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REVISED REGULATORY IMPACT ASSESSMENT (RIA) REPORT
CROPS (FIBRE CROPS AND CROP FIBRES) REGULATIONS, 2025

FOR

AGRICULTURE AND FOOD AUTHORITY (AFA)

APRIL 2025

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LIST OF ABBREVIATIONS

AD	-	Anaerobic Digestion
ABS	-	Access and Benefit-sharing
AFA	-	Agriculture and Food Authority
AU	-	African Union
BCGA	-	British Cotton Growing Association
AGOA	-	African Growth and Opportunity Act
ASALs	-	Arid and Semi-Arid Lands
ASTGS	-	Agricultural Sector Transformation and Growth Strategy
BETA	-	Bottom-up Economic Transformation Agenda
BCR	-	Benefit Cost Ratio
CAGR	-	Compound Annual Growth Rate
CBO	-	Community-Based Organization
CECM	-	County Executive Committee Member
CIDP	-	County Integrated Development Plan
CIF	-	Cost, Insurance and Freight
CODA	-	Cotton Development Authority
COMESA	-	Common Market for Eastern and Southern Africa
CTA	-	Cotton, Textile and Apparel
CBA	-	Cost Benefit Analysis
COK	-	Constitution of Kenya
EAC	-	East Africa Community
EPZ	-	Export Processing Zone
ERS – WEC	-	Economic Recovery Strategy for Wealth and Employment Creation
FAO	-	Food and Agricultural Organization
FOB	-	Free On Board
GAP	-	Good Agricultural Practices
GDP	-	Gross Domestic Product

GOK	-	Government of Kenya
GHG	-	Greenhouse Gases
JASSCCOM	-	Joint Agriculture Sector Steering and Coordination Committee
KALRO	-	Kenya Agricultural and Livestock Research Organization
KCSAS	-	Kenya Climate-Smart Agriculture Strategy
KEBS	-	Kenya Bureau of Standards
KEPHIS	-	Kenya Plant Health Inspectorate Service
KIPRA	-	Kenya Institute of Public Policy Research and Analysis
KIRDI:	-	Kenya Industrial Research and Development Institute
KNBS	-	Kenya National Bureau of Statistics
MEL	-	Monitoring, Evaluation and Learning
MOALD	-	Ministry of Agriculture and Livestock Development
MSME	-	Micro, Small and Medium Enterprise
MT	-	Metric Ton
NEMA	-	National Environment Management Authority
NSC	-	National Steering Committee
OECD	-	Organization for Economic Cooperation and Development
PCPB	-	Pest Control Products Board
RIA	-	Regulatory Impact Assessment
RIS	-	Regulatory Impact Statement
SSA	-	Sub Saharan Africa
SWAG PLS	-	Sector Agriculture Working Group on Policy, Legislation and Standards
TBK	-	Tea Board of Kenya
UN	-	United Nations
WTO	-	World Trade Organization

ACKNOWLEDGEMENTS

This report was prepared by Munyao, Muthama, and Kashindi Advocates (the Consultant) for the Agriculture and Food Authority (AFA). The Authority played a critical role in developing the draft Crops (Fibre Crops and Crop Fibres) Regulations, 2025 and in preparing this report.

The Consultant acknowledges the invaluable contribution of the Director General of the Authority, Dr. Bruno Linyiru, OGW, the Acting Director, Legal Services and Company Secretary, Ms. Emily Karanja together with Ms. Wanjiku Muriuki, the Legal Officer, and the technical team from the Authority's Fibre Crops Directorate (FCD) led by the Director, Ms. Grace Kyallo and the Deputy Director, Regulations and Compliance, Mr. John Adhola for their support during the Regulatory Impact Assessment of the draft Regulations and their comments on the draft reports.

The Consultant immensely appreciates every individual who participated in and/or contributed to the development of the draft Crops (Fibre Crops and Crop Fibres) Regulations, 2025, and the Regulatory Impact Statement by providing comments, directions, guidance, or any other support that was needed during the process.

The Consultant appreciates the technical team at Munyao Muthama and Kashindi Advocates who undertook the project led by Dr. Seth Wekesa (Team Leader), Mr. George Kashindi, Mr. George Nyamu, Ms. Winnie Songok, Ms. Faith Wangong'u, Ms. Mercy Kioko, Ms. Koko Akumu, Mr. Benson Njuru, Ms. Aurelia Jebiwott and Ms. Stellah Nekesa. Other members of the firm not named here provided critical support to the project behind the scenes.

