fair value for their catch, reflecting the effort, risks, and costs involved. The FAO Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries call on States to ensure equitable distribution of benefits and to protect small-scale fishers from unfair market practices.	We recommend the following amendment: In exercising its functions under this Act, the Authority shall ensure that the pricing of fish and fish products is fair and equitable, taking into account prevailing market demand, seasonal variations, and the livelihoods of artisanal and small-scale fishers. The Authority may, in consultation with stakeholders, prescribe minimum prices or issue guidelines to prevent exploitation of fishers by middlemen or foreign traders, and to safeguard national food security and sustainable fisheries
Clause 201 (1) (h)(i) Board of Directors	Four other members nominated or selected through a competitive process taking into consideration regional balance and gender parity	BMUs are the frontline governance structures for artisanal and small-scale fisheries, directly	Four other members nominated or selected through a competitive process taking into consideration regional balance and gender parity and appointed

	and appointed by the cabinet secretary, of whom- (i) two shall be nominated by the registered national fisheries associations; and	managing landing sites and working with local fishers. National associations often represent larger-scale or commercial actors, while BMUs reflect the realities of small-scale/local fishers. Kenya's fisheries policy framework already recognizes BMUs as legitimate co-management partners.	by the Cabinet Secretary, of whom— (i) two shall be nominated by the BMU (Beach Management Unit) network, one representing inland fisheries and one representing marine fisheries; and

Other comments:

We propose the following amendments on Schedule 2 of the Bill.

Designated fish landing Ports

S/ No	Name of Landing Site	~~District~~ Sub-County	Division/ Location	County
	Shimoni	Msambweni	Vanga	Kwale
	~~Mkokoni~~ replace with Magogoni	Lamu	Hindi	Lamu
	~~Mombasa~~ replace with Liwatoni	Mvita	Mvita	Mombasa

ANNEX 14:

SUBMISSION FROM KWALE COUNTY-KWALE YOUTH

MEMORANDUM ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, 2023

Submitted to the Departmental Committee on Blue Economy, Water and Irrigation

Venue: Tiwi Social Hall, Matuga Constituency, Kwale County

Date:2nd September 2025

1. Introduction

We, the youth representatives from Kwale County, welcome the opportunity to contribute to the Fisheries Management and Development Bill, 2023.

Fisheries are a lifeline for coastal communities, providing livelihoods, food security, and employment to thousands of households. In Kwale County, fishing alongside aquaculture, seaweed farming, and related marine activities forms a critical part of the Blue Economy.

This memorandum outlines our key recommendations to ensure the Bill strengthens sustainable fisheries management, empowers local communities, and supports inclusive economic growth.

2.Our Key Recommendations

A. Safeguarding Small-Scale and Artisanal Fishers

- Recognize and protect the rights of artisanal and small-scale fishers who are most vulnerable to large-scale commercial operations.
- Introduce clear fishing zones and licensing regulations that ensure artisanal fishers are not displaced by industrial trawlers.
- Provide support programs (credit, equipment, safety gear) for local fishers to modernize their operations.

B. Youth Employment and Innovation in the Blue Economy

- Establish a Youth Fisheries and Aquaculture Fund to support startups and innovations in seaweed farming, fish processing, and value addition.
- Promote digital solutions for market access, pricing transparency, and skills training.
- Integrate fisheries into TVET curricula to equip young people with practical, market-ready skills.

C. Sustainable and Climate-Smart Fisheries

- Strengthen enforcement against Illegal, Unreported, and Unregulated (IUU) fishing, especially by foreign fleets.
- Support community-led marine conservation programs, including mangrove restoration, marine protected areas, and coral reef rehabilitation. Incorporate climate adaptation measures to protect coastal communities from rising seas, cyclones, and changing fish stocks.

D. County Participation and Devolution

- Clearly define the roles and responsibilities of county governments in fisheries management, in line with the Constitution.
- Allocate resources to counties for landing sites, fish markets, and enforcement at the local level.
- Strengthen mechanisms for joint planning and coordination between the national and county governments.

E. Infrastructure and Market Development

- Invest in modern landing sites, cold storage, and processing plants in Kwale and other coastal counties.
- Promote value addition (filleting, packaging, fishmeal, ornamental fish, seaweed products) to increase earnings.
- Strengthen market linkages, including regional and international exports, while protecting local food security.

F. Inclusion and Gender Equality

- Recognize the vital role of women in fisheries, especially in post-harvest handling, trading, and value addition.
- Ensure women and marginalized groups have equal access to financing, equipment, and training opportunities.

3. Conclusion

We commend the National Assembly for initiating this Bill and recognize the effort to modernize Kenya's fisheries governance. For the Bill to succeed, it must prioritize sustainability, devolution, youth employment, and the empowerment of small-scale fishers and women.

We respectfully urge the Committee to integrate the above recommendations to ensure that fisheries remain a sustainable source of livelihoods, food security, and national economic growth.

Signed: 

Omar Salim Mbwana

President-Kwale youth assembly

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ANNEX 15:

PUBLIC PARTICIPATION SUBMISSIONS

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

.....

FISHERIES MANAGEMENT AND DEVELOPMET BILL NO 29 0F 2023

PUBLIC PARTICIPATION SUBMISSIONS

1. MOMBASA COUNTY

1. The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill no. 29 of 2023 in Mombasa County on Monday, 1st September, 2025, at the Kenya Marine and Fisheries Research Institute (KEMFRI). During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

2. A section of the public were concerned about the limited time allocated to review the Bill, noting that the period was insufficient for meaningful participation. Moreover, they observed that the Bill was extensive and required careful study and consultation, and therefore urged that the submission period be extended to allow for inclusive and informed contributions. In addition, some members of the public proposed that Persons with Disabilities (PWDs), particularly those who are blind, be provided with the Bill in Braille format. They emphasized that this measure would promote inclusivity and ensure that all citizens are able to effectively participate in the legislative process.

3. Furthermore, some fisher-folks raised concern that Illegal, Unreported, and Unregulated (IUU) fishing had caused significant harm to the county by depleting fish stocks and threatening the livelihoods of local fishermen. They emphasized the need for fishermen to be sensitized on the appropriate fishing nets to use in order to promote sustainable fishing practices. In the same breath, it was proposed

that the distribution of fishing nets be centralized through KEMFRI or any other designated government institution to ensure standardization and to avoid unnecessary conflicts with other relevant authorities.

4. Similarly, some members of the public expressed concern over port expansion activities, noting that waste from the port was being disposed of in areas where fishing takes place. They observed that this practice was causing serious harm to fish breeding zones and threatening the sustainability of marine resources. Consequently, they called for deliberate measures to protect breeding areas by preventing the port from engaging in such harmful disposal practices.At the same time, they sought empowerment through the provision of larger boats to enable them to engage in deep-sea fishing. They noted that access to bigger vessels would expand fishing opportunities and enhance their economic livelihoods.

5. Moreover, a section of the public suggested that training on the correct fishing nets and sustainable practices should be provided prior to the issuance of licenses to ensure that all licensed fishermen are adequately equipped with the necessary knowledge and skills to promote responsible fishing. In addition, they expressed that PWDs should not be licensed in any fisheries-related activities. They argued that exempting them from licensing would promote inclusivity and remove barriers that could limit their effective participation in the sector.

6. Likewise, some members of the public proposed that the law provide guidance on the appropriate nets to be used, noting that currently it only outlines prohibited nets without offering direction on acceptable ones.They emphasized that nets used to catch fish species that mature without growing to a large size should not be classified as illegal. They further proposed that fishers be clearly advised on the appropriate nets to use for such species to ensure compliance and sustainable fishing.

7. In the same way, they urged consideration for poor and illiterate fisher-folks, noting that some languages used in the law are not easily understandable to them. They emphasized the need for civic education to be conducted in simple and accessible terms to empower them and enable them engage in legal and sustainable fishing.

8. Furthermore, the participants unanimously proposed adoption of a single regulated licence that would allow local fisher-folks to operate freely across counties without the requirement of obtaining multiple licenses to ease compliance and reduce unnecessary costs. They noted that Kenyan waters belong to all and should not be subjected to restrictive county-based licensing systems.In addition, it was recommended the deployment of qualified staff with adequate knowledge and expertise in fisheries to relevant offices in order to support informed decision-making. They emphasized that

individuals without a background in fisheries should not be employed in such positions, as it undermines effective sector management.

