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Clerk of the senate/ secretary PSC
Date: 26/06/23

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THE SENATE

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RT. HON. SEN
AMASON J. KINGI

THIRTEENTH PARLIAMENT THIRD SESSION

27/6/23

STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES

REPORT ON THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL (SENATE BILLS NO.12 OF 2023)

PAPERS LAID	
DATE	29/06/2023
TABLED BY	Chairperson
COMMITTEE	
CLERK AT THE TABLE	Innocent M.

Clerk's Chambers
Parliament Buildings
NAIROBI.

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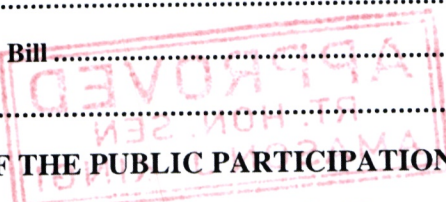
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ABBREVIATIONS AND ACRONYMS

ADC	-	Agricultural Development Corporation
AFA	-	Agriculture and Food Authority
AFC	-	Agricultural Finance Corporation
AIF	-	Agricultural Industry Forum
CABI	-	Centre for Agriculture and Bioscience International
CoG	-	Council of Governors
FAO	-	Food and Agriculture Organization
KALRO	-	Kenya Agricultural and Livestock Research Organization
KEFRI	-	Kenya Forestry and Research Institute
KEMFRI	-	Kenya Marine and Fisheries Research Institute
KENAFF	-	Kenya National Farmers' Federation
KEPHIS	-	Kenya Plant Health Inspectorate Services
KEPSA	-	Kenya Private Sector Alliance
KFMA	-	Kenya Fish Marketing Authority
KFS	-	Kenya Fisheries Service
KLDC	-	Kenya Leather Development Council
KMC	-	Kenya Meat Commission
KSC	-	Kenya Seed Company
KVB	-	Kenya Veterinary Board
KVVPB	-	Kenya Veterinary Vaccine Production Board
NIB	-	National Irrigation Board.

PRELIMINARIES

ESTABLISHMENT AND MANDATE OF THE COMMITTEE

The Standing Committee on Agriculture, Livestock and Fisheries is established under standing order 228(3) of the Senate Standing Orders and is mandated to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

In undertaking its mandate, the Committee oversees the following State Departments:

- a. Ministry of Agriculture and Livestock Development;
 - i. The State Department for Crops Development and;
 - ii. The State Department for Livestock Development
- b. Ministry of Sanitation, Water and Irrigation.
- c. Ministry of Mining, Blue Economy and Fisheries.
 - i. State Department for Blue Economy and Fisheries.

The Committee also oversees the following State Agencies among others-

- a. Agriculture and Food Authority (AFA);
- b. Agricultural Finance Corporation (AFC);
- c. Agricultural Development Corporation (ADC);
- d. Kenya Seed Company (KSC);
- e. Kenya Plant Health Inspectorate Services (KEPHIS);
- f. Kenya Agricultural and Livestock Research Organization (KALRO);
- g. Kenya Veterinary Vaccine Production Board (KVVPB);
- h. Kenya Veterinary Board (KVB);
- i. Kenya Meat Commission (KMC);
- j. Kenya Dairy Board (KDB);
- k. Kenya Leather Development Council (KLDC);
- l. Kenya Fisheries Service (KFS);
- m. Kenya Fish Marketing Authority (KFMA);
- n. Kenya Marine and Fisheries Research Institute (KEMFRI);
- o. Kenya Fishing Industries Corporation; and
- p. National Irrigation Board (NIB).

The Committee also works closely with the Council of Governors (CoG), and the County Assemblies Forum (CAF) and non-state actors including among others-

- a. Kenya Private Sector Alliance (KEPSA);
- b. Agricultural Council of Kenya (AgCK)
- c. Food and Agriculture Organization (FAO);
- d. Kenya National Farmers' Federation (KENAFF);
- e. Centre for Agriculture and Bioscience International (CABI); and
- f. Agricultural Industry Forum (AIF).

MEMBERSHIP OF THE COMMITTEE

The Committee is comprised of the following Members-

- | | | |
|-------------------------------------|---|-------------------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 3. Sen. Moses Otieno Kajwang', MP | - | Member |
| 4. Sen. Enoch Kiiio Wambua, CBS, MP | - | Member |
| 5. Sen. Daniel Kitonga Maanzo, MP | - | Member |
| 6. Sen. Beth Kalunda Syengo, MP | - | Member |
| 7. Sen. Wahome Wamatinga, MP | - | Member |
| 8. Sen. Allan Kiprotich Chesang, MP | - | Member |
| 9. Sen. David Wafula Wakoli, MP | - | Member |

CHAIRPERSON'S FOREWORD

Mr. Speaker Sir,

The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) is a Bill for an Act of Parliament to provide for a legal framework for the identification of livestock; the movement of livestock; the prevention of livestock theft; the regulation of trade in livestock; the return of illegally acquired livestock and firearms and for connected purposes.

Mr. Speaker Sir,

The main objective of the Bill is to establish a framework for preventing, fighting, and ultimately eliminating livestock and produce theft. Livestock theft has been a persistent problem, resulting in loss of life, property destruction, and negatively impacting the livelihoods of affected communities. Despite existing laws against livestock and produce theft, the practice has continued without restraint. Consequently, it has become necessary to comprehensively address this issue through various interventions, including legislation.

The Bill provides for branding livestock and sets a requirement of a removal permit when transferring livestock. These measures aim to facilitate the tracing and recovery of stolen livestock. The Bill also introduces new offenses related to livestock and produce theft, with stricter penalties for those found guilty.

In addition, the Bill places an obligation on both the National and county governments to implement measures that not only protect livestock-keeping communities from theft but also enhance their socio-economic well-being through education and the promotion of alternative livelihoods. The Bill also delegates powers to the Cabinet Secretary to enact Regulations on several areas that relate to the provisions of the Act.

Mr. Speaker, Sir,

The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No.12 of 2023) was read a first time on 19th April 2023 and thereafter committed to the Standing Committee on Agriculture, Livestock and Fisheries.

Pursuant to the provisions of Article 118 and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Agriculture, Livestock and Fisheries invited interested members of the public to submit their representations on the Bill. On

21st April, 2023, the Committee placed advertisements on the local dailies (Daily Nation and Standard Newspapers) calling for views and submissions from the general public on the Bill. Additionally, the Committee sent invitations to the following key stakeholders – Kenya Agricultural and Livestock Research (KALRO), Ministry of Interior and National Administration, Council of Governors (COG), Ministry of Agriculture and Livestock Development (MOALD) and the Agriculture and Food Authority (AFA) inviting them to submit their views on the Bill. However, the Committee only received one (1) submission from the Council of Governors (COG).

Summary of Observations by the Committee

1. There is need to define the word inspector in order to bring clarity on the scope of its application on the Bill;
2. The Bill gives powers to the county executive committee member to register, transfer and cancel registered of brands. In this regard, the committee observed that there is a need to provide for an avenue for appeal in instances where a livestock owner is aggrieved by the decision of the County executive committee member;
3. Clause 11(1) of the Bill provides that the Cabinet Secretary for matters relating to livestock may make regulations on the use of permanent identification devices in branding of livestock. Further, clause 35 provides that the Cabinet Secretary may make regulations generally for the better carrying out of the provisions of the Act. In view of the foregoing, the committee noted the need for consultation between the Cabinet secretary and the Council of governors when making these regulations;
4. The Bill in Clause 15(2) (b) sets out one of the roles of an inspector as to assist in the investigation and recovery of stolen livestock. Noting that the role of investigating matters of criminal nature is vested in the National police service and other state agencies, the committee proposes to amend the paragraph to provide for collaboration between the inspectors and other state agencies.

Summary of Recommendations by the Committee

The Committee recommends that the Bill be approved with the following amendments-

1. Amendment to clause 9 to provide for an appeal to the decisions of the county executive committee member;
2. Amendment to clause 11(1) to insert the words “, in consultation with the council of county governors,” immediately after the words “The Cabinet Secretary”.
3. Amendment to clause 15(2) to provide for consultation with “relevant investigative agencies”;

4. Amendment to clause 33 by deleting the word “years” appearing immediately after the words “than five hundred” and substituting them with the words “thousand shillings”;
5. Amendment to clause 35(1) by inserting the words “, in consultation with the council of governors,” immediately after the words “The Cabinet Secretary”; and
6. Amendment to clause 2 to define the word “inspector”.

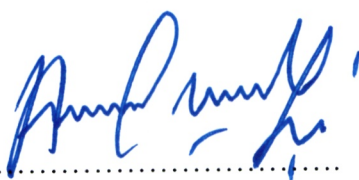
Mr. Speaker Sir,

May I take this opportunity to commend the Members of the Committee for their devotion, thoughtful insights and commitment to duty, which made the consideration of the Prevention of Livestock and Produce Theft Bill and production of this report successful.

I also wish to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to the Committee in undertaking this important assignment. Lastly, I wish to acknowledge the time and considerable effort made by the institutions, organizations and individuals that participated and submitted their memorandums to the Committee.

Mr. Speaker, Sir,

It is now my pleasant duty, pursuant to standing order 143 (1), to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the Prevention of Livestock and Produce Theft Bill (Senate Bills No. 12 of 2023).

Signed.....

Date.....

for

CHAIRPERSON: SEN. JAMES KAMAU MURANGO, MP,

**STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES**

**ADOPTION OF THE REPORT OF THE STANDING COMMITTEE ON
AGRICULTURE, LIVESTOCK AND FISHERIES ON THE PREVENTION
AND PRODUCE THEFT BILL (SENATE BILLS NO.12 OF 2023)**

We, the undersigned Members of the Senate Standing Committee on Agriculture, Livestock, and Fisheries, do hereby append our signatures to adopt this Report –

	Name	Designation	Signature
1.	Sen. James Kamau Murango, MP	Chairperson	—
2.	Sen. Alexander Munyi Mundigi, MP	Vice-Chairperson	
3.	Sen. Moses Otieno Kajwang', MP	Member	—
4.	Sen. Enoch Kiio Wambua, CBS, MP	Member	
5.	Sen. Daniel Kitonga Maanzo, MP	Member	
6.	Sen. Beth Kalunda Syengo, MP	Member	
7.	Sen. Wahome Wamatinga, MP	Member	—
8.	Sen. Allan Kiprotich Chesang', MP	Member	—
9.	Sen. David Wafula Wakoli, MP	Member	

CHAPTER ONE

1.1. Background

The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 5 of 2023) was published *vide* Kenya Gazette Supplement No. 40 of 31st March, 2023 and was read a First Time in the Senate on Thursday, 19th April, 2023 and thereafter stood committed to the Senate Standing Committee on Agriculture, Livestock and Fisheries for consideration. The Bill is attached to this Report as *Appendix 2*.

Pursuant to the provisions of Article 118 and standing order 145 (5) of the Senate Standing Orders, the Standing Committee on Agriculture, Livestock and Fisheries invited interested members of the public to submit their representations on the Bill. On 21st April, 2023, the Committee placed advertisements on the local dailies (Daily Nation and Standard Newspapers) calling for views and submissions from the general public on the Bill.

Additionally, the Committee sent invitations to the following key stakeholders – Kenya Agricultural and Livestock Research (KALRO), Ministry of Interior and National Administration, Council of Governors (COG), Ministry of Agriculture and Livestock Development (MOALD) and the Agriculture and Food Authority (AFA) inviting them to submit their views on the Bill. However, the Committee only received one (1) submission from the Council of Governors (COG).

The Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 5 of 2023) seeks to address livestock theft and establish legal frameworks for the registration of unique brands for individual farmers' livestock and produce. The bill aims to prevent theft through branding, tracking, and record-keeping, and imposes penalties for offenses related to ownership, transport, sale, and theft of livestock and produce.

Livestock and theft of produce has continued to persist over time and has often led to the loss of lives and destruction of property and therefore negatively affecting the livelihoods of the affected communities. Despite the existence of the Stock and Produce Theft Act, Cap 355 Laws of Kenya and provisions under the Penal Code, Cap 63 Laws of Kenya prohibiting livestock and produce theft, the practice has continued unabated. It has therefore become necessary to address this issue comprehensively through a legal framework with specific provisions to address the challenges at hand.

Livestock theft has significant financial consequences for individuals and also impacts Kenya's overall economy. The agricultural sector, which includes livestock production, is a major contributor to the country's GDP. Theft reduces productivity, output, and economic growth in the sector, potentially leading to job losses. It also poses a threat to trade and **investment** in Kenya's livestock sector, as the risk of theft may deter investors and buyers, resulting in decreased demand and foreign investment. Furthermore,

livestock theft poses a threat to trade and investment in Kenya's livestock sector. The risk of theft may discourage potential investors and buyers, resulting in decreased demand for Kenyan livestock products and a decline in foreign investment in the sector.

1.2. Overview of the Bill

Part II of the Bill provides for branding of livestock and in this regard, the Bill assigns specific responsibilities to the Cabinet Secretary and the county executive committee member.

Clause 4 obligates the Cabinet Secretary to among others, formulate a national policy and set standards on the identification and movement livestock and to develop and coordinate intergovernmental relations mechanisms in the delivery of services under the proposed Bill. The Bill also requires the Cabinet Secretary to collaborate with the security and other relevant agencies to establish mechanisms for the disarmament and confiscation of firearms held by livestock owners.

Clause 6 of the Bill requires a livestock owner to register the design of their brand by making an application to the county executive committee member. The application shall be in a prescribed form and shall meet the requirements provided in the proposed Bill and those to be set out in county legislation. The county executive committee member is required to consider and approve the said application within thirty days. However, an application can be rejected if the brand has already been registered, resembles a registered brand or does not meet the requirements provided in the Act.

Upon registration, a livestock owner shall be issued with a certificate and where the original certificate is lost or misplaced, the executive committee member may issue a duplicate certificate upon fulfilment of the set requirements. Further, clause 8 of the Bill provides that a proprietor of the registered brand may apply to transfer the rights to another brand upon fulfilment of the set requirements which include a consent of the person to whom the proprietor wishes to transfer the right to.

Clause 9 of the Bill provides that a registered brand may be cancelled if the proprietor no longer requires to use the brand, has died or in case the proprietor is a body corporate, has been wound up or dissolved. However, where the proprietor of a registered brand dies, the personal representative may use the brand until the appointment of the personal representative is terminated or the distribution of the estate of the deceased is completed.

Clause 10 of the Bill obligates livestock owners to brand their livestock with a registered brand before they reach the age of six months. Further, where at the commencement of this Act a livestock will have attained the age of six months, the bill requires the livestock to be registered within three months of the commencement of the Act.

Clause 12 requires a proprietor who intends to move livestock from the premises where they are ordinarily kept for purposes of sale or slaughter to apply for a permit.

Under clause 13 of the proposed Bill, an owner of an abattoir is required to keep books and records of every livestock slaughtered and any carcass or produce leaving the abattoir. The Bill further sets out the details that shall be recorded in the books and records.

Clause 16 of the proposed Bill provides that the county executive committee member shall designate inspectors for each ward in the respective county for the purpose of enforcement of the provisions of the Act. The inspectors shall co-ordinate the implementation of the Act at the ward level by performing specific tasks which include inspecting removal permits, assisting in the investigation and recovery of stolen livestock and facilitating the application for and registration of brands.

Part IV of the proposed Bill makes provisions on offences relating to livestock and livestock produce theft. The offences include -

- a) branding of another person's livestock or altering, defacing or obliterating livestock belonging to another so as to conceal or disguise the identification of such livestock is an offence whose penalty shall be a term of imprisonment not exceeding one year or to a fine not exceeding one hundred thousand shillings, or to both;
- b) stealing or receiving stolen livestock or livestock produce is an offence whose penalty shall be a term of not less than twenty years. Further a person who uses force in the course of the theft shall upon conviction be sentenced to life imprisonment;
- c) trespassing with intent to steal livestock is an offence whose penalty shall be imprisonment for a term not exceeding seven years or to a fine not exceeding five hundred thousand shillings, or to both such fine and imprisonment;
- d) driving, conveying or transporting of any livestock or produce along a public road without lawful authority;
- e) tampering, altering, or assisting in tampering with, alteration of any identification brand or ear mark on stock or produce so as to conceal or disguise the identification of such stock or produce is an offence whose penalty shall be imprisonment for a term of three years, to a fine of one million Shillings, or both;
- f) selling or receiving of stock be between 6:30 p.m. and 6:00 am, a contravention of this provision is an offence whose penalty is a term of not more than twelve months or to a fine not more than eight hundred thousand or to both;
- g) being in possession of any livestock which may reasonably be suspected of being stolen or unlawfully obtained and failing to prove to the satisfaction

of the court that the possession of the livestock was acquired lawfully is an offence whose penalty is imprisonment for a term of not less than fifteen years;

- h) being in possession of produce which may reasonably be suspected of being stolen or unlawfully obtained or failure to account for the possession of the produce; and
- i) killing of any livestock with intent to steal the skin or carcass, or any part of the skin or carcass is an offence whose penalty is a term of not less than ten years.