1.0 INTRODUCTION AND BACKGROUND

1.1 Background Information

Agriculture and Food Authority (AFA) is a government agency established under the Agriculture and Food Authority Act of 2013. The Fibre Crops Directorate of the AFA has the overall mandate of the development of fibre crops industry in the country. Working within the AFA, the Fibre Crops Directorate plays a crucial role in promoting the development of the cotton and sisal value chains in Kenya and ensuring they remain a vital contributor to the country's economy. The Directorate regulates and implements policies and strategies to enhance the production, processing, and marketing of cotton and sisal. The Directorate works closely with other government agencies, sisal factories, ginneries, textile cloth mills, farmers, and other stakeholders to ensure Kenya's sisal and cotton industries operate efficiently and sustainably. (AFA, 2025)

Fibre crops are crops grown specifically for extraction of their fibrous material. The scheduled fibre crops are sisal (*Agave sisalana*), cotton (*Gossypium spp*), jute (*chorchorus spp*), flax (*linum spp*), kenaf (*hibiscus spp*). There are other scheduled crops whose parts can be used to produce fibres such as banana, pineapple, rice and coconut. The primary fibre crops cultivated in Kenya and officially recognized as "fibre crops" under Kenyan regulations are cotton and sisal. Depending on fibre quality, these crops contribute significantly to various activities including textiles, ropes, carpets, and industrial uses. Crop fibres on the other hand are fibres produced through primary processing of fibre crop produce or part of other scheduled crops.

Fibre crops have played a significant role in Kenya's agricultural sector, dating back to the pre-colonial and colonial periods. These crops, which are primarily grown for their fibres used in textile, rope-making, and industrial applications, have evolved over the years in response to economic, technological, and environmental factors. Before colonial rule, indigenous communities in Kenya used plant fibres from sisal, baobab, and wild cotton to make ropes, mats, and traditional clothing. Commercial fibre crops were introduced during the early colonial period when the British sought to establish cash crop farming. Sisal (*Agave sisalana*) was one of the first fibre crops introduced in the early 1900s, particularly in the Coastal and Rift Valley regions. Large-scale sisal plantations were established in regions like Taita Taveta, Kilifi, and parts of Rift Valley. The British Government introduced and encouraged cotton cultivation, supporting the industry by establishing ginneries to process cotton fibre for export. The colonial government supported fibre crop production through subsidies and extension services to European settlers but limited African participation in large-scale fibre farming.

Following Kenya's independence in 1963, the government encouraged African participation in fibre crop production through land reforms and cooperatives. It established the Cotton and Sisal Boards to promote cotton and sisal farming. The Boards, however, faced challenges such as mismanagement and competition from synthetic fibres, which affected their growth.

Sisal production peaked in the 1970s, ranking Kenya among the world's leading sisal producers. It, however, declined due to labour issues, mechanisation challenges, and falling global demand.

On the other hand, the cotton industry's decline was due to mismanagement, poor pricing, and competition from imports, which led to reduced production. Despite the setbacks highlighted, both crops remain important to the country's economic and industrial development. There have been deliberate efforts recently to revamp these two value chains. The development of both crops is discussed below:

Sisal Industry:

The sisal growing and processing industry in Kenya dates to 1914, when the first sisal plantation was established in Thika. The industry grew rapidly in the first 50 years, with increased acreage and quantity of sisal exported. This growth led to the establishment of a spinning factory in Juja and a sisal research station in Thika. However, the invention of cheaper synthetic fibres in the 1940s can be marked as a major drawback for world sisal production since it reduced sisal demand. The industry enjoyed some government protection, mainly in the 1960s and 1970s. However, the government subsidies were withdrawn in the 1980s, impacting the Sisal industry. This decline did not affect Kenya alone but other major sisal producing countries such as Tanzania. It was attributed to decreasing fibre prices and poor crop husbandry. However, the introduction of new applications for sisal fibres and pushing for eco-friendly fibres has reversed the trend.

Sisal in Kenya is primarily grown in arid and semi-arid regions, including Taita Taveta, Kilifi, Kwale, Makueni, Nakuru, Homabay, Migori, Siaya, Machakos and Kitui and Baringo Counties. Sisal is one of the fibres that have recently recorded a rapid demand increase. This can be attributed to an increasing awareness of the need for eco-friendly materials. The growing demand has improved commodity prices, making sisal production profitable. Kenya is among the largest producers of sisal. However, 95% of the sisal grown in Kenya is exported as raw fibre, a major concern that needs urgent attention. Vision 2030 emphasises the value addition of Kenyan agricultural products. This implies that agricultural products like sisal should be processed and exported as highly valued products. The value addition of Kenyan sisal can be enhanced through research on the fibre crop. Fibre characterisation will equip scientists and investors with much-needed information about the nature and potential of the Kenyan sisal. The results of recent research work show that Kenyan sisal production and yield have been declining in the last four decades. This trend is similar in other sisal-producing nations, except Brazil, whose production has been rising and China, whose yield has been rising; hence, there is a need for deliberate interventions to reverse this trend and take advantage of the growing demand in the international market. (Phologolo et al, 2012)