9. A section of members of the public proposed that fish vendors should not be required to pay for permits for the distribution of fish in every county. They argued that such charges restricted free movement and contributed to higher fish prices in the marketplace, thereby burdening both traders and consumers. Equally, they raised concern over the absence of landing sites in Mombasa County, attributing the challenge to the lack of title deeds or allotment letters, which has made development difficult. They noted that out of fifteen registered Beach Management Units (BMUs), only one has an established landing site.

10. In addition, some members of the public raised concern over the lack of public participation in the decision to increase the licence fee from 200 shillings to 560 shillings. They argued that the increment was imposed without adequate consultation and therefore requested that the fee be retained at 200 shillings. Similarly, participants observed that leaders of BMUs, though elected in accordance with the law, do not receive salaries, which has led to laxity in implementation of their roles. They suggested that the chairpersons and other office bearers be considered for remuneration and that budgetary allocations be made to support their work.

11. Some members of the public suggested that the identification of areas for mangrove planting, especially in relation to fish breeding sites, should be done in consultation with BMUs, as they know the best places for such initiatives. They emphasized that this would help safeguard breeding grounds and promote sustainable fisheries. Additionally, they called for an audit of grants issued in the fisheries sector, noting concerns that funds were being misappropriated. They emphasized that proper accountability measures were necessary to ensure the resources benefit the intended beneficiaries.

12. Furthermore, some members of the public proposed that BMUs be actively involved in the making of bylaws as such inclusion would ensure that they are practical, locally relevant, and supported by the fishing communities. Further,they noted that the proposed regulations be issued to BMUs in good time to allow for adequate deliberations with their members and the wider public as early access would promote proper understanding and effective participation in the implementation process. Moreover, they argued that the ministries should hold their own public participation forums to help the public fully understand proposed policies before they are sent to the National Assembly.

13. In addition, participants emphasized the need for clear procedures on how the Kenya Marine Fisheries and Socio-Economic Development (KEMFSED) grant is being disbursed. They noted that since the grant is taxpayers' money, there should be transparency and accountability in its management to

ensure it benefit the intended beneficiaries. . Additionally, they called for an audit on the grant noting concerns that funds were being misappropriated. They further proposed that civic education be conducted for BMUs to guide them on the procedures for accessing and utilizing the grant effectively.

14. Similarly, some members of the public observed that the law should clearly specify whether subsistence fishing is to be conducted offshore or inshore to prevent unnecessary arrests. In addition, some members of the public called for strict implementation of inspection on foreign vessels, noting that the process is currently not properly carried out. They observed that many foreign vessels operate without a representative from the Kenyan government on board, a gap that has contributed to IUU fishing. They emphasized that ensuring government presence and thorough inspections would strengthen oversight.

15. Likewise, some members of the public urged the government to clearly define the end goal of the training being offered in the fisheries sector to ensure that citizens who undergo the training are able to secure meaningful employment and apply their skill productively. They further recommended investment in government-owned ships to accommodate all trained fisher-folks and to support the growth and sustainability of the fishing industry in Kenya.

16. Further, they proposed that the government consider incorporating International Convention on Standards of Training, Certification and Watch-keeping for Fishing Vessel Personnel (STCW-F) courses, noting that the current International Convention on Standards of Training, Certification, and Watch-keeping for Seafarers (STCW) course only covers sea safety and does not address fishing. They observed that without the STCW-F component, trained persons are unable to secure employment until they fully complete the course, which delays their opportunities to work in the sector.

17. Additionally, some members of the public raised concern that certain commercial fishing vessels use dragged nets which destroy marine resources by catching even fish eggs, thereby interfering with breeding. They observed that despite this harmful practice, such vessels continued to be issued with licenses, and they called for stricter regulation to protect fish breeding grounds.They also proposed that legal fishing gears be subsidized to empower fisher-folk and make them more accessible. They further emphasized that the gears should come with clear user guidelines to ensure proper utilization and promote sustainable fishing practices.

KWALE COUNTY

18. The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill no. 29 of 2023 in Kwale County on Tuesday, 2nd September, 2025, at Kwale Cultural Center. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

19. Members of the public proposed that the Fisheries Management and Development Bill should focus on strengthening the livelihoods of local fishers. They emphasized the need to include compensation mechanisms for damages or loss of life that may occur due to marine accidents, noting that fishing often exposes communities to high risks.

20. The public also highlighted the importance of empowering BMUs. They suggested that BMUs be granted more legal recognition and decision-making powers to enable them to co-manage fisheries alongside county and national authorities. This, they argued, would improve accountability and ensure sustainable fisheries management.

21. Further, the public called for improvement of infrastructure and market access. They recommended that transport links and market infrastructure be enhanced to allow fishermen to sell their catch directly. This would cut out exploitative middlemen and improve earnings for local communities. They further proposed the establishment of fish processing and packaging hubs, particularly in the coastal region, to promote value addition and exports.

22. On education and capacity building, members of the public suggested that scholarships or bursaries be introduced for coastal youth to pursue studies in marine sciences and blue economy courses. They noted that this would build local expertise, create opportunities for young people, and strengthen the sector's long-term sustainability.

23. A section of the participants proposed that the Bill be interpreted into Kiswahili so as to make it more accessible to the wider public, and they further suggested that adequate time be provided for reading and understanding the document in order to enable meaningful and knowledge-based discussions during public participation.

24. Further, participants noted that Vanga, which borders Tanzania, has become a hotspot where Kenyan fishermen are often harassed, arrested, and compelled to pay huge fines to Tanzanian authorities on claims that they are fishing within Tanzanian waters; therefore, they requested that clear boundaries be established to resolve this issue and protect local fishermen from such challenges.

25. Some participants observed that although the powers to designate marine managed areas are given to Beach Management Units (BMUs), public participation is necessary before such areas are set aside; consequently, they requested that this requirement be included in the Bill to provide BMUs with the legal backing to implement it effectively.

26. A section of the public stated that protection of marine resources cannot be carried out by government officials alone, and they therefore proposed that one representative from the BMU be included in the patrol boats to support enforcement efforts and help prevent corruption.

27. In addition, participants expressed concern that large areas have been designated as marine parks and reserves, which has forced fishers to cross into Tanzanian waters where they face arrests and heavy fines; as a result, they requested that the size of marine parks and reserves be reduced to increase the available fishing areas for local communities.

28. Similarly, a section of the public noted that some designated landing site areas have been replaced by houses, with individuals claiming ownership of the land, and they requested that the authorities verify the officially gazetted landing site areas, reclaim them, and hand them back to the BMUs for proper use in supporting fisheries activities. They further emphasized that proper title deeds should be produced to secure these areas and prevent future encroachment, and that clear boundaries of 60 meters from the highest water mark be set aside and protected for landing sites.

29. Participants raised concern that politicians have infiltrated BMUs, noting that some boats are owned and controlled by them, and they further observed that they interfere when individuals are arrested for illegal fishing practices. The participants requested that BMU leadership be respected and allowed to enforce the law and carry out their work effectively, since political interference has created conflicts of interest and undermined the primary role of BMUs in managing fisheries resources for the benefit of local communities.

30. Additionally, a section of the participants raised concern that stone and sand harvesting by leaders and companies destroys fish habitats, reduces fish populations, and causes health hazards from dust, and they noted that citizens are punished for the same practices while leaders are not, creating injustice. They therefore called for accountability, environmental protection, and community safeguards.

31. Participants Further, raised concern that emergency response to save fishermen in the ocean often takes too long, thereby leading to preventable deaths. They further noted that when bodies are found, they are sometimes left in the waters out of fear, as those who retrieve them are often blamed and

subjected to lengthy investigations, and this, they emphasized, discourages people from offering timely help in such situations.

32. Furthermore, participants unanimously proposed the adoption of a single regulated licence that would allow local fisher-folks to operate freely across counties without the need to obtain multiple licenses, and they emphasized that this would ease compliance and significantly reduce unnecessary costs.

33. They further noted that while the national government provides support to BMUs, information on the progress and nature of this assistance is often scarce; hence, they proposed that clear and timely information be shared with BMUs before such interventions are brought in, to ensure transparency and proper preparedness.