Clause 27 gives powers to the court to, upon being informed on oath that any livestock has been stolen, issue warrants authorising a law enforcement officer to –

- a) seize or impound livestock;
- b) arrest and search any person found or suspected of being in possession or charge or control of livestock or produce; and
- c) seize the stock and produce and any documents relating to it.

Clause 28 also gives power to the courts to issue orders of investigation and seizure of assets of any person who is suspected to be in the business of stealing or receiving stolen livestock.

Clause 29 provides that any livestock or produce seized in relation to an offence committed under this Act shall be released to the owner within seventy-two hours from the time of seizure.

Part V of the Bill provides for miscellaneous provisions. Clause 30 of the Bill obligates the county executive committee member to create awareness on prevention and eradication of livestock and produce theft within the respective county.

Under clause 31 of the Bill, the executive committee member is required to collaborate with elders and gate keepers of communities in promoting the use of community dispute resolution mechanisms in the determination of any disputes that may arise under the Act.

Clause 32 provides for trial of offences under the Act and which shall be tried by any subordinate court and which are set out in Article 169 of the Constitution. The Bill further gives the courts unlimited jurisdiction to determine matters under the Act.

Clause 35 of the proposed Bill gives powers to the Cabinet Secretary to make regulation on the -

- (a) registration and identification of livestock;
- (b) removal or conveyance of livestock or produce;
- (c) management of livestock centres;
- (d) conduct of sensitization programmes and the publication and dissemination of information; and

(e) charges and fees to be paid to the Registrar under this Act.

Clause 36 of the Bill seeks to amend the Penal Code, Cap 63 Laws of Kenya by deleting section 278 of the Act which provides for stealing of stock. Further, clauses 37 and 38 seek to repeal the Branding of Stock Act, Cap 357 Laws of Kenya and the Stock and Produce Theft Act, Cap 355 Laws of Kenya respectively.

CHAPTER TWO

2.1. OVERVIEW OF THE PUBLIC PARTICIPATION ON THE BILL

The Committee pursuant to the provisions of Article 118 of the Constitution and Standing Order 140 (5) of the Senate Standing Orders, invited submissions on the Bill from the public. In this regard, the Committee published an advertisement in the Daily Nation and Standard newspapers on Tuesday, 21st February, 2023 inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website. A copy of the advertisement is attached as *Appendix 3*.

Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill.

In response to the advertisement and invitations, the Committee received a written submission from the Council of Governors. The submission has been captured in the matrix (*Appendix 4*).

2.1.1. Submissions on the Bill from the Council of Governors (COGs)

The following are some of the key issues arising from the CoG's submissions -

The Council of Governors proposed an amendment to Clause 2 on interpretation, the term "Inspector" should be defined as any individual who is assigned the role of livestock inspector by the respective County Executive Committee Member as stated in section 15 of this Act. This is aimed at bringing clarity to the meaning of "inspector" as it is used in the Bill.

The committee accepted the proposal to define the word "Inspector" in Clause 2 of the Bill in order to bring clarity on the meaning of the word "inspector" in the context of the Bill.

Clause 9 on cancellation of a registered brand, the CoG proposed that a new provision be inserted. This provision would allow a person who is dissatisfied with the county executive committee member's decision on matters such as brand registration, transfer, or cancellation to appeal to the Governor within thirty days. CoG believes that introducing this appeal mechanism would ensure that individuals have a way to challenge the decisions made by the county executive committee member.

The committee accepted this proposal to provide an avenue for appeal. However, the appeal should be to the County Executive Committee and not to Governor.

Clause 11(1) of the Bill proposes that the Cabinet Secretary *may* make regulations on the use of permanent identification devices. COG (Council of Governors) proposed that this responsibility should involve consulting with county governments, as outlined in Schedule 4 of the Constitution, as it falls under their devolved functions.

The committee accepted this proposal as it strengthens devolution. The Committee emphasised on the use of word “shall” instead of “may” when referring to the manner in which the Cabinet Secretary makes regulations.

Clause 35 of the Bill provides that the Cabinet Secretary **may** make regulations generally for the better carrying out of the provisions of this Act. The Council of CoG proposes that county governments should be consulted in the process of making these regulations under the Act. The reason for this consultation is because the matter at hand falls under the purview of devolved functions, and thus, county governments should have a say in the decision-making process.

The committee accepted this proposal as it strengthens devolution. The Committee emphasised on the use of word “shall” instead of “may” when referring to the manner in which the Cabinet Secretary makes regulations.

A comprehensive list of the submission and proposed amendments to the Bill via written memoranda were thereafter captured, compiled and presented in a matrix which is annexed to this report as **Appendix 4**.

CHAPTER THREE

3.1. COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.1.1. COMMITTEE OBSERVATIONS

The Committee Observed the following:

1. There is need to define the word inspector in order to bring clarity on the scope of its application on the Bill;
2. The Bill gives powers to the county executive committee member to register, transfer and cancel registered of brands. In this regard, the committee observed that there is a need to provide for an avenue for appeal in instances where a livestock owner is aggrieved by the decision of the County executive committee member;
3. Clause 11(1) of the Bill provides that the Cabinet Secretary for matters relating to livestock may make regulations on the use of permanent identification devices in branding of livestock. Further, clause 35 provides that the Cabinet Secretary may make regulations generally for the better carrying out of the provisions of the Act. In view of the foregoing, the committee noted the need for consultation between the Cabinet secretary and the Council of governors when making these regulations; and
4. The Bill in Clause 15(2) (b) sets out one of the roles of an inspector as to assist in the investigation and recovery of stolen livestock. Noting that the role of investigating matters of criminal nature is vested in the National police service and other state agencies, the committee proposes to amend the paragraph to provide for collaboration between the inspectors and other state agencies.

3.1.2. COMMITTEE RECOMMENDATIONS

The Committee recommends that the Bill be approved with the following amendments-

1. Amendment clause 9 to provide for an appeal to the decisions of the county executive committee member;
2. Amendment to clause 11(1) to insert the words “, in consultation with the council of county governors,” immediately after the words “The Cabinet Secretary”.
3. Amendment to clause 15(2) to provide for consultation with “relevant investigative agencies”;
4. Amendment to clause 33 by deleting the word “years” appearing immediately after the words “than five hundred” and substituting them with the words “thousand shillings”;
5. Amendment to clause 35(1) by inserting the words “, in consultation with the council of governors,” immediately after the words “The Cabinet Secretary”; and
6. Amendment to clause 2 to define the word “inspector”.

LIST OF APPENDICES

Appendix 1	Minutes of the Standing Committee on Agriculture, Livestock and Fisheries
Appendix 2	The Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023)
Appendix 3	Advertisement published in the <i>Daily Nation</i> and <i>Standard</i> newspapers on Tuesday, 21 st April, 2023
Appendix 4	Matrix of the submission received by the Committee on each clause of the Bill and on general matters relating to the Bill
Appendix 5	Copy of stakeholder submission on the Bill
Appendix 6	Amendments to the Bill

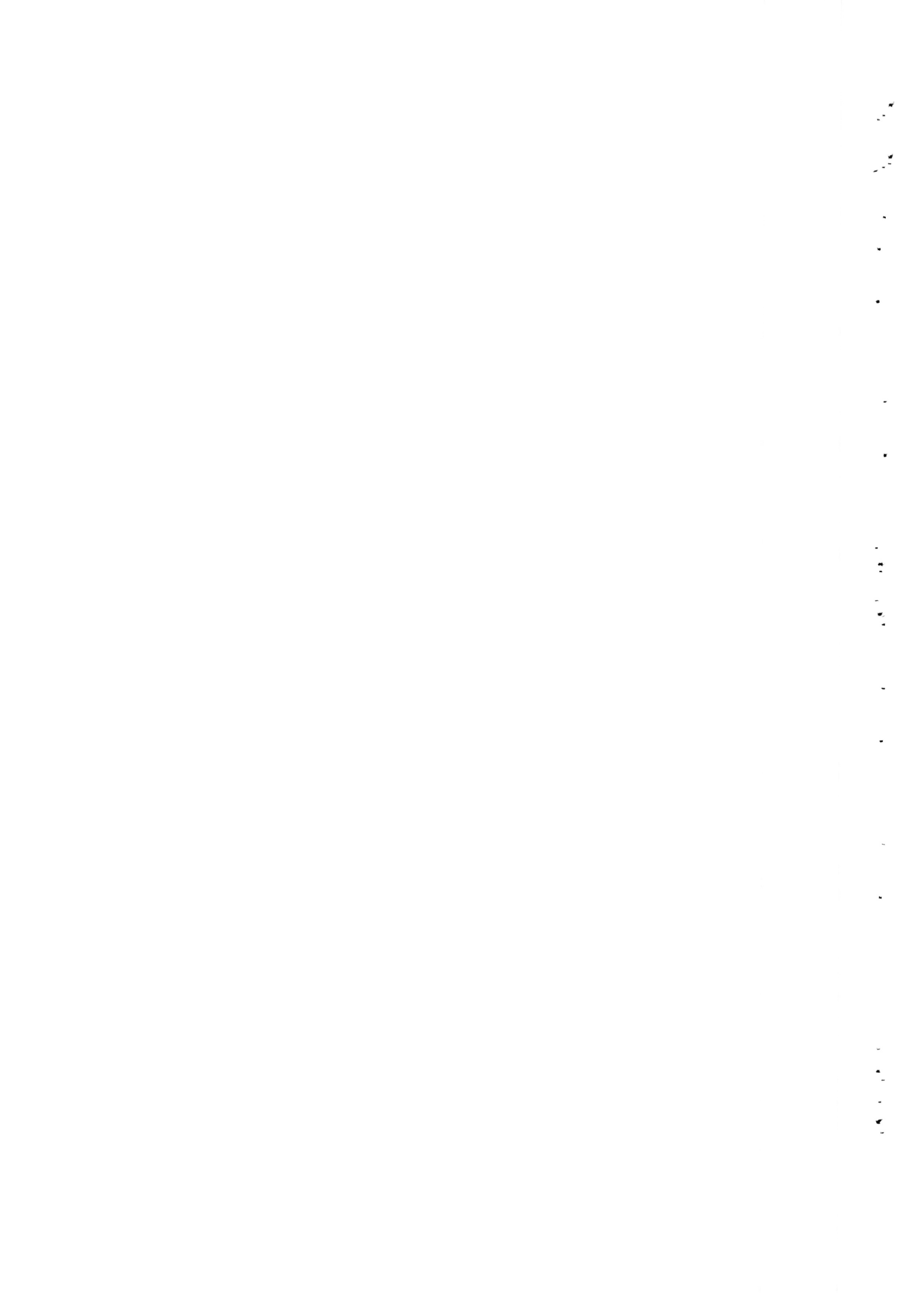


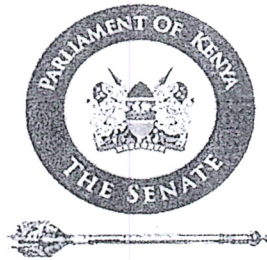
**REPORT OF THE STANDING COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES**

ON

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023

Annex I





MINUTES OF THE TWELFTH MEETING OF THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES, HELD ON THURSDAY, 23RD MARCH, 2023 IN FIRST FLOOR BOARDROOM, RED CROSS BUILDING AT 11:00 A.M.

PRESENT

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 3. Sen. Beth Kalunda Syengo, MP | - | Member |
| 4. Sen. Wahome Wamatinga, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|-------------------------------------|---|--------|
| 1. Sen. Enoch Kiio Wambua, CBS, MP, | - | Member |
| 2. Sen. Daniel Kitonga Maanzo, MP | - | Member |
| 3. Sen. Moses Otieno Kajwang', MP | - | Member |
| 4. Sen. David Wafula Wakoli, MP | - | Member |
| 5. Sen. Allan Kiprotich Chesang, MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|------------------------------|
| 1. Mr. Stephen Gikonyo | - | Principal Clerk Assistant II |
| 2. Ms. Caroline Njue | - | Clerk Assistant |
| 3. Ms. Regina Munyao | - | Legal Counsel II |
| 4. Ms. Happy Furaha | - | Fiscal Analyst |
| 5. Ms. Belinda Ogolla- | | Research Officer III |
| 6. Mr. Hillary Cheruiyot | - | Research Officer III |
| 7. Ms. Violet Nalianya | - | Media Relations Officer |
| 8. Ms. Rose Omutere | - | Audio Officer |

MIN.SEN/SCA/086/2023: - PRELIMINARIES

The Chairperson called the meeting to order at 11.24 a.m. followed by a word of prayer.

MIN/SEN/SCA/087/2023: - ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Beth Kalunda Syengo, MP and seconded by Sen. Wahome Wamatinga, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of the Previous Sitting;
4. Matters Arising;
5. *Consideration of the report on the Mung Beans Bill, 2022 (Senate Bills No. 13 of 2022) (Committee Paper No.22);*
6. *Consideration of the Legislative Proposal on the Prevention of Livestock and Produce Theft Bill, 2023 (Committee Paper No. 23);*
7. Any Other Business; and
8. Date of the Next Meeting and Adjournment

MIN/SEN/SCA/088/2023: - CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTING

The minutes of the eleventh meeting held on Tuesday, 21st March, 2023 were confirmed as a true reflection of proceedings during the meeting after being proposed by Sen. Wahome Wamatinga MP and seconded by Sen. Beth Kalunda Syengo, MP.

MIN/SEN/SCA/089/2023: - MATTERS ARISING

There were no matters arising.

MIN/SEN/SCA/090/2023: - CONSIDERATION OF THE REPORT ON THE MUNG BEANS BILL, 2022 (SENATE BILLS NO. 13 OF 2022) (COMMITTEE PAPER NO.22)

The Committee was taken through the draft report on the Mung Beans Bill, 2022 (Senate Bills No. 13 of 2022) and the report was adopted for tabling after making the following observations and recommendations-

Committee Observations

The Committee observed that:

1. The Ministry of Agriculture, Livestock and fisheries and the Agriculture and Food Authority are of the opinion that the Bill is not necessary because the contents of the Bill are well provided for under the crops Act. The Committee however disagrees with this position because Section 5 the Crops Act provides that the Act will only apply to the scheduled crops that are specified in the schedule. The Mung

bean is unfortunately not among the scheduled crops and therefore it is not within the purview of the Crops Act;

2. The recommendation on the inclusion of dams and irrigation services is already well catered for in the Bill. The Bill promotes the facilitation and introduction of modern mung bean farming techniques and modernization of mung bean industry.
3. The proposal to have the name of the Bill changed from "Mung Bean Bill" to "Ndengu Bill" was rejected because our jurisdictional drafting style does not allow the use of Swahili language when naming Bills.
4. The concerns that provisions for the mung bean have been adequately catered for under the Crops Act are not applicable in the case of the mung bean. This is because mung bean is not a scheduled crop under the Act.
5. The Committee observed that in the development of the Mung Bean Policy, the proposal to include consultations with the Council of Governors since Agriculture is a devolved function, will go a long way in firming up the entrenchment of this policy within the counties.
6. The Committee also took note of the recommendation to have all the members of the proposed Licensing Committee and not just the Chairman to have a minimum qualification of a degree and 5 years' work experience. The degree qualification and the experience needs to be specified to reflect the relevant sector.
7. Finally, the Committee observed that the Bill does not have a clause on the importation of mung beans. There are no documented guidelines on directing the importation of mung beans and this gap may lead to exploitation by importers who may employ unfair trade practices at the detriment of the local farmers who the Bill seeks to protect.