Sisal has a promising future not only because of the new uses of this fibre crop but also because of increased public awareness that natural fibres are environmentally friendly. The growth of sisal for use in non-traditional markets indicates that sisal is becoming increasingly recognized as a valuable and diverse resource material. There may well be other potentially valuable by-products to be found in the fleshy waste discarded by sisal decorticators, apart from cattle feed and biogas. World production of sisal is estimated at around 300, 000 tonnes, valued at \$75 million. The major

producers are Brazil (120, 000 tonnes), Tanzania (30, 000) and Kenya (25,000). Brazil exports around 100, 000 tonnes of raw fibre and manufactured goods, particularly rope to the USA. Kenya exports more than 20,000 tonnes while Tanzania exports more than 28,000 tonnes. China is also a major producer and consumer (FAO, 2025) (Wilhelm Calsen 2023).

Cotton Industry

Conversely, the cotton industry began in Kenya through the British Cotton Growing Association (BCGA) in 1906. In line with the British Colonial Policy, the locals were encouraged to grow cotton as part of the broader economic strategy to supply cotton lint to the British textile industry. African farmers were given seeds and taught how to plant, look after and gather the crop. They were guaranteed a minimum price. Ginning factories were built in Malindi, Kilindini, and Kisumu, and experimental farms were established in Malindi, Voi, Mombasa, Kibos, and Kisumu. Cotton began to thrive in Kenya in areas near Lake Victoria and became a valuable cash crop which sustained many families in the region. Production reached a peak in 1985, when Kenya produced about 100,000 bales annually from cotton grown by local farmers, compared to 400,000 bales in Uganda and 700,000 in Tanzania. By 2014, however, Kenya had produced only 25,000 bales, and the industry is almost defunct.

During the cotton boom in the late 1970s and 1980s, the government had supported the industry through the Cotton Board of Kenya, which had an organized marketing system with farmers being paid promptly. The Board invested heavily in factories such as Raymonds and Rift Valley Textiles (Rivatex) in Eldoret and Kicomi. The textile market was, however, liberalised in 1991, and the Cotton Board became ineffective. Second-hand clothes were imported, posing a challenge to local clothes. Gradually, firms closed, and cotton ginning factories laid idle. Raw textiles were purchased from Taiwan and Singapore instead. Sadly, Kenya's great potential for a cotton industry is untapped, hence the need to urgently revamp this once important industrial fibre crop. (Nicholls, 2017) In recent years, various initiatives to revamp the production of fibre crops have been put in place and are expected to reverse the decline of these once-important cash and export crops.

Efforts to revive the Cotton Textile and Apparel (CTA) industry began in early 2000 when the government reintroduced support programs. The Cotton Development Authority (CODA) was established in 2006 to revamp the industry. Subsequently, in 2008, the Kenya Vision 2030 included cotton as one of its strategic crops under the Economic Pillar. Under the fourth Medium Term Plan (MTP IV) that guides Kenya's development between 2023 and 2027, the CTA value chain has been prioritized under the finance and production industries of the plan.

Further, the African Growth and Opportunity Act (AGOA) enabled Kenya to revive the industry through the duty-free export of apparel to the US market. Kenya is currently the largest exporter under AGOA (GoK; 2024)

Cotton is grown in Arid and Semi-Arid Lands (ASALs) in Kenya by smallholder farmers in 21 counties (Elgeyo Marakwet, Baringo, Kitui, Machakos, Makueni, Embu, Meru, Kirinyaga, Tana

River, Taita Taveta, Kwale, Kilifi, Lamu, Siaya, Kisumu, Migori, Homa Bay, Busia, Bungoma, Isiolo, Tharaka Nithi). 30,000 smallholder farmers are producing an average of 6,000 metric tonnes of seed cotton against a domestic demand of 22,200 tonnes. The national average yield under rain-fed production stands at 572kg/ha of seed cotton against a yield rate of 1500kg/ha. Irrigated cotton production is 500 acres (1250 Hectares) compared to a potential of 35000 hectares. The average yield under irrigation is 1500 kg/Ha against a potential of 3500 Kg/Ha. The area under cotton production decreased from 20,717 hectares recorded in 2017 to 13,432 hectares recorded in 2018, a 35 percent decline attributed to the effects of weather vagaries experienced in the country. (AFA, 2019)

The other scheduled fibre crops are kenaf, flax, and jute, which have yet to be exploited or commercialized, though great potential exists for their promotion and development. With the gazettment of jute as a scheduled crop, its commercialization is now targeted to bridge the national deficit being met through 100% importation. Though jute farming has not been introduced to farmers as a commercial crop, it is currently classified as an unutilized crop with high potential in industrial development. A sample of the jute cultivars was recently retrieved from the gene bank (June 2023), and its rejuvenation is ongoing. (AFA, 2025)