34. Participants raised concern that access roads to landing sites have been blocked, making fishing activities difficult; therefore, they proposed that these roads be reopened and widened to facilitate smooth operations for fishermen.

35. Participants noted that BMU leadership is currently limited to only two terms in office and requested that the term limit be increased. Moreover, they proposed that BMU leaders be provided with a stipend or budgeted salaries to support them in carrying out their responsibilities effectively.

36. Participants highlighted that there was widespread confusion regarding ocean management, noting overlaps in roles among different authorities and a lack of clarity on who holds responsibility for specific functions; consequently, they emphasized the need for clear guidelines and coordination to streamline management and avoid conflicts.

37. Participants observed that inlets and outlets have become shallow, causing difficulties for fishermen who are not well conversant with the routes and sometimes leading them to get lost, and they therefore requested that the channels be rectified to enable boats to move in and out of the ocean effectively.

38. Likewise, some members of the public proposed that the law provide guidance on the appropriate nets to be used, noting that currently it only outlines prohibited nets without offering direction on acceptable ones. They emphasized that nets used to catch fish species that mature without growing to a large size should not be classified as illegal, and they further proposed that fishers be clearly advised on the appropriate nets to use for such species to ensure compliance and sustainable fishing.

39. Participants proposed that inclusion of a specific position for Persons with Disabilities (PWDs) within BMU leadership structures should be considered, as this would strengthen inclusivity, ensure that the

voices and interests of PWDs are adequately represented in decision-making, and guarantee that their concerns are considered in fisheries management.

40. Participants raised concern that fishers using ring nets have begun fishing in areas where they are not allowed, making it difficult for small-scale fishers to access fish; therefore, they proposed that clear boundaries be established and both groups be guided on where to fish in order to prevent conflicts and promote fairness.

41. A section of the public proposed that fisheries management be fully devolved to county governments, noting that in some cases fishers are required to report to the Director General based in Nairobi despite the presence of county governments. They observed that the current system, where powers flow from the Director General down to the counties, creates unnecessary bureaucracy and hardship; hence, they recommended that counties be given direct authority to manage fisheries for more efficient service delivery.

42. They further expressed concern that the licence fee had been increased from 200 shillings to 560 shillings without public participation, and they noted that the new cost is not affordable to small fisher-folks; therefore, they called for the fee to be reviewed.

43. In addition, they proposed that waterproof licenses be introduced, noting that the current paper licenses get wet and tear easily when exposed to water, and they suggested that durable card-based licenses be considered to address this challenge.

Memorandum: Kwale Youth Assembly

44. Mr. Omar Salim Mbwana, president of Kwale youth assembly, presented a memorandum on 2nd September, 2025 at Kwale Cultural Center to the Committee on behalf of the youth as follows;

45. The youth representatives from Kwale County expressed their appreciation for the opportunity to present their views on the Fisheries Management and Development Bill, 2023. They observed that fisheries remain a lifeline for coastal communities as they provide livelihoods, food security, and employment to thousands of households. They further noted that in Kwale County, fishing, together with aquaculture, seaweed farming, and related marine activities, forms an integral part of the Blue Economy. They emphasized that their memorandum was intended to set out key recommendations to strengthen sustainable fisheries management, empower local communities, and support inclusive economic growth.

46. The youth representatives were of the view that artisanal and small-scale fishers, being the most vulnerable to the pressures of large-scale commercial operations, ought to be recognized and

protected. They proposed the establishment of clear fishing zones and licensing regulations to safeguard artisanal fishers from displacement by industrial trawlers. They further observed that local fishers would benefit from targeted support programmes such as credit facilities, provision of equipment, and safety gear to enable them to modernize their operations.

47. On matters of youth empowerment, they recommended the establishment of a Youth Fisheries and Aquaculture Fund to support startups and innovations in seaweed farming, fish processing, and value addition. They were of the view that digital solutions should be promoted to improve market access, pricing transparency, and skills training. They further suggested that fisheries be integrated into TVET curricula so as to equip young people with practical and market-ready skills.

48. On the issue of sustainability, they stressed the importance of strengthening enforcement against Illegal, Unreported, and Unregulated (IUU) fishing, particularly by foreign fleets. They underscored the need to support community-led marine conservation initiatives such as mangrove restoration, marine protected areas, and coral reef rehabilitation. They further recommended that climate adaptation measures be incorporated to safeguard coastal communities from the adverse impacts of rising sea levels, cyclones, and shifting fish stocks.

49. The youth representatives were also of the view that the roles and responsibilities of county governments in fisheries management ought to be clearly defined in line with the Constitution. They proposed that adequate resources be allocated to counties for landing sites, fish markets, and enforcement at the local level. They further called for stronger mechanisms of joint planning and coordination between the national and county governments.

50. On matters of infrastructure and market development, they recommended increased investment in modern landing sites, cold storage facilities, and processing plants in Kwale and other coastal counties. They were of the view that value addition, including filleting, packaging, fishmeal, ornamental fish, and seaweed products, should be promoted in order to increase earnings. They further emphasized the importance of strengthening market linkages to regional and international markets while at the same time safeguarding local food security.

51. They also recognized the vital role of women in fisheries, particularly in post-harvest handling, trading, and value addition. They called for deliberate measures to ensure that women and marginalized groups have equal access to financing, equipment, and training opportunities.

52. In conclusion, the youth representatives commended the National Assembly for initiating the Fisheries Management and Development Bill, 2023, and acknowledged the effort being made to modernize Kenya's fisheries governance. They emphasized that for the Bill to succeed, it must

prioritize sustainability, devolution, youth employment, and the empowerment of small-scale fishers and women. They therefore respectfully urged the Committee to take into account their recommendations so that fisheries may continue to serve as a sustainable source of livelihoods, food security, and national economic growth.

KILIFI COUNTY

53. The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill No. 29 of 2023 in Kilifi County on Wednesday, 3rd September, 2025, at Jawaba hall. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;

54. Participants raised concern that the Bill re-introduced issues which had previously led fishermen to go to court and halt its implementation. They opposed the ban on monofilament nets, noting that fishermen cannot afford larger nets and that such a ban would threaten their livelihoods.

55. In addition, they raised concern that octopus fishing, which traditionally uses fishing guns, has been banned by the Bill. They observed that these methods have been used for many years without causing harm; therefore, they opposed the proposed ban and requested that the use of traditional methods be allowed to continue.

56. It was proposed that the size of ring nets should not be reduced. They explained that when the size is reduced, it takes longer to remove fish from the nets, which can lead to spoilage and losses for fishermen. Further, they expressed concern that licenses should not be carried in the ocean since the current paper ones risk getting wet and tearing, unless waterproof cards are provided. In addition, they emphasized that one regulated licence should be encouraged to ease compliance and reduce unnecessary costs.

57. A section of the participants raised concern that only 2-meter boats are allowed into the ocean, questioning how the length of a boat affects fishing. They proposed that small-scale fishermen be allowed to use smaller boats and emphasized that fishermen should be given the freedom to fish

using boats they understand and can operate better. They also noted that access roads to landing sites have been blocked and, in some cases, grabbed. Likewise, they requested that these roads be reclaimed, reopened, and protected to ensure smooth access for fishermen.

58. Participants also raised concern that the KEMFSED grant was being given to non-fishing communities, including women groups not involved in fishing, which they felt undermines the fishing sector. They further observed that no scholarships are provided to support fisherfolk or their families. Therefore, they proposed that KEMFSED publish a clear list of beneficiaries to enhance transparency and accountability.

59. In addition, some members of the public raised concern over the lack of public participation in the decision to increase the licence fee from 200 shillings to 560 shillings. They argued that the increment was imposed without adequate consultation and therefore requested that the fee be retained at 200 shillings.

60. They further noted that there is no coordination with county governments since the Director General is the only person with authority to issue licenses. They therefore proposed that the DG's powers be reduced and that fisheries management be devolved to county governments. In addition, they rejected the proposal to measure the amount of fish to be caught for subsistence use, noting that some fishermen have large families and such restrictions would be unfair.

61. Participants proposed that adequate time be given to read and understand the Bill, noting that most people in Kilifi speak Kiswahili while the Bill is written in English. They therefore recommended that future Bills be translated into Kiswahili to promote inclusivity and meaningful participation.