Committee Recommendations

The Committee recommends the following: -

1. **That**, Clause 7 of the Bill be amended to provide for consultation between the Cabinet Secretary and the Council of Governors when developing Mung Bean Policy;
2. **That**, Clause 10(2)(c) be amended to require that the public officers appointed under paragraph (c) must have experience in finance and trade;
3. **That**, Clause 11(a) be amended to specify the minimum qualifications of the Chairperson and the farmers representative, by providing that they must possess a degree in the areas of agriculture, finance or trade;

4. **That**, Clause 13 be amended to clarify that members of the licencing committee shall be appointed by the Cabinet Secretary responsible for matters relating to trade;
5. **That**, the Bill be amended to regulate the importation of Mung Beans in Kenya; and
6. **That**, the House approves the Bill together with the proposed amendments.

MIN/SEN/SCA/091/2023 -

CONSIDERATION OF THE
LEGISLATIVE PROPOSAL ON THE
PREVENTION OF LIVESTOCK AND
PRODUCE THEFT, 2023

The Committee was taken through Committee Paper No. 23 on the Legislative Proposal on the Prevention of Livestock and Produce Bill, 2023 which is a sponsored by Sen. Samson Cherarkey, MP.

During the meeting, the Committee noted that the Bill aims to: -

1. Provide for the establishment of mechanisms for preventing, combating and eventually eradicating livestock and produce theft in the country;
2. Provide for branding of livestock and in this regard, the Bill assigns specific responsibilities to the Cabinet Secretary and the county executive committee member;
3. Provide for a livestock owner to register the design of their brand by making an application to the county executive committee member;
4. Provide for livestock owners to brand their livestock with a registered brand before they reach the age of six months;
5. Provide for the regulation of movement of livestock;
6. Provide for an owner of an abattoir to keep books and records of every livestock slaughtered and any carcass or produce leaving the abattoir; and
7. Make provisions on offences relating to livestock and livestock produce theft.

Committee Resolution

The Committee considered the Legislative Proposal and unanimously resolved that Bill should be published.

MIN/SEN/SCA/092/2023: - ANY OTHER BUSINESS

1. The Committee resolved to conduct a physical public participation in five (5) Counties on the Tea (Amendment) Bill, 2022 after recess.
2. The Committee resolved to publish the legislative proposal on the Prevention of Livestock and Produce Theft, 2023.

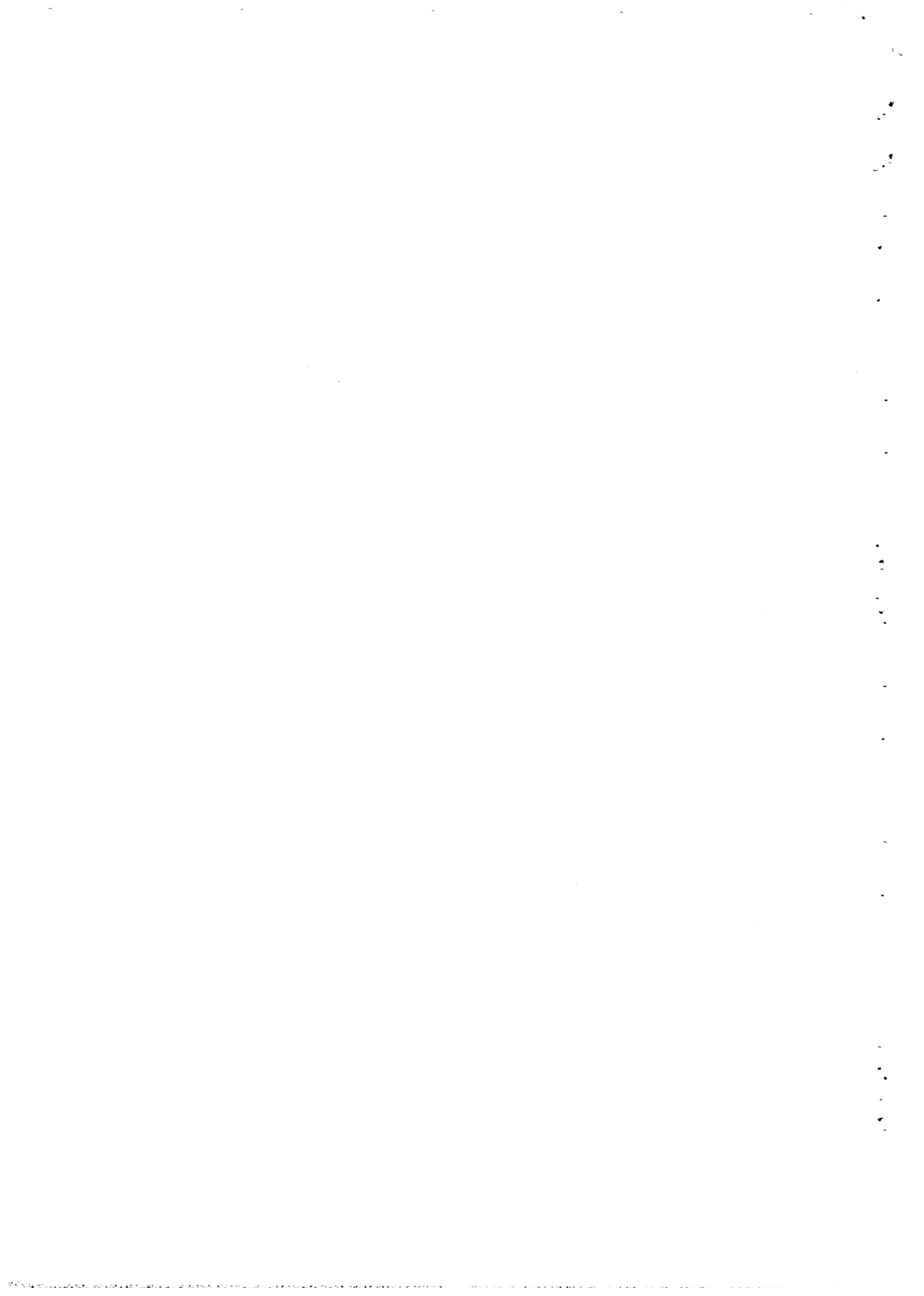
MIN/SEN/SCA/093/2023:- ADJOURNMENT

There being no other business, the meeting was adjourned at 12.30 p.m.

SIGNED:

DATE: 28/03/2023

SEN. JAMES KAMAU MURANGO, MP
(CHAIRPERSON)





**MINUTES OF THE THIRTY-FOURTH SITTING OF THE SENATE
STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES, HELD ON TUESDAY, 30TH MAY, 2023 IN COMMITTEE ROOM
NO.5, FIRST FLOOR, MAIN PARLIAMENT BUILDINGS AT 8.00 A.M.**

PRESENT

- | | | |
|-----------------------------------|---|-------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Daniel Kitonga Maanzo, MP | - | Member |
| 3. Sen. Wahome Wamatinga, MP | - | Member |
| 4. Sen. Beth Kalunda Syengo, MP | - | Member |
| 5. Sen. David Wafula Wakoli, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 2. Sen. Enoch Kii Wambua, CBS, MP, | - | Member |
| 3. Sen. Moses Otieno Kajwang', MP | - | Member |
| 4. Sen. Allan Kiprotich Chesang, MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|-------------------------|
| 1. Ms. Caroline Njue | - | Clerk Assistant |
| 2. Mr. Reinhardt Choge | - | Clerk Assistant |
| 3. Ms. Regina Munyao | - | Legal Counsel |
| 4. Ms. Belinda Ogolla | - | Research Officer |
| 5. Mr. Hillary Cheruiyot | - | Research Officer |
| 6. Ms. Violet Nalianya | - | Media Relations Officer |
| 7. Ms. Rose Ometere | - | Audio Officer |
| 8. Mr. Abdihabib Dekow | - | Sergeant-At-Arms |

IN-ATTENDANCE

- | | | |
|--|---|--------------------------|
| 1. Prof. Joseph Kieyah, MA, JD, PhD, EBS | - | Chairperson, Coffee Sub- |
|--|---|--------------------------|

MIN.SEN/SCA/241/2023- PRAYER

The Chairperson called the meeting to order at 8.17 a.m. followed by a word of prayer.

MIN/SEN/SCA/242/2023- ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Wahome Wamatinga, MP and seconded by Sen. David Wafula Wakoli, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the Thirty-Third Sitting;
4. Matters arising;
5. **Consideration and Adoption of the Matrix on the Tea (Amendment) Bill (Senate Bills No. 1 of 2023) (Committee Paper No. 31);**
6. **Consideration and Adoption of the Matrix on the Cotton Industry Development Bill (Senate Bills No. 5 of 2023) (Committee Paper No. 32);**
7. **Consideration and Adoption of the Matrix on the Agriculture and Food Authority (Amendment) Bill, 2023 (Senate Bills No. 13 of 2023) (Committee Paper No. 33);**
8. **Consideration and Adoption of the Matrix on the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) (Committee Paper No. 34);**
9. **Meeting with the Chairman, Coffee Sub-Sector Reforms Implementation Standing Committee (Committee Paper 35);**
10. Any Other Business; and
11. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/243/2023- CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING

The agenda item was deferred to the next sitting.

MIN/SEN/SCA/244/2023- MATTERS ARISING

The agenda item was deferred to the next sitting.

MIN/SEN/SCA/245/2023-

CONSIDERATION AND ADOPTION OF
THE MATRIX ON THE TEA
(AMENDMENT) BILL (SENATE BILLS
NO. 1 OF 2023) (COMMITTEE PAPER NO.
31)

The agenda item was deferred to the next meeting.

MIN/SEN/SCA/246/2023-

CONSIDERATION AND ADOPTION
OF THE MATRIX ON THE COTTON
INDUSTRY DEVELOPMENT BILL
(SENATE BILLS NO. 5 OF 2023)
(COMMITTEE PAPER NO. 32)

The Committee was taken through the matrix by the legal counsel and considered the submissions collected from farmers and those received via the Committee email.

Committee Observations

1. The need to define the word cotton sector in order to bring clarity on the scope of application of the Bill;
2. The membership of the Board was farmer heavy; out of the ten members of the Board, eight are farmers representatives. It would be important to reduce the number of farmers representative and to add other stakeholders to the membership of the Board in order to strike a balance;
3. There is a need to facilitate farmers in terms of establishing aggregation centers and collection centers which are close to the farmers. It was noted that farmers incur a lot of costs and sometimes their produce are spoiled due to lack of proper accessible storage facilities;
4. The Board should in consultation with the National Biosafety Authority and research institutions undertake research in order to develop affordable climate resilient seeds. It was noted that the cost of seeds was too high, currently a kilo of cotton seeds is retailing at an average of four thousand shillings;

5. In order to cushion farmers from the high cost of production, the Board and the county governments should put in place measures to provide subsidised farm machinery and other inputs which include; seeds, fertilizer and pesticides;
6. Agriculture being a devolved function the county government should put in place and implement measures, including incentives in order to promote the development of the cotton industry;
7. The small-scale farmers felt that the registration process as outlined in Section 24 of the Bill was too inhibitive because it requires farmers to travel for long distances to county offices for registration. It is therefore imperative to come up with a simple registration process, accessible to the farmers;
8. Clause 25 (1) which provides that a person shall not engage in manufacturing of cotton products without a license needs to be clarified because the intent of the Bill is on cotton growing, ginning and value addition of cotton by-products and not on textiles & apparels;
9. The Bill prohibits imports and export *cotton products*. The cotton industry is diverse with many products ranging from textiles, apparels, fishing nets, filters among others and therefore there was a need to qualify these cotton products;
10. Since it not possible to have all the proposed stakeholders' representatives in the Board, committees should be established at the county level to advise the county executive member on matters that affect the cotton industry; and
11. The Bill proposes to remove the management and regulation of Cotton from AFA to the Cotton Industry development Board. It is therefore necessary to transition, all staff, assets and liabilities with respect to the cotton sector, from AFA to the Cotton Industry Development Board.

MIN/SEN/SCA/247/2023-

CONSIDERATION AND ADOPTION OF THE
MATRIX ON THE AGRICULTURE AND
FOOD AUTHORITY (AMENDMENT) BILL,
2023 (SENATE BILLS NO. 13 OF 2023)
(COMMITTEE PAPER NO. 33).

The Committee noted that only one submission was received from the Nut Processors Association of Kenya who were against the amendment to allow export of raw unshelled nuts. The Committee rejected the Submission from Nutpack and resolved to carry out Public Participation in Macadamia Growing Counties to get submissions from Farmers.

MIN/SEN/SCA/248/2023-

CONSIDERATION AND ADOPTION
OF THE MATRIX ON THE
PREVENTION OF LIVESTOCK AND
PRODUCE THEFT BILL, 2023
(SENATE BILLS NO. 12 OF 2023)
(COMMITTEE PAPER NO. 34)

The Committee noted that the object of the Prevention of Livestock and Produce Theft bill, 2023 was very broad and not specific to the mandate of the Committee, therefore the Committee resolved to hold joint sittings with the Standing Committees on National Security, Defence and Foreign Relations and the Committee on Trade, Industrialization and Tourism.

MIN/SEN/SCA/249/2023-

MEETING WITH THE CHAIRMAN,
COFFEE SUB-SECTOR REFORMS
IMPLEMENTATION STANDING
COMMITTEE (COMMITTEE PAPER
35)

The Chairperson gave Prof. Joseph Kieyah, MA, JD, PhD, EBS an opportunity to introduce himself. Thereafter, the Professor briefed the Committee on some of the matters ailing the Coffee Sector, which had been included in their submissions chief among them being:

1. The role of the marketing license that has stifled the ability of Unions to market their own coffee thereby resulting in about 80% of the Coffee being bought by a clique of people.
2. That due to the afore-mentioned there was a lot of insider trading at the Nairobi Coffee Exchange.

3. Non-Enforcement of the 2020 Coffee Regulations was a big contributing factor to the issues currently affecting the sector.

MIN/SEN/SCA/250/2023-


ANY OTHER BUSINESS

The Committee resolved to invite the Cabinet Secretary of Water and Irrigation and the Governor Kisumu County one last time and if they do not honor the invites then Summons should be issued to the two individuals as they had honoured earlier invites.

MIN/SEN/SCA/251/2023-

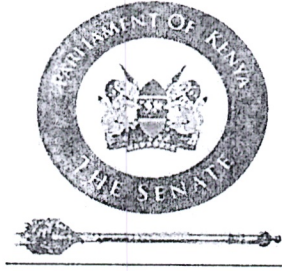
DATE OF NEXT MEETING AND
ADJOURNMENT

The meeting adjourned at 12.30 pm, the next meeting will be by notice.

SIGNED:  DATE: 6/6/2023

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)



**MINUTES OF THE THIRTY-SEVENTH SITTING OF THE SENATE
STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES, HELD ON TUESDAY, 13TH JUNE, 2023 IN FIRST FLOOR
BOARDROOM, RED CROSS BUILDING AT 11.00 A.M.**

PRESENT

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 2. Sen. Enoch Kiio Wambua, CBS, MP, | - | Member |
| 3. Sen. Daniel Kitonga Maanzo, MP | - | Member |
| 4. Sen. Allan Kiprotich Chesang, MP | - | Member |
| 5. Sen. David Wafula Wakoli, MP | - | Member |
| 6. Sen. Beth Kalunda Syengo, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|-----------------------------------|---|-------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Wahome Wamatinga, MP | - | Member |
| 3. Sen. Moses Otieno Kajwang', MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|-------------------------|
| 1. Ms. Caroline Njue | - | Clerk Assistant |
| 2. Mr. Reinhardt Choge | - | Clerk Assistant |
| 3. Ms. Regina Munyao | - | Legal Counsel |
| 4. Ms. Belinda Ogolla | - | Research Officer |
| 5. Mr. Hillary Cheruiyot | - | Research Officer |
| 6. Ms. Violet Nalianya | - | Media Relations Officer |
| 7. Ms. Rose Ometere | - | Audio Officer |
| 8. Ms. Vielina Mbote | - | Attachee |

MIN.SEN/SCA/268/2023-

PRAYER

The Chairperson called the meeting to order at 11.22 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/269/2023-

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Beth Kalunda Syengo, MP and seconded by Sen. David Wafula Wakoli, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the Thirty-Fifth Sitting held on 6th June, 2023;
4. Matters arising;
5. **Consideration and Adoption of the Matrix on the Prevention of Livestock and Produce Theft Bill, 2023 (Committee Paper No. 34);**
6. Any Other Business; and
7. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/270/2023-

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The minutes of the Thirty-Sixth Sitting held on 13th June, 2023 were confirmed as a true reflection of the proceedings having been proposed by Sen. Daniel Kitonga Maanzo, MP and seconded by Sen. Enoch Kiio Wambua, CBS, MP.

MIN/SEN/SCA/271/2023-

MATTERS ARISING FROM THE PREVIOUS SITTINGS

There were no matters arising.

MIN/SEN/SCA/272/2023-

CONSIDERATION AND ADOPTION OF THE MATRIX ON SUBMISSIONS OF THE LIVESTOCK AND PRODUCE THEFT PREVENTION BILL, 2023 (COMMITTEE PAPER NO. 34)

The Legal Counsel took the Committee through the Matrix on Submissions of the Prevention of Livestock and Produce Theft Bill, 2023 which were received from the Council of Governors.

The Committee observed the following:

1. There is need to define the word inspector in order to bring clarity on the scope of its application on the Bill;
2. The Bill gives powers to the county executive committee member to register, transfer and cancel registered of brands. In this regard, the committee observed that there is a need to provide for an avenue for appeal in instances where a livestock owner is aggrieved by the decision of the County executive committee member;
3. Clause 11(1) of the Bill provides that the Cabinet Secretary for matters relating to livestock may make regulations on the use of permanent identification devices in

branding of livestock. Further, clause 35 provides that the Cabinet Secretary may make regulations generally for the better carrying out of the provisions of the Act. In view of the foregoing, the committee noted the need for consultation between the Cabinet secretary and the Council of governors when making these regulations;

4. The Bill in Clause 15(2) (b) sets out one of the roles of an inspector as to assist in the investigation and recovery of stolen livestock. Noting that the role of investigating matters of criminal nature is vested in the National police service and other state agencies, the committee proposes to amend the paragraph to provide for collaboration between the inspectors and other state agencies.

MIN/SEN/SCA/273/2023-

ANY OTHER BUSINESS

The Committee was informed of an Inaugural High-Level meeting with the Council of Governors running from 15th to 18th June, 2023 and were asked to confirm their attendance. The following Senators confirmed their attendance:

1. Sen. Alexander Mundigi, MP
2. Sen. Enoch Wambua, CBS, MP
3. Sen. Daniel Manzo, MP
4. Sen. David Wakoli, MP

MIN/SEN/SCA/274/2023-

DATE OF NEXT MEETING AND
ADJOURNMENT

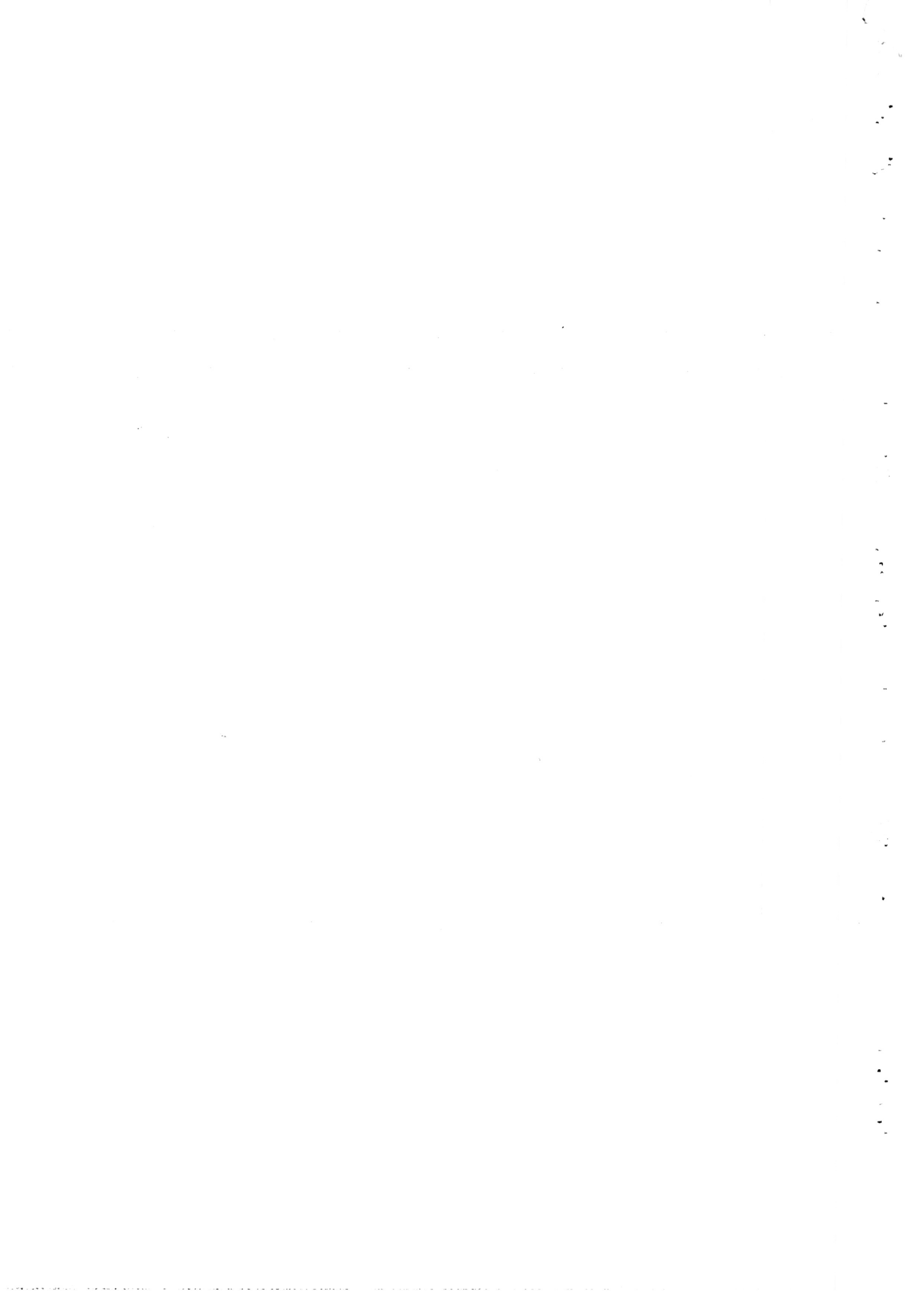
The meeting adjourned at 12.19 pm, the next meeting will be by notice.

SIGNED:

DATE:

for SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)





**MINUTES OF THE THIRTY-EIGHTH SITTING OF THE SENATE
STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES, HELD ON TUESDAY, 20TH JUNE, 2023 IN FIRST FLOOR
BOARDROOM, RED CROSS BUILDING AT 10.00 A.M.**

PRESENT

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. Alexander Munyi Mundigi, MP | - | Vice-Chairperson |
| 2. Sen. Enoch Kiio Wambua, CBS, MP, | - | Member |
| 3. Sen. Daniel Kitonga Maanzo, MP | - | Member |
| 4. Sen. David Wafula Wakoli, MP | - | Member |
| 5. Sen. Beth Kalunda Syengo, MP | - | Member |

ABSENT WITH APOLOGIES

- | | | |
|-------------------------------------|---|-------------|
| 1. Sen. James Kamau Murango, MP | - | Chairperson |
| 2. Sen. Wahome Wamatinga, MP | - | Member |
| 3. Sen. Moses Otieno Kajwang', MP | - | Member |
| 4. Sen. Allan Kiprotich Chesang, MP | - | Member |

SECRETARIAT

- | | | |
|--------------------------|---|-------------------------|
| 1. Ms. Caroline Njue | - | Clerk Assistant |
| 2. Mr. Reinhardt Choge | - | Clerk Assistant |
| 3. Ms. Regina Munyao | - | Legal Counsel |
| 4. Ms. Belinda Ogolla | - | Research Officer |
| 5. Mr. Hillary Cheruiyot | - | Research Officer |
| 6. Ms. Violet Nalianya | - | Media Relations Officer |
| 7. Ms. Rose Ometere | - | Audio Officer |
| 8. Ms. Vielina Mbote | - | Attachee |

MIN.SEN/SCA/275/2023-

PRAYER

The Chairperson called the meeting to order at 10.15 a.m. followed by a word of prayer and introductions.

MIN/SEN/SCA/276/2023-

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Beth Kalunda Syengo, MP and seconded by Sen. David Wafula Wakoli, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous sitting;
4. **Meeting with the Cabinet Secretary Ministry of Water, Sanitation and Irrigation and the Governor Kisumu County on the EACC Graft Investigation on the West Kano Irrigation Scheme;**
5. **Consideration and Adoption of the draft report on the Prevention of Livestock and Produce Theft Bill, 2023;**
6. **Consideration and Adoption of the Amendments on the Prevention of Livestock and Produce Theft Bill, 2023;**
7. Any Other Business; and
8. Date of the Next Meeting and Adjournment.

MIN/SEN/SCA/277/2023-

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The minutes of the Thirty-Seventh Sitting held on 13th June, 2023 were confirmed as a true reflection of the proceedings having been proposed by Sen. David Wafula Wakoli, MP and seconded by Sen. Daniel Kitonga Maanzo, MP.

MIN/SEN/SCA/278/2023-

MATTERS ARISING FROM THE PREVIOUS SITTINGS

Under **MIN/SEN/SCA/272/2023:** Senator Daniel Kitonga Maanzo, MP informed the Committee that the sponsor of the Bill had informed him of his intention to move some amendments to the Bill to remove some provisions that touch on the National functions. This is specifically the sections that are repealing the Branding of Stock Act and the Stock and Produce Theft Act, since the Bill is intended to serve the Counties.

MIN/SEN/SCA/279/2023-

MEETING WITH THE CABINET SECRETARY MINISTRY OF WATER, SANITATION AND IRRIGATION AND THE GOVERNOR KISUMU COUNTY ON THE EACC GRAFT INVESTIGATION ON THE WEST KANO IRRIGATION SCHEME

The Committee was informed that the Cabinet Secretary and Governor had sent their apologies stating that they would be unavailable to attend the meeting due to other official duties.

The Committee resolved to Summon and Fine the Cabinet Secretary and Governor for failing to honor the invites. It was noted that the Cabinet Secretary had requested for rescheduling of one of the meetings to her preferred date, which she did not honor.

MIN/SEN/SCA/280/2023-

CONSIDERATION AND ADOPTION OF
THE DRAFT REPORT ON THE
PREVENTION OF LIVESTOCK AND
PRODUCE THEFT BILL, 2023

Members were taken through the draft report and resolved to adopt it with amendments as proposed by Sen. Daniel Kitonga Maanzo and seconded by Sen. David Wafula Wakoli.

MIN/SEN/SCA/281/2023-

CONSIDERATION AND ADOPTION OF
THE AMENDMENTS ON THE
PREVENTION OF LIVESTOCK AND
PRODUCE THEFT BILL, 2023

The Legal Counsel took members through the proposed amendments and they were adopted with further amendments to Clause 35 as proposed by Sen. David Wafula Wakoli and seconded by Sen. Beth Kalunda Syengo.

MIN/SEN/SCA/282/2023-

ANY OTHER BUSINESS

1. The Committee was informed of the upcoming report writing retreat for the Tea (Amendment) Bill, 2023 (Senate Bills No. 1 of 2023) and the Coffee Bill, 2023 (Senate Bills No. 10 of 2023) scheduled from 22nd June, 2023 to 26th June, 2023; and
2. The Committee was informed of a letter received from Sen. Godfrey Atieno Osotsi, MP in regards to the unsatisfactory response received in regard to the Statement on the status of the National Agricultural and Rural Inclusive Growth Project (NARGIP) in Vihiga County. The Committee resolved to invite the Senator to a meeting of the Committee to elaborate on the deficiencies in the response.

MIN/SEN/SCA/283/2023-

DATE OF NEXT MEETING AND
ADJOURNMENT

The meeting adjourned at 11.21 pm, the next meeting will be by notice.

SIGNED: DATE: 23/6/2023

SEN. JAMES KAMAU MURANGO, MP

(CHAIRPERSON)

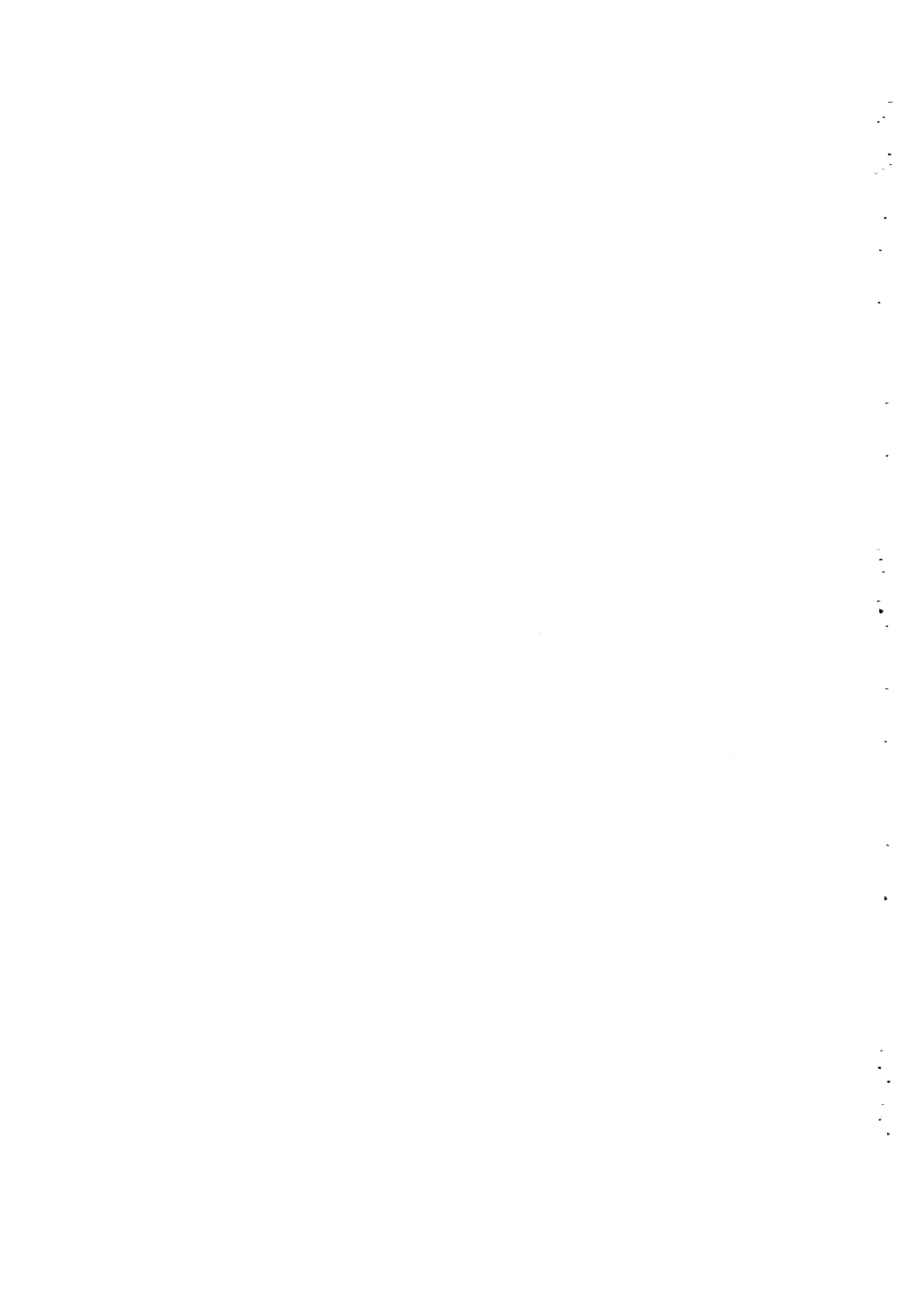


**REPORT OF THE STANDING COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES**

ON

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023
(SENATE BILLS NO. 12 OF 2023)

Annex II



**THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL,
2023**

ARRANGEMENT OF CLAUSES

Clause

PART I - PRELIMINARY

- 1 — Short title.
- 2—Interpretation.
- 3—Object of the Act.

PART II –BRANDING OF LIVESTOCK

- 4 — Functions of the Cabinet secretary.
- 5 — Functions of the county executive committee member.
- 6 — Application for registration of a brand.
- 7 — Certificate registration of a brand.
- 8 — Transfer of a registered brand.
- 9 — Cancellation of registered a brand.
- 10 — Obligation to brand livestock.
- 11 — Use of a permanent identification device.

PART III – MOVEMENT OF LIVESTOCK

- 12—Removal of livestock.
- 13—Retention of a removal permit.

14— Owner of an abattoir to keep records.

15— Appointment of inspectors.