62. In addition they observed that the Bill generalizes fishing vessels without providing clear categorization. They proposed that the law specify the different types of ships, their measures, and their intended uses to avoid ambiguity and enhance proper regulation.

63. In the same breath, they raised concern that disaster management response was slow, leading to unnecessary deaths that could have been prevented with timely action. They therefore proposed that only qualified and skilled workers be allowed to work in the waters to enhance safety and effective response.

64. Participants observed that the issuance of licenses takes too long, preventing fishermen, who have dependent's to support, from going into the ocean to fish during the waiting period. They therefore proposed that licence issuance be expedited to avoid disrupting livelihoods.

65. Furthermore, they expressed concern over the proposed merging of entities like Fish Levy Trust Fund, Kenya Fish Marketing Authority (KFMA) and Kenya Fish Industry Cooperation (KFIC) questioning where current employees would go and noting that such mergers may not create new opportunities for the youth. They emphasized the need for clarity on job security and employment creation

66. Participants sought clarity on the definition of a fisheries officer, noting that the Bill categorizes both county and state departments but does not specify where they fall within the definition. They therefore requested that this be clearly outlined to avoid confusion. Likewise, they proposed that the Kenya Fisheries Advisory Council include representatives from BMUs, noting that their involvement would ensure grassroots perspectives are considered in decision-making.

67. Participants proposed that compensation be provided to the families of fishermen who die while fishing, noting that this would help support their dependants and cushion the affected households from hardship. They further proposed that coxswain (coffers) training for coastal region fishermen should be conducted in the Indian Ocean rather than in Lake Victoria, since the conditions and fishing environments are not the same. They emphasized that this would make the training more practical and relevant for coastal fishermen.

Memorandum: Shela BMU Co-operative Society Limited

68. Shela BMU Co-operative Society Limited submitted a memorandum to the Standing Committee on Blue Economy Water and Irrigation on Wednesday, 3rd September, 2025 at Jawaba hall, Kilifi County, regarding the Fisheries Management and Development Bill, 2023 as follows;

69. They noted that while they appreciated the government's effort to modernize and regulate fisheries, they strongly opposed Section 41(1)(e), which prohibits the use of monofilament nets, and Section 41(1)(i), which prohibits the use of beach seines. They explained that these provisions, if passed, would directly affect their livelihoods, culture, and food security. They therefore requested that both clauses be removed from the Bill in their entirety.

70. Further, emphasized that fishing in Malindi is not only an economic activity but also a cultural tradition that has existed for centuries. They observed that local communities initially relied on artisanal gear such as woven nets, hand lines, traps, and spears. Over time, as populations grew and markets expanded, they adopted modern gear like monofilament nets and beach seines, which provided efficiency and affordability. They added that for decades, beach seines had been used along the shores of Kilifi County to catch small fish species that remain vital to local diets. They

stressed that past governments recognized artisanal fishing as the backbone of the coastal economy, and only in recent years had blanket bans emerged under conservation debates.

71. In addition, they stated that monofilament nets and beach seines are not just fishing tools but lifelines for thousands of families. They noted that in Kilifi County, about 65 percent of shoreline households depend directly or indirectly on artisanal fishing. They explained that monofilament nets are cheaper to buy and maintain than multi-filament nets, making them accessible to poor fishermen with limited capital. They warned that banning these nets without affordable alternatives would exclude the poorest from fishing. They added that beach seines require no sophisticated boats and that hauling one involves 15 to 20 men. They noted that this cooperative system provides employment for young people and helps reduce idleness and crime.

72. They also highlighted existing challenges in the sector, citing foreign industrial trawlers, often operating illegally, hence reducing local catches and destroying artisanal gear. Security restrictions, such as the night fishing ban, were said to further limit access to fishing grounds. They explained that the absence of infrastructure like cold storage and modern landing sites forces fishermen to sell catches at low prices or suffer post-harvest losses. During COVID-19, the collapse of the tourism sector caused severe income losses for fishing households. In this context, they argued that additional restrictions such as banning monofilament nets and beach seines would only punish communities already struggling for survival.

73. They criticized Section 41(1)(e) and Section 41(1)(i), noting that the prohibitions were presented as conservation measures but lacked scientific and social justification when applied indiscriminately in Kilifi. They pointed out that the Bill offered no affordable alternatives to monofilament nets, with multi-filament nets being too costly for small-scale fishers.

74. They further argued that past bans had been enforced harshly against artisanal fishermen while industrial trawlers, which cause greater harm, continued operating. They insisted that local fishermen had traditional knowledge of how and where to deploy gear without harming reefs or catching juveniles, and that a blanket ban ignored this wisdom. They also stated that criminalizing poor fishermen for using affordable nets undermines constitutional rights to livelihood and fair access to natural resources.

75. As alternatives, the fishermen proposed:

    i. Regulating the mesh size of beach seines and monofilament nets to prevent juvenile overfishing.

ii. Involving Beach Management Units (BMUs) in monitoring and enforcing responsible practices.

iii. Providing subsidized access to alternative gear if prohibition became unavoidable.

iv. Investing in cold storage, processing, and marketing facilities.

v. Cracking down on illegal industrial trawlers, which they identified as the real threat to marine ecosystems.

76. In conclusion, the fishermen reiterated that Section 41(1)(e) and Section 41(1)(i) of the Bill should be deleted. They stated that these clauses unfairly targeted the poorest artisanal fishermen in Kilifi, who had historically sustained their families and communities through responsible use of monofilament nets and beach seines.

77. They emphasized that banning these gears without viable alternatives would destroy livelihoods, undermine cultural traditions, and increase poverty and hunger. They urged the government to adopt a collaborative approach that empowers fishermen, protects the marine environment, and promotes sustainable use of resources.

Memorandum: Kilifi BMU

78. Captain Shillo Issa presented a memorandum on behalf of Kilifi local fishing community groups from Kilifi County regarding the Fisheries Management and Development Bill, 2023 as follows;

79. They stated that the memorandum reflected the sentiments of their local communities, who rely on fishing as a primary source of livelihood and cultural heritage. Further, they expressed concern that the proposed Bill granted immense powers to the Director General of Fisheries, which they believed undermined the constitutional principle of devolution.

80. They observed that under the current legal framework, fisheries services are a devolved function under the Fourth Schedule of the Constitution, and therefore, the role of County Governments must be clearly defined and respected within the proposed Bill. They strongly recommended that the powers granted to the Director General should be shared with and, where necessary, delegated to County Governments, particularly regarding the management of local inland and coastal fisheries. They further noted that County Governments should be allowed to play a leading role in monitoring, licensing, and enforcing fishing regulations within their jurisdictions.

81. In addition, they acknowledged the critical role of the National Government in managing international fisheries and overseeing compliance with regional and global agreements. However,

they emphasized that this role must not override or duplicate the functions already assigned to County Governments. They recommended that the National Government should focus on international and deep-sea fisheries while providing technical and financial support to counties for the management of local fisheries. They further proposed that coordination mechanisms be established to ensure harmonized policies between the two levels of government without creating conflicts or overlapping mandates.

82. They raised concern that local fishing communities, who are the primary stakeholders, had not been meaningfully involved in the drafting of the legislation. They reminded the Committee that participation of local communities is a constitutional right under Articles 10 and 118 of the Constitution. They therefore requested that the process be made inclusive and participatory, with adequate opportunities for public consultation, especially in fishing communities. They added that stakeholder forums should be held in each county affected by the proposed law so as to collect views and incorporate them into the final draft.

83. Due to the complex nature of the proposed Act and its potential implications, they respectfully requested that more time be granted for thorough review by community members, county officials, and other relevant stakeholders. They further recommended that a structured timeline for engagement be developed to allow for feedback and recommendations to be submitted meaningfully.

84. In conclusion, they submitted the following key recommendations;

    i. They called for the proposed Bill to be amended so as to recognize and strengthen the role of County Governments in local fisheries management.

    ii. The scope of the Director General's powers be clearly defined to ensure they do not override devolved functions.

    iii. The rights and livelihoods of local fishing communities be recognized and protected.

    iv. The public participation period be extended and localized consultative forums be organized.

    v. Regulations be collaboratively drafted to reflect the unique needs of both national and county levels of governance.

85. They expressed appreciation for the opportunity to share their views and affirmed their commitment to engaging constructively in the development of a fisheries law that would be inclusive, fair, and effective.