PART IV - OFFENCES

16— Use of unregistered brand.

17— Branding another person's livestock

18— Offence of livestock or produce theft.

19— Trespass with intent to steal livestock or produce.

20—Conveyance of livestock or produce.

21—Tampering with identification brand.

22—Prohibition of the delivery or sale of livestock or produce at night.

23—Illegal possession of livestock.

24—Illegal possession of produce.

25—Killing of livestock with intent to steal such livestock.

26—Failure to report commission of an offence.

27—Issuance of warrant for search, seizure and arrest.

28—Forfeiture of assets derived from livestock theft.

29—Detention of livestock.

PART V – MISCELLANEOUS PROVISIONS

30—Public awareness and sensitization.

31—Dispute resolution.

32—Trial of offences.

The Prevention of Livestock and Produce Theft Bill, 2023

- 33—General Penalty.
- 34— Legislation by county government.
- 35—Regulations.
- 36—Amendment to Cap. 63.
- 37— Repeal of Cap. 357.
- 38—Repeal of Cap. 355.

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL,
2023

A Bill for

AN ACT of Parliament to provide for a legal framework for the identification of livestock; the movement of livestock; the prevention of livestock theft; the regulation of trade in livestock; the return of illegally acquired livestock and firearms and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I - PRELIMINARY

Short title

1. This Act may be cited as the Prevention of Livestock and Produce Theft Act, 2023.

Interpretation

2. In this Act, —

Cap. 144.

“ammunition” has the meaning assigned to it under the Firearms Act;

“Cabinet Secretary” means the Cabinet Secretary responsible for the matters relating to livestock;

“county executive committee member” means a county executive committee member responsible for matters relating to livestock;

“firearm” has the meaning assigned to it under the Firearms Act;

“identifier” means an official permanent mark, or permanent representation on livestock, which consists of a

designated combination of numbers, codes or signed as may be prescribed under this Act

“livestock” means cattle, camel, donkey, pig, sheep, goat poultry and any other animal which the Cabinet secretary may by order declare to be livestock for purpose of this Act;

“livestock keeping community” means a community designated by the Cabinet Secretary as such for the purposes of this Act and whose main occupation involves the keeping of livestock;

“Ministry” means the Ministry responsible for the matters relating to internal security;

“permanent identification device” means a device, which bears a unique code, approved by the director of veterinary services appointed under the Veterinary Surgeons and Veterinary Para-Professionals Act and is intended to remain attached to or inserted in a livestock;

“produce” means the whole or any part of any skin, hide, horn, or carcass of livestock and includes wool, mohair and ostrich feathers; and

“register” means a register of livestock brands established and maintained by the county executive committee member in the respective county.

Object of the Act.

3. The objects of this Act are to —

(a) provide a framework for —

- (i) the prevention, combating and eradication of livestock theft to promote security and stability;
- (ii) the registration and management of livestock

- by livestock owners;
- (iii) the regulation of the activities of livestock owners in relation to their livestock; and
 - (iv) the disarmament and the return of illegally acquired firearms and ammunition;
- (b) enhance social and economic development amongst the livestock keeping communities in Kenya;
 - (c) provide a framework for the tracking and return of stolen livestock; and
 - (d) provide a platform for collaboration amongst the governments, communities and relevant agencies in preventing, combating and eradicating livestock theft.

PART II –BRANDING OF LIVESTOCK

Functions of the
Cabinet Secretary.

- 4. The Cabinet Secretary shall be responsible for –
 - (a) formulating a national policy and national standards on identification and movement livestock;
 - (b) developing and co-ordinating intergovernmental relations mechanisms in the delivery of services related to identification and movement of livestock;
 - (c) establishing a national data base system for communication, sharing and analysis of information relating to livestock;
 - (d) in collaboration with the security and other relevant agencies, establishing mechanisms for the disarmament and confiscation of firearms and

Functions of the county executive committee member.

ammunition illegally held by livestock owners; and

(e) providing capacity building to the county governments on matters touching on identification and movement of livestock.

5. Every county executive committee in the respective county shall —

(a) establish and maintain a county register of livestock brands;

(b) receive application for and register brands;

(c) design and formulate strategies and mechanisms for the prevention, combating and eradicating livestock theft;

(d) establish systems for the tracking of stolen livestock;

(e) promote the abandonment of livestock theft by collaborating with the relevant agencies in sensitizing members of livestock owners on alternative sustainable forms of livelihood;

(f) facilitate the acquisition of equipment for monitoring and managing the movement of livestock; and

(g) carry out such duties or functions as may be necessary for the achievement of the objects of this Act.

Application for registration of a brand.

6. (1) Every livestock owner shall apply to the county executive committee member for the registration in their name of a brand of such nature and dimensions as shall be prescribed in county legislation.

- (2) An application under this section for the registration of a brand shall –
- (a) be in the prescribed form;
 - (b) be accompanied by a design of the brand;
 - (c) be accompanied by the prescribed fee; and
 - (d) contain such particulars as shall be prescribed in county legislation.
- (3) The county executive committee member shall, within thirty days from the date of receipt of the application, register a brand if satisfied that the requirements for registration have been complied with.
- (4) The county executive committee member may reject an application for registration of a brand if –
- (a) the application has not complied with the provisions of this section; or
 - (b) the design accompanying the application –
 - (i) is the same as the design of a registered brand;
 - (ii) in the opinion of the county executive committee member, so nearly resembles the design of a registered brand as to cause or be likely to cause confusion; or
 - (iii) is, in the opinion of the county executive committee member, unsuitable for any other reason.
- (5) Where an application for registration is rejected, the county executive committee member shall, within thirty days from the date of receipt of the application give written notification with reasons for rejection to

the applicant.

Certificate of registration of a brand.

7. (1) On the registration of a brand as provided for under section 5(3), the county executive committee member shall issue to the applicant a certificate of registration in the form prescribed in the county legislation.

(2) Where the holder of a certificate claims that the certificate has been lost or destroyed, the holder of a certificate may make an application in accordance with subsection (4) to the county executive committee member for the issue of a duplicate certificate.

(3) On receipt of an application made under subsection (2), the county executive committee member shall, if satisfied that the certificate has been lost or destroyed, issue a duplicate certificate to the applicant in place of the original certificate.

(4) An application under subsection (2) shall --

(a) be in the form and contain such information as shall be prescribed in the county legislation; and

(b) be accompanied by the fee prescribed in the county legislation.

(5) Upon the issue of a duplicate certificate under subsection (3), the original certificate shall be deemed to be cancelled and the duplicate certificate has the same effect as the original certificate.

Transfer of a registered brand.

8. (1) A proprietor of a registered brand may apply to the county executive committee to transfer the right to that brand to another person.

(2) An application under subsection (1) shall --

(a) be in the form and contain such information as shall be prescribed in the county legislation;

(b) contain the consent of the person to whom the proprietor of the registered brand wishes to transfer the right to that brand; and

(c) be accompanied by the fee prescribed in the county legislation.

(3) The county executive committee member shall, within thirty days from the date of receipt of the application under subsection (1), approve the application if satisfied that the application complies with this section or reject the application where the application does not comply with this section.

(4) Where the county executive committee member approves an application under subsection (1), he or she shall issue to that person a certificate of the transfer in the form prescribed in the county legislation.

(5) Where an application for transfer of a brand is rejected, the county executive committee member shall, within thirty days from the date of receipt of the application give written notification with reasons for rejection to the applicant.

Cancellation of a registered brand.

9. (1) The county executive committee member may cancel a registered brand if -

(a) the proprietor no longer requires the use of that brand and has notified the county executive committee member;

(b) the proprietor has died; or

(c) the proprietor is a body corporate and the county executive committee member is satisfied that the body corporate has been wound up or dissolved.

(2) Notwithstanding the provisions of subsection (1)(b), where the proprietor of a registered brand dies, his personal representative may use the brand until -

(a) the appointment as a personal representative is terminated; or

(b) the distribution of the estate of the deceased is completed.

Obligation to brand livestock.

10. (1) Every livestock owner shall, before the livestock attains the age of six months, brand it or cause it to be branded with a registered brand of which the livestock owner is the proprietor.

(2) Every livestock owner shall, in the case of livestock which is older than six months at the commencement of this Act, within three months of the commencement of this Act brand it or cause it to be branded with a registered brand of which the livestock owner is the proprietor.

(3) A person branding livestock with a brand under subsection (1), ensure that such brand –

- (a) is conspicuous;
- (b) is safe to the livestock and a consumer of the final product of the livestock; and
- (c) meets such other criteria as the county executive committee member may, by notice in the *Gazette*, prescribe under subsection (4).

(4) The county executive committee member may prescribe further requirements on branding including branding of livestock which have not attained six months.

Use of a permanent identification device.

11. (1) The Cabinet Secretary may make regulations on the use of permanent identification devices.

(2) Where a permanent identification device is used instead of a brand, a reference to brand in any of the provisions of this Act shall be construed to mean a permanent identification device.

PART III – MOVEMENT OF LIVESTOCK

Removal of

12. (1) A livestock owner who intends to remove

livestock.

livestock of which he is the owner from the premises where they are ordinarily kept to other premises for the purpose of sale and slaughter or any other purpose shall obtain a removal permit from the inspector.

(2) A removal permit issued by the inspector shall be in triplicate and clearly indicate –

- (a) particulars of the livestock owner;
- (b) the date of removal of the livestock;
- (c) the purpose for the removal;
- (d) the number and type of livestock to be moved;
- (e) particulars of the brand of which the owner of the livestock is the proprietor;
- (f) the premises from which the livestock are being moved from;
- (g) the destination of the livestock; and
- (h) in the case of sale –
 - (i) particulars of the purchaser; and
 - (ii) a document evidencing such sale.

(3) The inspector shall not issue a removal permit if –

- (a) the premises the livestock are being moved from or destination of the livestock is within an area declared to be an area infected by a notifiable disease; or
- (b) this Act or any other written law has not been complied with.

(4) An inspector may at any time inspect livestock being removed from the premises they are ordinarily kept and require the production of a removal permit for inspection.

Retention of a removal permit.

13. (1) The livestock owner shall retain the original removal permit and each of the copies shall be retained by the inspector and the purchaser of the livestock respectively.

(2) The removal permit shall be kept for a period of three months from the date of the removal of the livestock from the premises where they were kept immediately before the removal.

Owner of an abattoir to keep records.

14. (1) Every owner of an abattoir shall keep books and records of every livestock slaughtered, and carcass or produce leaving the abattoir.

(2) The books and records, of every livestock slaughtered, to be kept by an owner of an abattoir shall clearly indicate –

- (a) particulars of the brand on the livestock;
- (b) the type of livestock including a brief description of the livestock;
- (c) particulars of the livestock owner;
- (d) if the person delivering the livestock is not the livestock owner –
 - (i) particulars of the person delivering the livestock; and
 - (ii) capacity of such a person whether agent, carrier or purchaser;
- (e) the date of delivery of the livestock;
- (f) the number and type of livestock to be moved;
- (g) the immediate previous premises where the livestock was ordinarily kept; and

(h) the date the livestock was slaughtered.

(2) The books and records, of every carcass or produce leaving an abattoir, to be kept by an owner of an abattoir shall clearly indicate –

(a) particulars of owner of the carcass or produce;

(b) particulars of the brand the produce, where applicable;

(c) the nature of the produce;

(d) if the person conveying, carrying or transporting the carcass or produce is not the owner –

(i) particulars of the person conveying, carrying or transporting the carcass or produce; and

(ii) capacity of such a person whether agent or carrier;

(e) the date the carcass or produce is removed from the abattoir; and

(f) particulars of the premises of destination of the carcass or produce.

(2) The books and records to be kept under subsection (1), shall be kept for a period of three months from the date of receipt of a livestock for slaughter, or the carcass or produce leaves the abattoir.

Appointment of
inspectors.

15. (1) The county executive committee member shall designate such persons to be inspectors for each ward in the respective county for the purpose of enforcement of this Act.

(2) The inspector shall co-ordinate the implementation of this Act at the ward level and in particular –

(a) be responsible for approving, issuing and

inspecting removal permits;

- (b) assist in the investigation and recovery of stolen livestock;
- (c) facilitate the application for and registration of brands;
- (d) co-ordinate and facilitate citizen participation in the development of policies and plans, and delivery of services on matters related to livestock development at the ward level; and
- (e) carry out such duties as may be assigned by the county executive committee member from time to time.

PART IV - OFFENCES

Use of unregistered brand.

16. A person who, being a livestock owner, -

- (a) fails to apply for registration of a brand;
- (b) fails to brand his or her livestock;
- (c) brands his or her livestock with an unregistered brand,

commits an offence and is liable, on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand shillings, or to both such fine and imprisonment.

Branding another person's livestock.

17. A person who wilfully and knowingly -

- (a) brands, or causes to be branded any livestock belonging to another with his or her brand, or any brand which is not the recorded brand of the livestock owner; or
- (b) alters, defaces or obliterates any brand on a

livestock belonging to another so as to conceal or disguise the identification of such livestock.

commits an offence of theft and is liable, on conviction to imprisonment for a term not exceeding fourteen years or to a fine not exceeding one million shillings, or to both such fine and imprisonment.

Offence of livestock or produce theft.

18. (1) A person who steals livestock or produce, or receives any livestock or produce knowing or having reason to believe it to be a stolen livestock or produce, commits an offence and shall be liable, on conviction, to a term of not less than twenty years.

(2) Where, for the purpose of stealing any livestock or produce, or in the course of stealing any livestock or produce, violence or the threat of violence is used, such person is liable, on conviction, to a life term of imprisonment.

(3) A person charged under subsection (1) may be convicted of the offence of stealing any livestock or produce or of receiving any livestock or produce notwithstanding that the person stated in the charge to be the owner of the livestock or produce is wrongly named as the owner of the livestock or produce.

(4) Any person who procures, incites, hires, directs, instigates, or colludes with, another person to contravene the provisions of subsection (1) commits an offence and is liable, on conviction to a term of imprisonment of not less than fifteen years.

Trespass with intent to steal livestock or produce.

19. (1) A person who enters any enclosed land with the intention of stealing livestock or produce on such land commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding seven years or to a fine not exceeding five hundred thousand shillings, or to both such fine and imprisonment.

(2) A person who enters and is found on such land under subsection (1) shall, unless such person—

(a) satisfies the court that they had reasonable and lawful

Conveyance of
livestock or
produce.

excuse for their presence in the land; or

(b) was proceeding along a road or thoroughfare traversing such land or part of such land,

be presumed to have entered the land with the intention of stealing livestock unless such person proves that they did not enter such land with the intention to steal the livestock or produce therein.

20. (1) No person shall, without lawful authority, drive, convey or transport any livestock or produce along a public road unless that person is in possession of –

(a) the document of identification issued by the owner of such stock or produce or the duly authorized agent of such owner; and

(b) a removal permit issued by the registrar for the conveyance of the livestock or produce, in which is stated-

(i) the name and address of the person who issued the certificate;

(ii) the name and address of the owner of such stock or produce;

(iii) the place from which and the place to which such stock or produce is being driven, conveyed or transported;

(iv) the name of the driver, conveyor or transporter;

(v) the date of issue of the permit; and

(vi) where applicable, the registration number, model and make of the vehicle with which the stock or produce is being conveyed or transported.

(2) No person shall cause or permit any livestock or produce of which he is the owner to be driven, conveyed or transported by any other person without furnishing him with a removal permit which he is required to have in terms of subsection (1).

(3) A registrar or any officer may demand from any person who is required in terms of subsection (1) to have in his or her possession a removal permit, an inspection of such permit, and upon such demand the person having possession of such permit shall produce it for inspection to the person making the demand.

(4) A person who-

(a) contravenes any provision of this section;

(b) wilfully makes any false statement in a removal permit furnished under subsection (1); or

(c) falsely declares that he or she is the owner of stock or produce which is being driven, conveyed or transported by him or her,

commits an offence.

(5) For the purposes of this section "livestock owner" includes any person who obtained livestock or produce by virtue of an agreement of sale in terms of which such person does not become the owner of such stock or produce merely by virtue of the delivery to him of such stock or produce.

Tampering with
identification
brand.

21. A person who tampers with, alters, or assists in tampering with, alteration of any identification brand or ear mark on stock or produce so as to conceal or disguise the identification of such stock or produce commits an offence and shall be liable, on conviction, to imprisonment for a term of three years, to a fine of one million Shillings, or both.

The Prevention of Livestock and Produce Theft Bill, 2023

Prohibition of the delivery or sale of livestock or produce at night.