Memorandum: Indian Ocean Body Beach Management Unit (BMU) Network

86. The Indian Ocean Body Beach Management Unit Network presented a memorandum to the Departmental Committee on Blue Economy Water and Irrigation regarding the Fisheries Management and Development Bill, 2023 as follows;

87. On general observation/comments/suggestions on key areas of the Fisheries Bill 2023, they noted that the Departmental Committee on Blue Economy, Water, and Irrigation recently conducted public participation meetings in coastal counties and Nyanza to collect views on the Fisheries Development and Management Bill, 2023. While Article 10 of the Constitution requires meaningful public participation, Beach Management Units (BMUs) in Lamu, Kilifi, Kwale, Tana River, and Mombasa expressed dissatisfaction with the process, citing lack of inclusivity and transparency.

88. In Lamu, for instance, the meeting was held in Faza despite official communication indicating Lamu Island, which misled artisanal fishers and hindered their participation. The Committee is therefore urged to uphold the highest standards of transparency, accountability, and genuine public participation in this legislative process. They proceeded to give their views as follows;

89. Clause 4: It was observed that Clause 4 is repeated. It was suggested that Clause 4 retain the short title as it appears in the Table of Contents (ToC), namely "Application," while Clause 5 should carry the short title "Objective and Guiding Principles" as reflected in the ToC. It was further urged that the subsequent text be renumbered accordingly to ensure proper alignment with the Table of Contents.

90. Clause 2: On Interpretation, it was noted that the Bill lacks a definition of the term "Fisheries," despite its inclusion in Schedule 4 Part 2 of the Constitution of Kenya 2010, and it was recommended that the term be defined in the Bill. It was further observed that the current definition of "Fishers" excludes groups such as foot fishers, and it was recommended that the definition be amended to read;

Fishers means every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch, and foot fishers but excluding pilots, naval personnel, other persons in the permanent service of the government, shore-based persons carrying our work aboard a fishing vessel and fisheries observers.

91. In Clause 49(1), reference is made to protected fish breeding grounds, but no definition has been provided, and it was recommended that the term be defined. The Bill also defines fish landing

stations and fishing ports but does not clarify the term fish landing sites, which is commonly used interchangeably with fish landing stations.

92. Since clarification is necessary due to the central role of fish landing facilities in advancing human rights, food security, livelihoods, poverty eradication, social stability, housing, economic growth, and rural development for artisanal and small-scale fishers, it was recommended that the Bill expressly clarify the relationship between fish landing sites and fish landing stations, and if they differ, a definition of fish landing sites be incorporated.

93. Clause 10 (1) (c), on the membership of the board, it is unclear who the five members referred to are. It was recommended that the provision be clarified to specify that two of these members should be drawn from fishers' organizations, one representing inland (freshwater) fishers and one representing marine fishers. This clarification is necessary to ensure inclusivity, transparency, and representation of both inland and marine fishing communities in fisheries governance.

94. The clause should therefore state that five members, not being public officers, be appointed by the Cabinet Secretary for their knowledge and experience in conservation, management, development, and sustainable use of fisheries resources, with two drawn from the fishing community as specified.

95. Clause 10(5): IT was observed that while the high academic qualifications under subsection (1)(c) are necessary to bring professional expertise to the body, applying them to artisanal fishers would unfairly exclude them despite their critical role and indigenous knowledge in fisheries management.

96. It was therefore recommended that fishing representatives be exempted from the degree requirement and instead be appointed based on their practical experience, age, knowledge of fishing practices and the ocean, and ability to articulate community concerns in Kiswahili. Appointment in consultation with the BMU Network would ensure legitimacy, inclusivity, and proper representation of fishing communities.

97. The following amendments were recommended;

    i. 5(1) A Person shall be qualified to be appointed under subsection 1(c) if, in addition to the requirement of that subsection, such person holds a university degree of its equivalent in

        (a) Natural resource or environmental management. Development or science;

        (b) Fisheries studies. Including fisheries governance, management. Development or science;

(c) Marine affairs;

(d) Port management;

(e) Aquatic science, or

(f) Any other matters related to the functions of the body.

ii. 5(2) The qualification requirements under subsection (1) shall not apply to representatives of the fishing community. Fishing representatives shall instead:

(a) not be active public officers;

(b) be at least eighteen years of age;

(c) possess demonstrated indigenous knowledge of the ocean and fishing practices; and

(d) be able to articulate themselves effectively in Kiswahili

iii. 5(3) The Cabinet Secretary shall appoint such representatives in consultation with the Beach Management Unit (BMU Network.

98. Clause 26(1): On Fisheries Research and Development Fund, it was observed that a national research institution, the Kenya Marine and Fisheries Research Institute (KMFRI), already exists with the statutory mandate of undertaking fisheries and marine research. It was therefore noted that duplication of mandates should be avoided and alignment with existing legal frameworks ensured. The amendment proposed was that a fund be established, to be known as the Fisheries Development Fund, which would be administered by the Director General.

99. Clause 40: On limitation of fishing and fishing related activities, it was noted that directing grievances to the Cabinet Secretary risks undermining impartiality, while an independent and specialized tribunal provides a fairer and more credible mechanism for dispute resolution. Tribunals, being quasi-judicial bodies, handle appeals efficiently based on law and evidence while minimizing political interference. Routing grievances to a tribunal would therefore enhance accountability, access to justice, and compliance with Article 47 of the Constitution on fair administrative action. The Bill should thus provide that the Director-General may take fisheries management measures and notify affected persons in writing, and that any aggrieved person may appeal in writing to the Fisheries Tribunal established under the Act.

100. Clause 41(1): On prohibited fishing gears and methods, it was noted that coastal small-scale and artisanal fishing communities rely heavily on fishing for their livelihoods, making it essential that laws, regulations, and management plans reflect their realities and needs. The development

of fisheries management plans was proposed to allow for the sustainable use of monofilament gear, which is critical for artisanal fishers targeting mullet and demersal species.

101. An outright ban would negatively affect income, food security, and livelihoods. To guide evidence-based decision-making, it was recommended that research be undertaken on the ecological impacts of monofilament gear. Authorities were urged to engage with artisanal fishers and their organizations in co-developing management plans that protect the marine environment while ensuring socio-economic stability. This recommendation was anchored in Articles 43 and 47 of the Constitution, safeguarding rights to life, dignity, food, social security, and fair administrative action.

102. It was further recommended that Clause 41(1)(c) be deleted and replaced with a provision requiring the establishment of a fisheries management plan for monofilament gear use by artisanal fishers. The proposed framework included: (1) restricting monofilament to stationary use only; (2) designating specific fishing areas; and (3) prohibiting its use in critical habitats or marine ecosystems. Additional measures included strengthening monitoring, control, and surveillance (MCS), involving communities in implementation and oversight, raising awareness on sustainable practices, and conducting continuous research with periodic reviews of the management plan.

103. Clause 41 (1) (h) (i) (j): Recommends deletion and a provision be developed establishing a fisheries management plan for the use of beach seine gear by artisanal fishers. This approach would safeguard livelihoods while minimizing the ecological impacts associated with beach seine fishing.

104. Proposed Management Framework for Beach Seine Fishing

(1) Specific Mesh Size. Require a minimum mesh size of 45 mm (2 inches) for beach seine nets to reduce bycatch and protect juvenile fish populations.

(2) Areas of Operation. Designate specific fishing zones for beach seine use, with a minimum distance of 1 nautical mile from coral reefs to minimize habitat destruction and avoid conflicts with other fisheries.

(3) Closed Seasons. Establish closed seasons during peak breeding and spawning periods to protect fish stocks and ensure long-term sustainability.

(4) Licensing and Participation Limits. Introduce a licensing system to regulate the number of fishers engaged in beach seine fishing, based on scientific research and community input.

105. Additional Measures for Implementation

- Conflict resolution. Establish conflict resolution committees within Beach Management Units (BMUs) to address disputes and support smooth implementation of the management plan.
- Monitoring and enforcement. Strengthen monitoring, control, and surveillance (MCS) to ensure compliance and prevent destructive practices.
- Community engagement. Actively involve artisanal fishers and local communities in awareness-raising, decision-making, and co-management processes.
- Research and review. Undertake continuous research on the ecological and socio-economic impacts of beach seine fishing, with periodic reviews to update and strengthen the management plan.