22. (1) A person shall not deliver or sell or otherwise trade in, or accept the delivery of any livestock between 6:30 p.m. and 6:00 a.m.

(2) A person who contravenes the provision of subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term of not more than twelve months or to a fine not more than eight hundred thousand or to both.

Illegal possession of livestock.

23. A person who has in his or her possession any livestock which may reasonably be suspected of being stolen or unlawfully obtained shall, if that person fails to prove to the satisfaction of the court that he or she came by the livestock lawfully, commits an offence and is liable on conviction to imprisonment for a term of not less than fifteen years.

Illegal possession of produce.

24. (1) A person who has in their possession produce which may reasonably be suspected of being stolen or unlawfully obtained commits an offence and is liable on conviction, to imprisonment for a term of not less than ten years.

(2) For the purposes of this section it shall be sufficient, in order to raise a reasonable suspicion that any produce is stolen or unlawfully obtained, if, when required by the person who arrests him to account for the possession of the produce, the person arrested fails to account therefor or gives an account which the person who arrests him or her reasonably finds insufficient.

Killing of livestock with intent to steal such livestock.

25. A person who kills any livestock with intent to steal the skin or carcass, or any part of the skin or carcass commits an offence and shall be liable on conviction, to imprisonment for a term of not less than ten years.

Failure to report commission of an

26. A person commits an offence if the person, being

The Prevention of Livestock and Produce Theft Bill, 2023

offence.

aware that an offence of stock theft has been, is in the process of being, or intends to be, committed, fails to report accordingly to a law enforcement officer.

Issuance of warrant for search, seizure and arrest.

27. (1) The court, upon being informed on oath that any livestock has been stolen, may by warrant under his or her hand authorise a law enforcement officer to –

- (a) seize or impound or cause to be seized or impounded such livestock;
- (b) to arrest and search any person found, or suspected of being, in possession or charge or control of livestock or produce; and
- (c) may seize the stock and produce and any documents relating to it.

(2) A warrant issued under subsection (1) shall not authorise the retention of livestock for longer than –

- (a) twenty - one days; or
- (b) if, before the expiry of twenty - one days, a person has been charged with the theft of such livestock or with receiving or retaining of such livestock or of being an accessory after the fact to the theft, receiving or retaining, fourteen days after the conclusion of the trial of that person or after the determination of any appeal against any order or sentence made or imposed as a result of the trial or against any order made on appeal, whichever is later.

(2) Any livestock and documents relating to the livestock seized under subsection (1), may, for the safe custody of such livestock and for the period of the seizure, be removed from the place of seizure to the nearest livestock centre.

Forfeiture of assets derived from livestock theft.

28. (1) Upon an application made by a law enforcement officer to the court, the court may make an order for the investigation by the law enforcement into the dealings and

assets of any person reasonably suspected of being engaged in the business of receiving or stealing livestock or produce, or dealing in stolen livestock or produce, or any other fraudulent activities in relation to livestock or produce.

(2) If, upon such investigation, it is found that any assets of such person have been derived from or are attributable to any of the activities referred to in subsection (1), the court shall make an order the forfeiture of such assets to the Government.

(3) For the purposes of subsections (1) and (2), the court may make an order-

- (a) authorizing the law enforcement officer to search for and seize any assets of the person concerned, pending the investigation;
- (b) requiring any person to make available to the law enforcement officer any document relevant to the location or identification of any assets of such person;
- (c) prohibiting any dealing in any assets of such person without an order of the court; or
- (d) requiring any bank or other financial institution to produce to the law enforcement officer, any information relevant to any assets of such person.

(4) A person who has any interest in any assets seized or forfeited under this section may apply to the court to have such assets released.

(5) A person who deals with any assets, which are subject to an order of the court under this section, contrary to the terms of such order commits an offence and is liable, on conviction to imprisonment for a term of five years or to a fine of one million shillings or to both.

Detention of
livestock.

29. (1) Any livestock or produce seized in relation to an offence committed under this Act shall be released to the owner within seventy-two hours from the time of seizure.

(2) Notwithstanding the provisions of subsection (1), where livestock or produce seized in relation to an offence committed under this Act and ownership of such livestock or produce is in dispute, or the owner is not known or cannot be found such livestock or produce shall be dealt with as may be directed by a court of competent jurisdiction.

PART V - MISCELLANEOUS PROVISIONS

Public awareness
and sensitization.

30. The county executive committee member shall, in consultation with the relevant security agencies –

- (a) develop and implement public education and awareness programmes on the prevention and eradication of livestock and produce theft;
- (b) promote the disarmament of members of livestock owners;
- (c) sensitise the members of livestock keeping communities on the negative socio-economic development and security consequences of livestock theft and the need to respect the property and livelihood of other persons;
- (d) develop programmes aimed at affording the concerned communities with additional means of livelihood; and
- (e) facilitate the formation of cross-border committees with a focus on preventing and addressing the consequences of livestock.

Dispute resolution.

31. The county executive committee member shall collaborate with the elders and gate keepers of communities in promoting the use of community dispute resolution mechanisms including mediation in the determination of any disputes regarding livestock theft, the identification of livestock or any other dispute arising under this Act.

Trial of offences.

32. (1) Offences under this Act or under any rules made

there under shall be tried by any subordinate court.

(2) A court of law shall have jurisdiction in any case brought before it under this Act against any person being at the time within its jurisdiction, whether the offence is alleged to have been committed within such area or not, or whether the person accused of the offence is in the accused person's usual place of abode or residence within that area or not.

General penalty.

33. If a person contravenes any provisions of this Act where no penalty is provided for, that person shall, on conviction and notwithstanding the provisions of any other written law, be liable, in the case of a misdemeanour to a fine of not less than five hundred years or to imprisonment for a term not exceeding two years or to both, and in the case of a felony to a fine of not less than one million or imprisonment for a term of not less than five years or to both.

Legislation by county government.

34. Each county government shall, with respect to implementation of the provisions of this Act, enact county specific legislation or put in place such administrative measures and policies for better carrying into effect the provision of this Act within the respective county.

Regulations.

35. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations —

(a) for the registration and identification of livestock;

(b) for the removal or conveyance of livestock or produce under this Act;

The Prevention of Livestock and Produce Theft Bill, 2023

- (c) for the management of livestock centres under this Act;
- (d) the conduct of sensitization programmes and the publication and dissemination of information under this Act; and
- (e) for charges and fees to be paid to the Registrar under this Act.

(3) For the purposes of Article 94(6) of the Constitution –

- (a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

Cap. 2.
No. 23 of 2013.

- Amendment to Cap. 63. **36.** The Penal Code is amended by repealing section 278.
- Repeal of Cap. 357. **37.** The Branding of Stock Act is repealed.
- Repeal of Cap. 355. **38.** The Stock and Produce Theft Act is repealed.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principle object of the Bill is to provide a framework for the establishment of mechanisms for preventing, combating and eventually eradicating livestock and produce theft.

Livestock theft is a problem that has continued to persist over time and has often lead to the loss of life and destruction of property and therefore the livelihoods of the affected communities. Despite the existence of the Stock and Produce Theft Act and provisions under the Penal Code prohibiting livestock and produce theft, the practice has continued unabated and it has therefore become necessary to address this issue comprehensively through a number of interventions including legislation.

The Bill also provides a framework for the branding of livestock and the requirement to obtain a removal permit when livestock is to be moved from one premises to another. This is geared towards facilitating tracing and recovery of livestock. The Bill also creates a number of offences relating to livestock and produce theft and imposes stiffer penalties on commission of the offences.

The Bill imposes an obligation on the National and county governments to put in place measures that not only protect livestock keeping communities from livestock theft but also enhance the socio-economic welfare of these communities through education and the promotion of alternative means of livelihoods. The Bill also confers on the Cabinet Secretary, powers to make Regulations and penalties for offences not provided for under the Act.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

Clause 35 of the Bill delegates legislative powers to the Cabinet Secretary, who is required to make regulations for the better carrying out of the purposes and provisions of this Act. The Bill does not, however, limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Prevention of Livestock and Produce Theft Bill, 2023


The theft of livestock and produce is a matter that has predominantly affected the pastoralist communities, particularly in counties found along the Kenyan border. The effect of livestock and produce theft has an impact on the socio-economic development of the respective counties. This is particularly due to the fact that the economy of these communities is principally driven by livestock keeping.

In turn, the county governments are compelled to divert their resources in order to address these issues hence, denying the county governments the resources that they need to address other issues affecting the county. This has a direct impact on manner in which the county governments function and the manner in which they perform their functions under the Constitution.

Paragraph 1 of Part 2 of the Fourth Schedule to the Constitution confers on county governments, the functions relating to animal husbandry. The Bill therefore concerns county governments in terms of Article 110(a) of the Constitution as it affects the functions and powers of County Governments set out in the Fourth Schedule.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the *6th* - *March* 2023.

SAMSON CHERARKEY,
Senator, Nandi County.

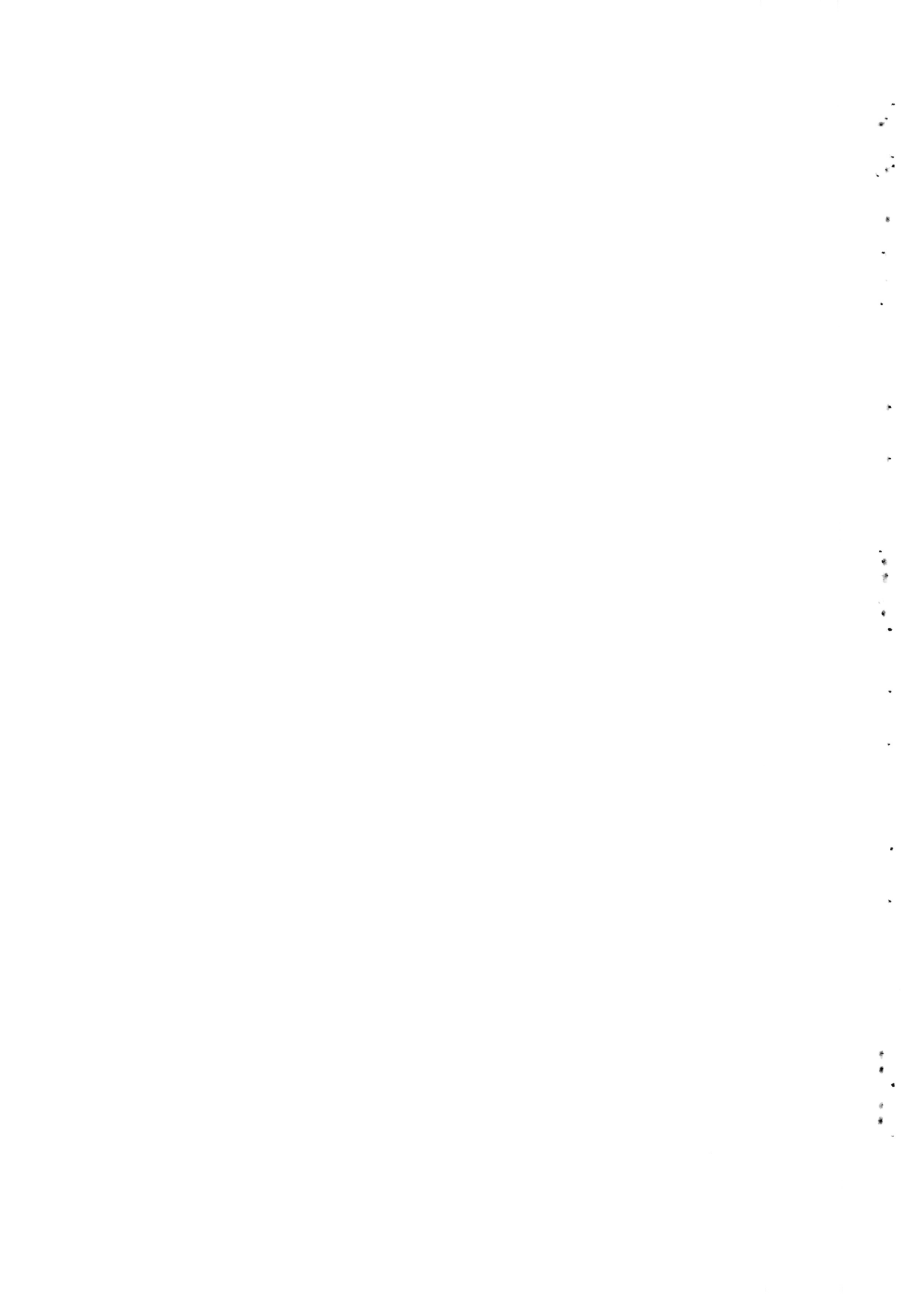


**REPORT OF THE STANDING COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES**

ON

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023
(SENATE BILLS NO. 12 OF 2023)

Annex III



REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

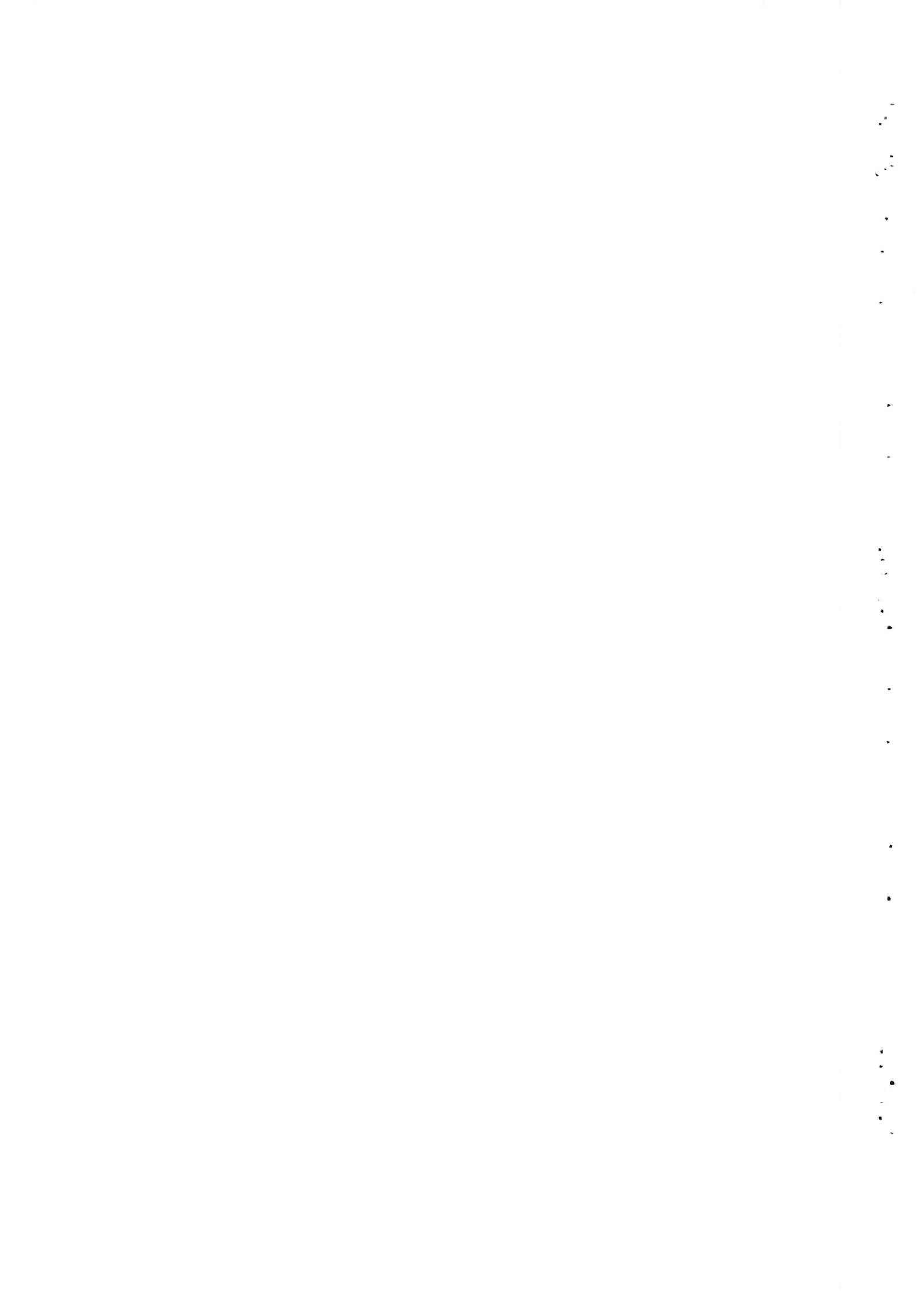
At a sitting of the Senate held on Wednesday, 19th April, 2023, the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) was introduced in the Senate by way of First Reading and thereafter stood committed to the Standing Committee on Agriculture, Livestock and Fisheries.

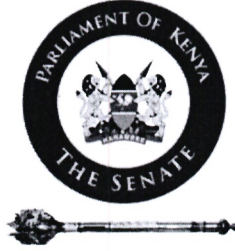
Pursuant to the provisions of Article 118 of the Constitution and standing order 145(5) of the Senate Standing Orders, the Standing Committee now invites interested members of the public to submit any representations that they may have on the Bill.

The representations may be made by way of written memoranda to the Clerk of the Senate, P.O. Box. 41842-00100, Nairobi; hand-delivered to the Office of the Clerk Senate, Main Parliament Buildings, Nairobi or emailed to clerk.senate@parliament.go.ke and copied to agriculturelfcommittee.senate@parliament.go.ke to be received **on or before Tuesday, 3rd May 2023.**

The Bill may be accessed on the Parliament Website at <http://www.parliament.go.ke/the-senate/house-business/bills>.

**J.M. NYEGENYE, CBS,
CLERK OF THE SENATE.**



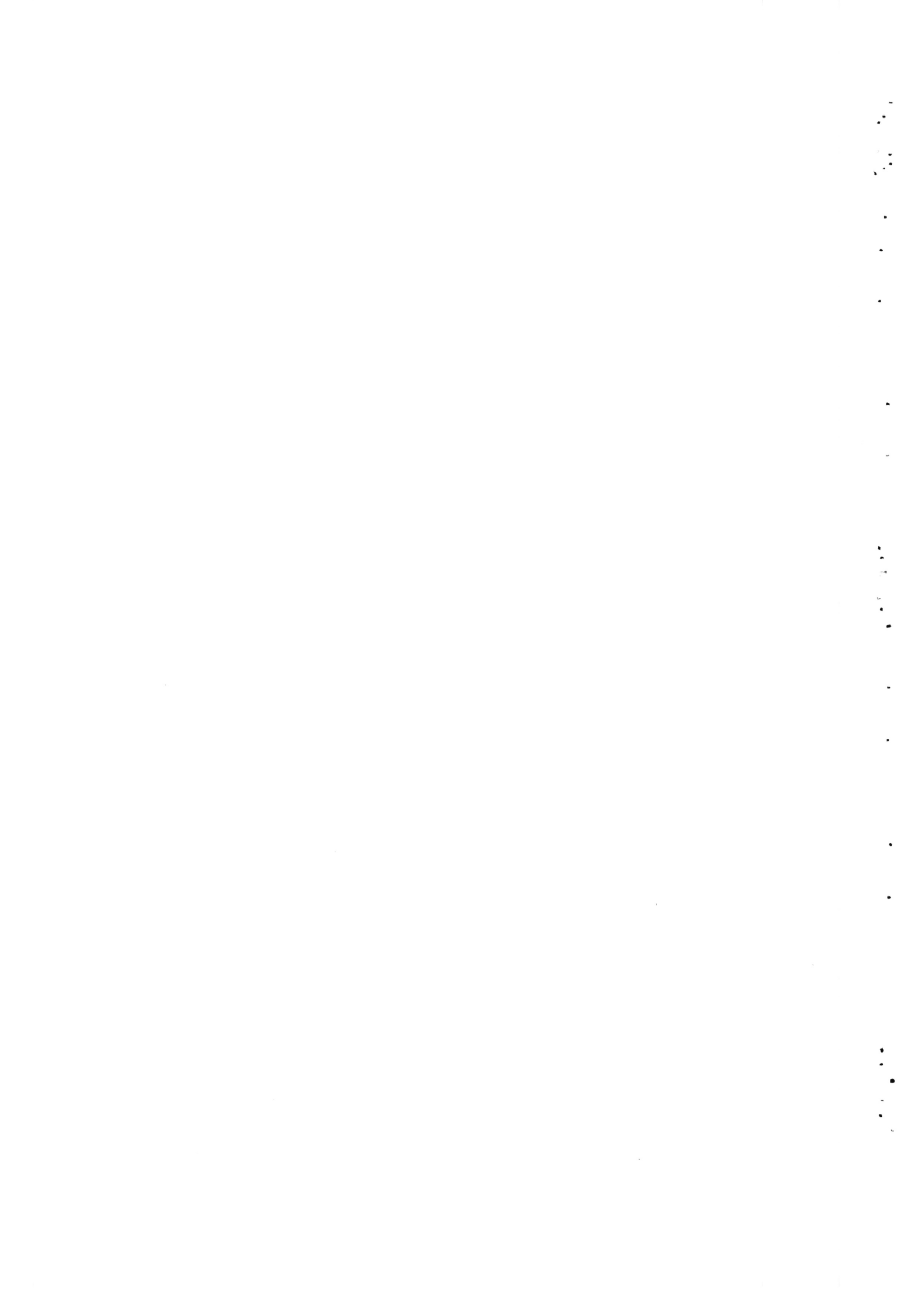


**REPORT OF THE STANDING COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES**

ON

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023
(SENATE BILLS NO. 12 OF 2023)

Annex IV



REPUBLIC OF KENYA



13TH PARLIAMENT | SECOND SESSION

DIRECTORATE OF SOCIO - ECONOMIC COMMITTEES

STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES

PAPER NO. 34 – MATRIX ON THE SUBMISSIONS ON
PREVENTION OF LIVESTOCK AND PRODUCE THEFT
(SENATE BILLS NO. 12 OF 2023)

Clerk's Chambers,
The Senate,
First Floor, Parliament Buildings,
NAIROBI.

INTRODUCTION

1. Standing order 145 (5) of the Senate Standing Orders provides that a Bill to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the Senate.
2. The Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023) was read a First Time in the Senate on Wednesday, 19th April, 2023.
3. Pursuant to the provisions of Article 118 and standing order 145 (5) of the Senate Standing Orders, the Committee invited submissions from the Public.
4. The Committee published an advertisement in the Daily Nation and Standard newspapers on Tuesday, 21st April, 2023 inviting members of the public to submit written memoranda to the Committee on the Bill. Additionally, the Committee sent invitations to key stakeholders inviting them to submit their comments on the Bill.
5. Written Submissions were received from the Council of Governors on 23rd May, 2023.
6. In total, the Committee received written submissions from one (1) stakeholder, Council of Governors.
7. Consequently, the Committee Secretariat prepared a matrix on the Bill to be presented to the members to either agree or disagree with the submissions/amendments.

RESOLUTION SOUGHT

1. **The Committee is requested to note the contents of this Paper.**

**THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES
STAKEHOLDER VIEWS ON THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT
BILL, 2023
(SENATE BILLS NO. 12 OF 2023)**

NO	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE OBSERVATIONS AND RECOMMENDATION
1.	2. Interpretation	The Council of County Governors (COG)	Define "Inspector" to mean any person designated as livestock inspector by the respective County Executive Committee Member under section 15 of this Act.	To provide for the definition of inspector which has been used in the Bill.	
2.	9. Cancellation of a registered brand	COG	Insert a new provision on an appeal to the Governor within thirty days by a person aggrieved by the decision of the county executive committee in matters of registration, transfer or cancellation of a registered brand.	To provide for an appeal mechanism for the decisions of the county executive committee member	

NO	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE OBSERVATIONS AND RECOMMENDATION
3.	clause 11(1) provides that the CS may make regulations on the use of permanent identification devices.	COG	Proposes that this role should be undertaken in <u>consultation with the county governments.</u>	There is need for consultation with the County Governments since this is a devolved function.	
4.	35. Regulations	COG	Proposes <u>that county governments should be consulted in making regulations</u> under this Act.	There is need for consultation with the County Governments since this is a devolved function.	

DIRECTORATE OF LEGAL SERVICES- SENATE.

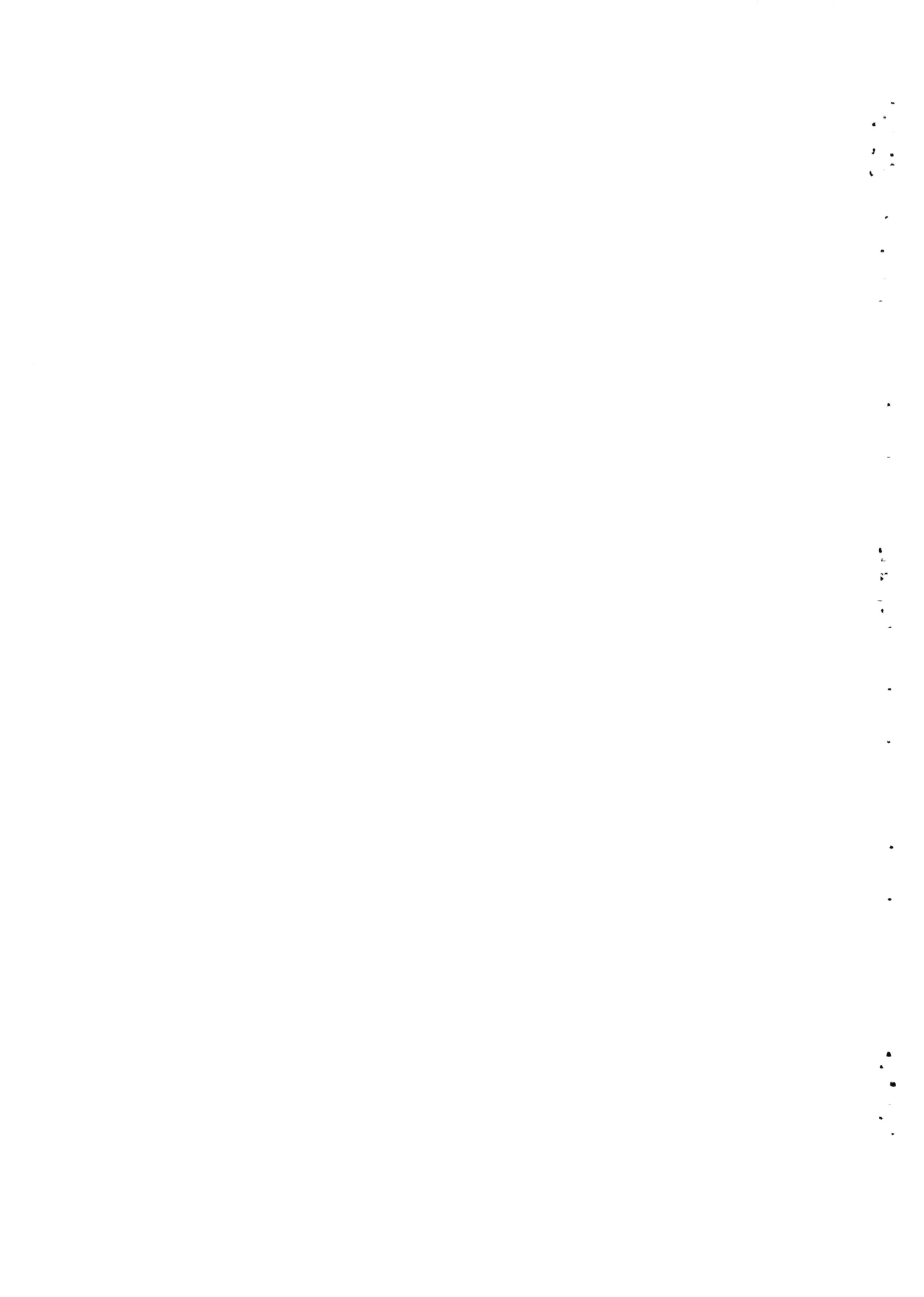


**REPORT OF THE STANDING COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES**

ON

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023
(SENATE BILLS NO. 12 OF 2023)

Annex V





COUNCIL OF GOVERNORS

Westlands Delta House 2nd Floor, Waiyaki Way.
P.O. BOX 40401 -00100,
Nairobi.

Tel : (020) 2403314/2403313
+254 729 777 281
E-mail: info@cog.go.ke

Our Ref: COG/6/48 Vol.56 (21)

18th May, 2023

Mr. Jeremiah Nyegenye, CBS
The Clerk of the Senate
Parliament Buildings
NAIROBI

Dear Mr. Nyegenye

LETTER FORWARDING LEGISLATIVE MEMORANDUM ON THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023 (SENATE BILL NO. 12 OF 2023)

Reference is made to your letter referenced SEN/DSEC/SCA/CORR/12/04/2023/40 requesting for submissions on the referenced Bill.

Having reviewed the Bill in its entirety, the Council wishes forward for your consideration the legislative memoranda attached herewith on the **Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bill No. 12 Of 2023)** for better implementation by the County Governments.

Thank you for your continued support.

Yours sincerely,

Mary Mwiti
Chief Executive Officer

Copy to: **All Excellency Governors**

 All CECMs responsible for Agriculture

 All County Attorneys





COUNCIL OF GOVERNORS

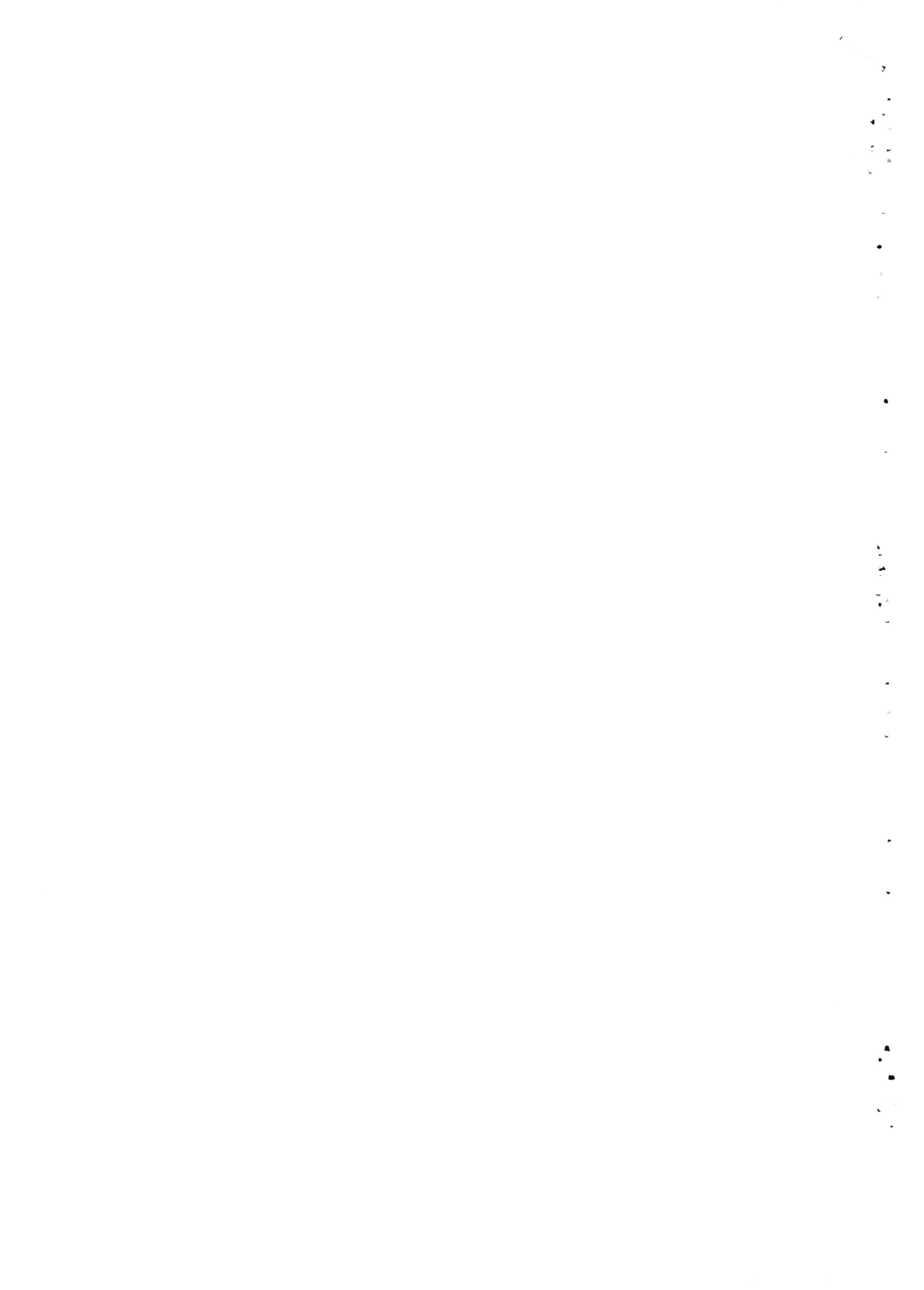
**LEGISLATIVE MEMORANDUM ON THE PREVENTION OF LIVESTOCK AND
PRODUCE THEFT BILL, 2023 (SENATE BILL NO. 12 OF 2023)**