106. Further,it was noted that there are more harmful fishing gears which have not been listed among prohibited gears, that should. It was proposed that the following fishing gears/methods are listed and prohibited:

X(l) mosquito net;

(m) hooker;

(n) scuba fishing;

(o) such other gear as may be prescribed or prohibited by regulations established under this part.

107. Clause 42 (1,2,3): On damage, destruction to, and interference with fishing gears, vessels, person prohibited. This clause was noted to provide safeguards against damage caused by vessels to endangered species and protected objects, but it was observed that the Bill is silent on two critical issues for artisanal fishing communities. First, human-wildlife conflict exposes fishers to harm from protected marine species such as stingrays, stonefish, and sharks, sometimes resulting in injury or death.

108. It was recommended that the Bill include provisions for treatment, compensation, and protective measures for affected fishers. Second, artisanal fishers often lose gear when vessels, including industrial fishing vessels, destroy or displace fixed gear at fishing sites. Since fishing gear is a major investment for these communities, the Bill should provide clear provisions on liability, compensation, and restitution.

109. Further, insertion of additional subsections under Clause 42 was recommended to provide that:

(4) Where artisanal fishers suffer injury, harm, or loss as a result of encounters with protected species, the State shall establish a mechanism for treatment, support, and compensation.

(5) Where fishing gear belonging to artisanal fishers is destroyed, damaged, or displaced by vessels or other maritime users, the responsible party shall be liable for compensation, and the State shall provide a framework for enforcement and redress.

110. Clause 42 (4): Delete repeated words *vessel that caused such consequence were legally entitled* as it is appearing twice in the same sentence.

2. KISUMU COUNTY

1. The Committee engaged the residents of Kisumu County at the ABDP Regional Office. The persons present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Governments of Kisumu and Kakamega, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute, Local Administration, Research Scientists and the general public including women, youth and persons with disabilities. The public was sensitized on the clauses of the Bill and thereafter allowed to give views on the Bill. They submitted as follows:
2. The residents of Kisumu County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector. They, however, reiterated that there ought to have been stakeholder engagement before publication of the Bill and consideration of the Bill should give adequate opportunity for all interested parties to make submissions on the Bill.
3. The residents, particularly those in the aquaculture sector, raised concerns that the Bill was not aligned with the proposed Aquaculture Policy undergoing consideration by the Ministry. In this regard, they proposed that aquaculture be regulated in a separate Act.
4. In terms of suggested amendments, the people of Kisumu County provided several constructive recommendations to strengthen the Bill. The residents proposed a comprehensive and clearer definition of a "fisher" and "fishing" under clause 2 of the Bill. A clear and distinct definition of those terms would aid in the proper identification of persons and activities to be regulated.
5. The residents also raised concerns about the harmonization of the definition of "fisheries officer". The Bill provides that *"fisheries officer" means the Director-General and any employee of the Service described in the first schedule.* The definition does not take cognizance of the role of counties in the appointment of "fisheries officer" at the county level, as the Bill provides for appointment by the Director-General.
6. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government under Parts V and X of the Bill. In the

alternative, they suggested the County Government undertake regulation, whereas the National Government restrict itself to policy formulation.

7. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods".
8. The residents also highlighted the need for proper training and sensitization of "fishers" on the importance of conservation and why certain fishing gear and methods should be avoided. Some of the fishers were uninformed on the detrimental effects of illegal fishing gear and methods, hence the continued engagement in the illegal activities. They proposed that the role of the Kenya Fisheries Service and Kenya Marine Fisheries and Research Institute in stakeholder training and sensitization be made mandatory to ensure the two institutions undertake their role more efficiently.
9. The residents proposed the regulation and protection of breeding areas and further reintroduction of closed seasons to reduce overfishing and enhance conservation. Clause 39 enables the Director-General, by notice and subject to approval by the CS, to impose

   Closed seasons, however, the residents were of the view that the provision should be in mandatory terms, and the frequency should be determined.
10. The residents proposed that the provisions of the Bill be enhanced to provide for the proper vetting of fishers and registration of boats. This would help to coordinate the regulation of activities.
11. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. They also proposed that the leadership of BMUs be funded; this would help to motivate them in their role in the regulation of beaches and deter instances of corruption.
12. The residents raised concerns about the manner in which the power of hot pursuit had been enforced. In this regard, the proposal that the provision of clause 138 of the Bill on the power of hot pursuit be amended in a manner that it is undertaken reasonably, avoids excessive use of force, destruction of vessels and accidents.
13. The residents also proposed that authorised officers restrict themselves to the arrest of persons undertaking prohibited fishing activities and not engage in the detention of fishing vessels of such persons.
14. The residents also proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake.

15. Some of the residents who were PWDs proposed that there be provision of data on PWDs engaged in the sector and provision of designated areas within beach units for PWDs. They also proposed a waiver in registration and licensing fees for PWDs.

3. SIAYA COUNTY

16. The Committee engaged the residents of Siaya County at Bondo, Deputy County Commissioners Office Hall. The persons present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Government of Siaya, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute, Kenya Coast Guard Service, Local Administration, Research Scientist and the general public including women, youth and persons with disabilities. The public was sensitized on the clauses of the Bill and thereafter allowed to give views on the Bill. They submitted as follows:
17. The residents of Siaya County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector.
18. In terms of suggested amendments, the residents of Siaya County provided several recommendations to strengthen the Bill.
19. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government.
20. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods". The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear.
21. The residents emphasized the need for proper training and sensitization of "fishers" on the importance of conservation and regulation of fishing gear. They observed that there was a disconnect between fishers and the Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute in terms of their role in training and general stakeholder engagement. The fisheries officers had focused on regulation and neglected their role to sensitize and train members of the public.
22. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need to streamline the functions of the Kenya Coast Guard Service and the Kenya Fisheries Service in this regard.

23. The residents proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation. They highlighted that the removal of the closed season had led to the depletion of certain species in the lake, such as Lake Victoria Sardine, commonly referred to as "*omena*".
24. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units by the National Government. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. They also proposed that BMUs be incorporated into monitoring and counter-surveillance (MCS) to offer support to authorized officers.
25. The BMU leadership proposed that a revenue-sharing formula be introduced in the Bill, from which respective BMUs could be allocated resources to facilitate their functions. They also proposed that a percentage of the landing fee paid could be allocated to respective BMUs.
26. The BMU leadership finally proposed that there be better data collection on registered and licensed fishers for enhanced coordination and regulation.
27. The residents proposed that an amendment be made to provide that all confiscated illegal fishing gear be subjected to destruction or other irreversible disposal measures, to eliminate opportunities for its re-entry into the market through corrupt practices.
28. A representative from the aquaculture sector in the region raised concern that the Bill was not aligned with the proposed Aquaculture Policy, which is being considered by the Ministry. In this regard, they opposed the Bill and proposed that aquaculture be regulated in a separate Act. However, the majority of the residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake.
29. The residents also noted there was a need to streamline regional laws and agreements regarding the utilization of joint resources such as Lake Victoria. They suggested the introduction of fishing quotas.
30. Some of the residents finally raised concern that Kenya had not implemented some of the recommendations emanating from reports of the Lake Victoria Fisheries Organisation (LVFO). The LVFO, which is a specialized institution of the East African Community (EAC), is mandated to coordinate and manage the fisheries and aquaculture resources of Lake Victoria. Implementation of this report would aid in better management of the fisheries sector.

4. HOMABAY COUNTY

31. The Committee engaged the residents of Homabay County at Governors Park. The persons present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Government of Homabay, Officers from the

Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research Institute, Kenya Coast Guard Service, Local Administration, Research Scientist and the general public including women, youth and persons with disabilities. The public was sensitized on the clauses of the Bill and thereafter allowed to give views on the Bill. They submitted as follows:

32. The residents of Homabay County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector.
33. In terms of suggested amendments, the residents of Homabay County provided several recommendations to strengthen the Bill.
34. The residents also raised concerns about the harmonization of the definition of "fisheries officer" vis-à-vis "*authorized officer*". The Bill provides that *"fisheries officer" means the Director-General and any employee of the Service described in the first schedule,* whereas *"authorised officer" means a fisheries officer, coast guard officer, a police officer of or above the rank of inspector, an officer of the Kenya Navy or any other person appointed by the Cabinet Secretary under section 18.* The definition does not take cognizance of the role of counties in the appointment of "fisheries officer" at the county level, as the Bill provides for appointment by the Director-General.
35. The residents highlighted the need for a single licensing mechanism to avoid double taxation by the respective County Governments and the National Government. They proposed licensing to be at one level to avoid conflicts. They also proposed enforcement to be at the National Government level. However, some residents proposed that counties should licence inland fisheries such as aquaculture and regulate artisanal fishermen.
36. The residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods". The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear.
37. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need for better coordination between the Kenya Coast Guard Service and the Kenya Fisheries Service.
38. The residents proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation. They observed the need for enhanced protection of breeding zones and the introduction of high penalties for violation of the same.

39. The residents also raised concerns about the protection of landing sites through the issuance of the requisite title deed to avoid the grabbing of such areas.
40. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. They also proposed that BMUs be professionalized, term limits of BMU leadership be removed, and BMUs be regulated by the National Government as opposed to the County Governments. They proposed that BMUs be incorporated in monitoring and counter-surveillance (MCS) to offer support to authorized officers.
41. The BMU leadership finally proposed that they be funded and that data collection at the beach level be digitized.
42. The residents proposed that an amendment be made to provide that all confiscated illegal fishing gear be subjected to destruction or other irreversible disposal measures, to eliminate opportunities for its re-entry into the market through corrupt practices.
43. The residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake, such as harmful fish feeds. They further proposed enhanced protection of the indigenous fishing community. In this regard, they proposed the enhancement of clause 61 on the requirement of environmental impact assessment before approval and licensing of aquaculture activities, including the introduction of an environmental protection bond requirement.
44. The residents noted that Bill had focused on fishing and related activities; however, there was a need to introduce an aspect of promoting the blue economy. Further, the Bill ought to take cognizance of climate change and its impact on fishing.
45. Some residents further proposed that the role of the Director-General of the Kenya Fisheries Services on supervision be moved to the Director of the relevant State Department.
46. The resident also highlighted the need to retain the Fish Levy Trust Fund. This Fund would aid in capacity building and further its objectives, which could be enhanced to provide loans and start-up capital to marginalized groups, such as women, youth and persons with disabilities engaged in the fisheries sector.

5. MIGORI COUNTY

47. The Committee engaged the residents of Migori County at Migori Gospel Centre. The persons present included fishers, members and leadership of Beach Management Units, Representatives from the Aquaculture Sector, Representatives from the County Government of Migori, Officers from the Ministry Blue Economy, Mining and Fisheries, Kenya Fisheries Service and Kenya Marine and Fisheries Research

Institute, Kenya Coast Guard Service, Local Administration, Research Scientist and the general public including women, youth and persons with disabilities. The public was sensitized on the clauses of the Bill and thereafter allowed to give views on the Bill. They submitted as follows:

48. The residents of Migori County expressed support for the Bill, stating that it would bring proper regulation, sustainable management and conservation of the fisheries sector.
49. In terms of suggested amendments, the residents of Migori County provided several recommendations to strengthen the Bill.
50. To avoid double taxation, the residents highlighted the need for a single licensing mechanism by the respective County Governments and the National Government.
51. Additionally, residents supported the regulation of Illegal fishing gear to conserve and protect the water bodies. They highlighted the fact that there was a lapse in the management of the lake region, which had led to the depletion of fish. In addition, they proposed an introduction to provide for the prohibition of "emerging fishing gear and methods". The residents also proposed that there be introduced a subsidy or any other relevant incentive be introduced for the manufacture of fishing gear. This would lower the cost of acquiring proper fishing gear, hence reducing the use of illegal fishing gear. They also proposed that there be a clear definition or description of legal fishing gear as opposed to prohibited fishing gear, as provided in clause 41
52. The resident also noted the need to safeguard the safety of Kenya's fishing waters and Kenyan fisherfolk. There was a need for better coordination between the Kenya Coast Guard Service and the Kenya Fisheries Service.
53. The public proposed the reintroduction of closed seasons to reduce overfishing and enhance conservation for species such as the Lake Victoria Sardine, commonly referred to as "*omena*". They proposed the closed season should be two weeks in a month to restore and conserve the lake.
54. The residents also raised concerns about the protection of landing sites through the issuance of the requisite title deed to avoid the grabbing of such areas.
55. The residents who are members and officials of Beach Management Units (BMUs) raised concerns about the need for the establishment and regulation of Beach Management Units. They proposed that substantive provisions on the establishment and composition of BMUs be incorporated in the Act and not Regulations. The election of BMUs' leaders should be transparent, and term limits for BMU leadership should be removed.
56. To promote accountability and transparency in monitoring and counter-surveillance (MCS), it is proposed that authorized officers undertake patrols in the daytime and BMUs be incorporated in (MCS) and patrol

to offer support to authorized officers. They also proposed that no punishment be enforced during patrol, and that any action required be undertaken at a designated location.

57. The BMU leadership finally proposed that they be funded, including the provision of a monthly stipend to facilitate their functions. They also proposed that data collection at the beach level be digitized. In terms of data collection, the fishers expressed the need for the provision of a recording of expenses incurred to be factored at the point of collection of landing and other related fees.
58. The public suggested that minor offences be handled in a corrective manner and not through the imposition of punitive measures for first-time offenders. Example where it is a first offence, educate on the importance of wearing a life jacket and issue a warning for a person who does not wear a life jacket where required to.
59. The residents proposed that there be better regulation of the aquaculture sector and caged farming to avoid pollution and the introduction of harmful material into the lake, such as harmful fish feeds. They emphasized the need for capacity building training in aquaculture and observed that aqua tourism was a potential source of income that could be utilized.
60. The public also voiced concern that there was a need to promote and protect artisanal fishers, and there was a need for funding of such fishers through access to loan facilities. In view of this, the resident highlighted the need to retain the Fish Levy Trust Fund to facilitate capacity building and to provide loan facilities to fishers.
61. The public also highlighted the need to streamline the double licensing and registration of fishing vessels by the Kenya Maritime Authority and the Kenya Fisheries Services.

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

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SUMMARY: NAKURU COUNTY (NAIVASHA) POSITION ON THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL, NO. 29 OF 2023

Introduction

1. The Departmental Committee on Blue Economy, Water, and Irrigation conducted stakeholder engagments in Nakuru Coubty, Naivasha allowing the public to provide views on the Fisheries Management and Development Bill, 2023. The submissions reflected the concerns, aspirations, and lived realities of artisanal and small-scale fishers, who form the backbone of Kenya's blue economy.
2. This summary harmonizes the common issues raised in Naivasha:

Key Recommendations

I. Public Participation and Inclusivity

- Ensure genuine, transparent, and timely public participation in line with Articles 10 and 118 of the Constitution.
- Provide adequate time for review and conduct localized forums to empower fishers with meaningful engagement.

II. Licensing and Fees

- Retain the license fee at **Ksh. 200** and revoke the unconsulted increase to Ksh. 560.
- Replace paper licenses with **durable waterproof cards** suitable for marine environments.

III. Fishing Gear and Methods

- Withdraw blanket bans on **monofilament nets and beach seines** and instead regulate their use for different water bodies eg, for lakes and oceans due to different species and sizes of fish in different water bodies:
    - Mesh size controls,
    - Designated fishing zones,
    - Seasonal closures, and
    - Community monitoring through BMUs.
- Offer clear guidance on permitted gears, not only prohibited ones.

IV. Strengthening Beach Management Units (BMUs)

- Legally empower BMUs to co-manage fisheries with county and national authorities.
- Provide stipends or salaries for BMU leaders to support effective operations.
- Ensure inclusion of Persons with Disabilities (PWDs) in BMU leadership.
- Prevent political interference in BMU operations and safeguard their independence.

V. Devolution and Governance

- Align the Bill with the Fourth Schedule of the Constitution by strengthening **county governments' role** in fisheries management, licensing, and enforcement.
- Limit the powers of the Director General to avoid duplication and centralization.
- Assign the national government responsibility for **international and deep-sea fisheries**, while counties manage local fisheries.