TO

**THE SENATE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES**

FROM

**THE COUNCIL OF GOVERNORS
AGRICULTURE, LIVESTOCK AND COOPERATIVES COMMITTEE**



Introduction

THE COUNCIL OF GOVERNORS,

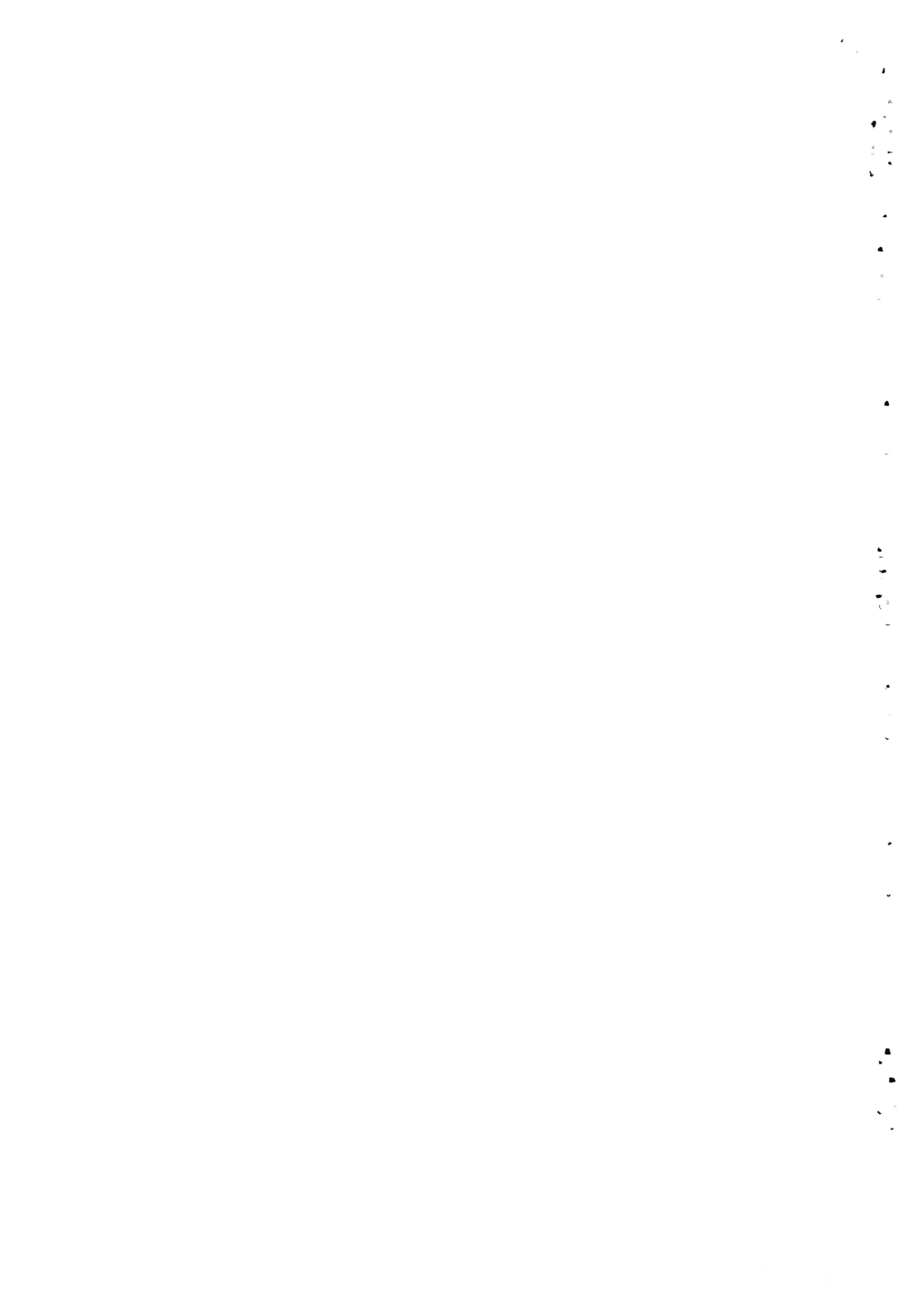
In recognition of the fact that sovereign power of the state is exercised at two levels of government, that is, the National Government and the County Governments, whose distinctness is recognized by Article 6 (2);

In further recognition of the need to ensure that all legislation are cognizant of the fact that agriculture is a fully devolved function under the Part 2 of the Fourth Schedule to the Constitution; and

Aware of the need for coordinated action and approach in the development and transformation of the livestock sector in the country which forms the basis of the Arid and Semi-Arid (ASALs) Counties economies;

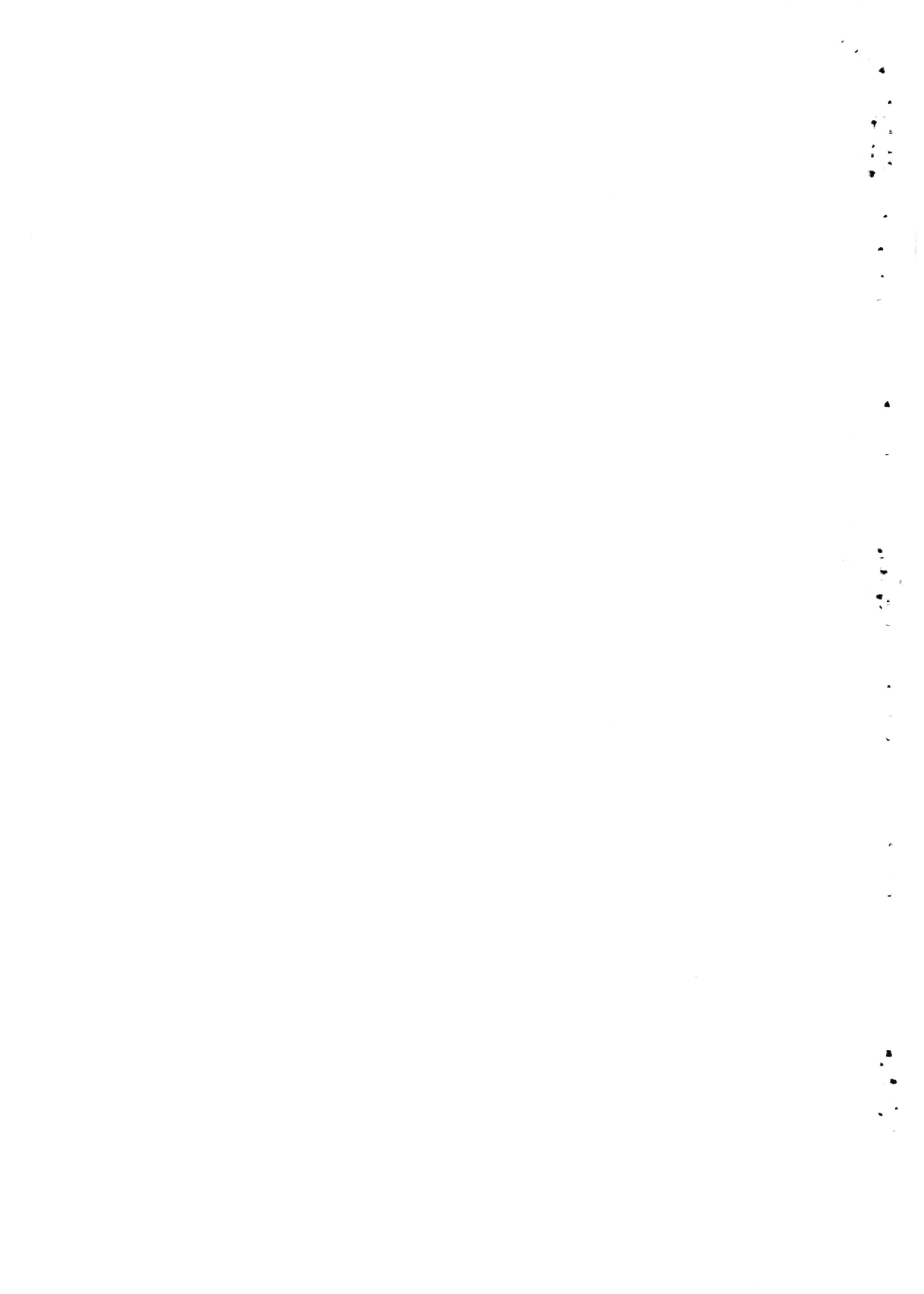
Having reviewed the **Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bill No. 12 of 2023)** in its entirety, the Council of Governors supports the Bill and recommends the following amendments for better implementation of the proposed Act by the County Governments:

CLAUSE	PROVISION OF THE BILL	PROPOSED AMENDMENT	JUSTIFICATION
Clause 2. Interpretation		Introduce the following new definition "Inspector" means any person designated as livestock inspector by the respective County Executive Committee Member under section 15 of this Act.	To provide for the definition and subsequently the role of the County Director in charge of Livestock in the Act.
9. Cancellation of a registered brand	9. (1) The county executive committee member may cancel a registered brand if -	Amend by introducing a new clause 9(3) immediately after clause 9(2) to read as follows: <u>9(3). Any person aggrieved by the decision of the County Executive Committee Member under sections 6, 7, and 9 shall appeal to the County Governor within thirty days from the date of the decision.</u>	To provide for an appeal mechanism for the decisions of the County Executive Committee Member



11. Use of a permanent identification device.	11. (1) The Cabinet Secretary may make regulations on the use of permanent identification devices.	Amend to read as follows: 11. (1) The Cabinet Secretary in <u>consultation with the County Governments</u> , may make regulations on the use of permanent identification devices.	To provide for consultation with the County Governments on a devolved function.
35. Regulations	35. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.	Amend to read as follows: 35. (1) The Cabinet Secretary <u>in consultation with the County Governments</u> , may make regulations generally for the better carrying out of the provisions of this Act.	To provide for consultation with the County Governments on a devolved function.

Note: In the Bill, the term “County Executive Committee” is sometimes used to refer to “County Executive Committee Member”. Amend as appropriate



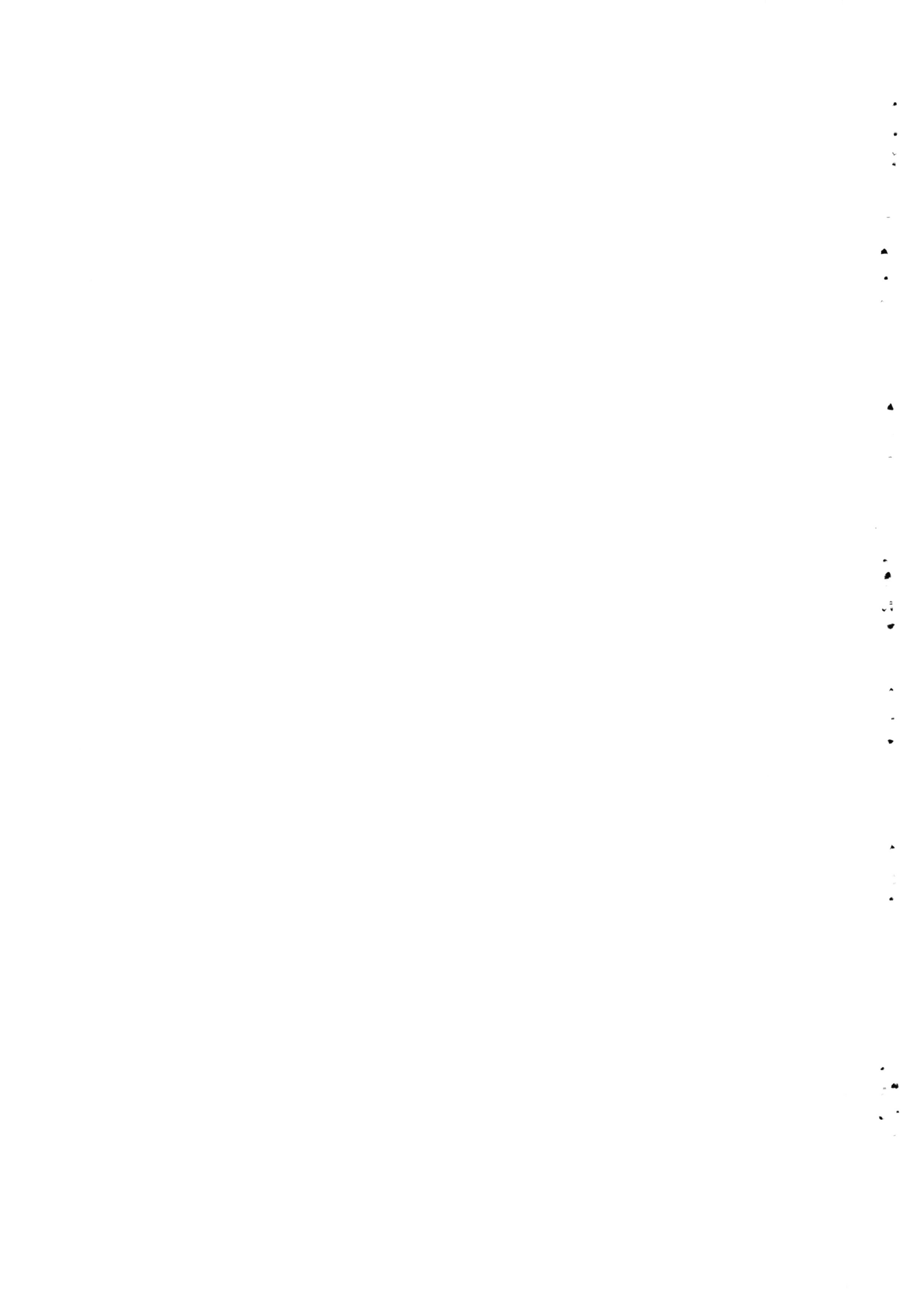


**REPORT OF THE STANDING COMMITTEE ON AGRICULTURE,
LIVESTOCK AND FISHERIES**

ON

THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, 2023

Annex VI



21st June, 2023

The Clerk of the Senate,
Parliament Buildings,

NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE PREVENTION OF LIVESTOCK AND PRODUCE THEFT BILL, (SENATE BILLS NO. 12 OF 2023).

NOTICE is given that Sen. James Kamau Murango, Chairperson, Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Prevention of Livestock and Produce Theft Bill, 2023 (Senate Bills No. 12 of 2023), at the Committee Stage—

CLAUSE 11

THAT clause 11 of the Bill be amended in subclause (1) by inserting the words “, in consultation with the council of county governors,” immediately after the words “The Cabinet Secretary”.

CLAUSE 15

THAT clause 15 of the Bill be amended in subclause (2) by deleting paragraph (b) and substituting therefor the following new paragraph-

(b) collaborate with the relevant investigative agencies in the recovery of stolen livestock;

CLAUSE 33

THAT clause 33 of the Bill be amended by deleting the word “years” appearing immediately after the words “than five hundred” and substituting therefor the words “thousand shillings”

CLAUSE 35

THAT clause 35 of the Bill be amended in subclause (1) by inserting the words “, in consultation with the council of governors,” immediately after the words “The Cabinet Secretary”.

NEW CLAUSE 9A

THAT the Bill be amended by inserting the following new clause immediately after clause (9)—

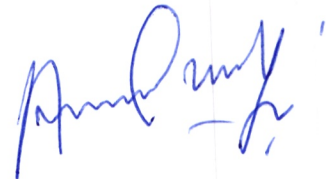
- Appeals. 9A. (1) A person who is aggrieved by the decision of the county executive committee member with respect to registration, transfer or cancelation of a brand, may appeal to the High Court.
- (2) An appeal under this section shall be lodged within thirty days from the date on which the appellant first received the notice of the decision.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following definition immediately after the definition of “identifier” —

“Inspector” means the person designated as an inspector under section 15;

Dated... 23/6/20232023.



for Sen. James Kamau Murango,
Chairperson

Committee on Agriculture, Livestock and Fisheries.