VI. Infrastructure and Market Development

- Invest in **landing sites, cold storage, fish processing hubs, and transport links**.

- Ensure there is riparian land near the lake to ensure pollution of the lake caused by farming activities do not interfere with the fish.
- Reclaim encroached landing sites, reopen blocked access roads, and secure title deeds for BMU-managed facilities.
- Facilitate market linkages, value addition, and export readiness while safeguarding local food security.

VII. Protection of Fishers and Livelihoods

- Establish compensation mechanisms for injuries, loss of life, or destruction of gear caused by vessels or marine wildlife.
- Provide larger boats, safety equipment, and insurance to enhance security at sea.
- Recognize and protect the rights and livelihoods of artisanal fishers in all regulatory frameworks.

VIII. Protection of Coast Guards

- Establish compensation mechanisms for injuries, loss of life, or destruction of gear caused by marine wildlife and illegal fishermen.
- Provide larger boats, safety equipment, and insurance to enhance security at sea.

IX. Education, Training, and Youth Empowerment

- Establish a **Youth Fisheries and Aquaculture Fund** to support innovation and value addition.
- Provide scholarships and bursaries in marine sciences and blue economy studies.

X. Combating Illegal, Unreported, and Unregulated (IUU) Fishing

- Strengthen inspections of foreign vessels and ensure government presence onboard.
- Enhance monitoring, control, and surveillance (MCS) to protect artisanal fishers and marine ecosystems.
- Section 39(3)(b,c) be removed or reviewed (on special licenses)

XI. Environmental Protection and Conservation

- Pollution- Prevent harmful waste disposal from farmers and destructive practices like dumping pesticides in the lake

Issues Raised by Stakeholders at Kambi Samaki, Baringo County

1. **Determination of Jurisdiction Over the Lake**
   Stakeholders requested clarity on whether the management of the lake falls under county or national government.
2. **Recognition of Beach Management Units (BMUs)**
   They proposed that BMUs be formally recognized in the relevant legislation and allowed greater autonomy in managing their affairs.
3. **Enhanced Intergovernmental Consultation**
   A need for strengthened collaboration and regular consultation between the county and national government was highlighted.
4. **Licensing and Cess / Landing Charges**
   Concerns were raised regarding the current framework for licensing and associated cess or landing fees.
5. **Capacity Building for Fishers**
   Stakeholders requested that fisheries officers intensify training and capacity-building programmes for fishers.
6. **Support for Regulation of Fishing Gears**
   They emphasized the need to regulate fishing gears and ensure compliance to protect fish stocks.
7. **Provision of Speed Boats**
   The national government was urged to provide speed boats to enhance fisheries management and ensure safety.
8. **Vetting of BMU Leadership**
   Stakeholders recommended proper vetting of Beach Management Unit officials to ensure accountability and transparency.
9. **Feeding of Fish in Lake Baringo**
   Issues were raised regarding practices related to feeding fish and the need for clear guidance or regulation.
10. **Prohibition of Night Fishing**
    There was a proposal to restrict or prohibit night fishing due to safety and conservation concerns.
11. **Control of Agricultural Activities Along the Lake Shoreline**
    Stakeholders recommended prohibiting or regulating agricultural activities near the lake to reduce pollution and environmental degradation.
12. **Introduction of Closed Fishing Seasons**
    They suggested establishing specific closed seasons to allow fish regeneration and sustain the fishery.
13. **Security for Wildlife and Humans**
    Concerns were raised about the security of both wildlife and local communities, calling for stronger measures to enhance safety in and around the lake.

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14. **Single National Licence**

    Suggestion to introduce a unified licence to simplify the licensing process for fishermen.

15. **BMU Licensing Authority**
    Authorise Beach Management Units (BMUs) to issue fishing licences to fishermen.
16. **Harmonised Licensing Regime**
    Clarify whether licensing should be conducted by the **county government** or the **national government**, but not both, to eliminate duplication.
17. **Gear-Based Licensing**
    Link fishing licences to a specific number of nets allocated per fisher.

18. **Financing BMUs**
    Provide adequate funding to BMUs to enable them to run and manage beach operations effectively.
19. **Improved Coordination**
    Establish regular consultations between BMUs, county officials, and national government agencies on matters of beach management.
20. **Joint Patrols**
    Conduct beach patrols through a **multi-disciplinary team** involving BMUs, county officers, and national government officers.
21. **BMU Scouts**
    Deploy trained BMU scouts to protect beaches and ensure compliance with fishing regulations.

22. **Closed Seasons**
    Implement mandatory closed seasons to support fish breeding and stock recovery.

23. **Reducing Fishing Pressure**
    Introduce measures aimed at lowering overall fishing pressure on lake resources.

24. **Research on Aquatic Vegetation**
    Conduct research on lake plants that can serve as food sources for fish.

25. **Research Institutions**
    Establish research institutions dedicated to fisheries, aquatic biology, and lake ecosystem management.

26. **Emergency Response**
    Deploy ambulances and emergency response systems to address incidents on and around the lake.
27. **Control of Beach Farming**
    Regulate beach farming activities to prevent contamination of water bodies and protect aquatic life.

28. **County Role in Fisheries Management**
    Affirm that fisheries management is a **county function** under the Constitution.
29. **Sharing Director-General Powers**

Amend the definition of "fisheries officer" to include county officers and allow counties to share powers currently centralized under the Director-General.

30. **Local Employment**

Support the employment of **local residents** by the Kenya Fisheries Service to serve within their communities.

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON BLUE ECONOMY, WATER AND IRRIGATION

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FISHERIES MANAGEMENT AND DEVELOPMET BILL NO 29 0F 2023

PUBLIC PARTICIPATION SUBMISSIONS

1. TURKANA COUNTY

1. The Departmental Committee on Blue Economy Water and Irrigation held a public participation on the Fisheries Management and Development Bill no. 29 of 2023 in Turkana County on Friday, 14th November, 2025, at Kalokol. During the forum, stakeholders and members of the public were given an opportunity to share their views, concerns, and proposals regarding the Bill and submitted as follows;
2. Members of the public raised concern on the prohibited gears particularly monofilament nets yet the Bill is silent on the manufacturer. They proposed that it should be an offence in the Bill for any manufacturer who manufactures monofilament nets or any other prohibited fishing gears.
3. The was also a proposal to expand the definition of the fisheries officer to also include those currently working in the National and County Governments departments of fisheries.
4. Composition of the institutions such as the Advisory Council and the Fish Marketing Authortiy established in the Bill are mostly comprised of members of the National Government. There was a proposal to ensure fair distribution of the membership to include county governments considering that fisheries is a devolved function in the Constitution.
5. Additionally, the public proposed inclusion of BMUs representation in the established institutions. Highlighting the importance of empowering BMUs, they suggested that BMUs be granted more legal

recognition and decision-making powers to enable them to co-manage fisheries alongside county and national authorities. This, they argued, would improve accountability and ensure sustainable fisheries management.

6. Moreover, there was a concern that the Bill proposes to establish these institutions in Nairobi County, it was proposed to have these institutions in other cities such as Kisumu or Eldoret.

7. In the same way, the public proposed for fishing ports to be included in inland waters such as Lake Turkana and provision of aquaculture funding of fisherfolks in inland fishing ground such as Lake Turkana. They also noted that high licensing fees charged on aquaculture activity may also discourage fish farming.

8. Members of the public also proposed for inclusion in the Bill the responsibility of the Government to get rid of any pollution in the water that is naturally occurring such as the Mathenge weeds that have invaded the lake.

9. Members of the public raised concern about the need for capacity training of BMUs on how to handle post-harvest losses noting the hot weather in Turkana County and the perishable nature of fish caught by the fisher-folks. Further, they proposed improvement of infrastructure and market access. They recommended transport links and market infrastructure be enhanced to allow fisher-folks to sell their catch directly. This would cut out exploitative middlemen and improve earnings for local communities. They further proposed the establishment of fish processing and packaging hubs to promote value addition and exports.

10. The fisher-folks noted with concern the lack of awareness of boundaries in the Lake noting regular arrests by officers from the Kenya Wildlife Service for fishing in waters strictly prohibited by KWS-managed marine parks. They proposed that the Bill should consider inclusion of KWS in refence to creating awareness, training and compensation of fisher-folks fishing in waters bordering KWS-managed marine parks.