Fibre crops remain important for the country's economic development. They present significant opportunities for economic growth. With the right interventions and support, these fibre crops can play a key role in Kenya's industrial development, contributing to the country's economic transformation goals outlined in the Bottom-Up Economic Transformation Agenda (BETA). Under the agenda, the cotton-to-garment chain has been identified as a driver to grow the manufacturing sector from 9% to 15% of the GDP by 2022. (AFA, 2025)

1.2 Regulatory Impact Assessment Process

Regulatory Impact Assessment (RIA) is a systemic approach to critically assess the positive and negative effects of proposed or existing regulatory and non-regulatory alternatives. It is an evidence-based approach to policymaking. RIA requirements apply to proposals for new and amending regulations and policy proposals that may result in new or amended regulations (regulatory proposals). It is an instrument that authorizes the determination and consequences of introducing a new regulatory regime. The systematic use of RIA has been recognized as a key means to improve decision-making efficiency, transparency and accountability.

Over the last few decades, RIA has emerged as a key instrument to support evidence-based and coordinated policymaking. RIA typically encourages several "good governance" features and contributes to a better business-enabling environment. In the 1980s, RIA gained popularity and traction in the US and the UK in the second half of the 1990s. By 2015, all 34 Organization for Economic Cooperation and Development (OECD) members at the time reported having "some form of RIA" in place.

RIA is a flexible tool that helps governments make better regulatory and other policy decisions based on information and empirical analysis about the potential consequences of government

action. RIA aims to ensure that better policy options are chosen by establishing a systematic and consistent framework, including stakeholder consultation, for assessing the potential impacts of government action.

When embedded in the policy process, a systematic application of RIA trains decision-makers to ask and answer targeted questions at the beginning of the policy cycle about the need for and goals of regulation and the possible consequences of government action. The many methods used in RIA – including benefit-cost, cost-effectiveness, and least-cost tests, as well as partial tests such as administrative burden and small-business tests – give order to complex qualitative and quantitative information about the potential effects of regulatory measures.

The final products of this systematic process of analysis are self-contained documents called RIAs (or Regulatory Impact Statements, RISs). The RIAs deal with substantive policy issues, are read and utilised by decision-makers, and are generally available for public scrutiny and subject to evaluation, but increasingly so in parallel with the drafting phase, of an independent oversight authority. Although methodologies vary across countries, several key elements are common. RIA normally includes:

- i. Problem definition and justification for regulatory action;
- ii. Data on which the analysis is based;
- iii. Results of the consultation with affected parties and stakeholders;
- iv. Identification of several feasible policy options;
- v. Estimation and comparison of the different (qualitative and quantitative) impacts of each policy option; and
- vi. Selection of a preferred option accompanied by a prospective analysis of its implementation and, more recently, providing a basis for ex-post review.

There is no single RIA model. The institutional setup for RIA depends on legal, political, economic and social conditions. However, good practices have been identified internationally, and there are converging patterns in how RIA is institutionalised. The institutional framework for RIA often includes legal provisions which embed RIA in the policy formulation process and stipulate criteria about its scope of applicability. A governmental body is often tasked with overseeing the quality of RIA documents and the RIA process.

A Regulatory Impact Analysis (RIA) is a broad tool used in most developed countries and an increasing number of developing and transition countries to improve the understanding of regulation's economic and social welfare impacts. It is widely recognized as an important mechanism to improve the business environment and promote regulatory efficiency and effectiveness. RIA allows policymakers to assess trade-offs, consider new ways to regulate, and identify the most suitable alternatives to regulation. In essence, RIA systematically and consistently examines the positive and negative impacts of proposed government actions and communicates the information to decision-makers and other stakeholders.

RIA is an important factor in designing good-quality laws as it helps to provide valid arguments supporting a planned regulation. The process is designed to improve the quality of regulation by ensuring that the decision-maker is fully informed when making regulatory instruments. The RIA process is designed to encourage careful consideration, at an early stage, of the fundamental question of whether regulatory action is required or whether alternate or non-regulatory measures with lower costs for business and the community can achieve policy objectives. RIA may sometimes indicate that non-legislative measures are the best solution to a particular social and economic problem. Thus, RIA helps to avoid the production of redundant laws and reduces the bureaucratic burden on enterprises.

Kenyan courts have made decisions to underscore the importance of RIA in developing regulations. In *Kenya Association of Manufacturers & 2 others v Cabinet Secretary, Ministry of Environment and Natural Resources & 3 Others* [2017] eKLR, the court demonstrated that it is strictly incumbent on a regulation-making body to assess the impact of the proposed Regulations on the stakeholders and that failure to conduct it has the potential of rendering a statutory instrument null and void if challenged on that basis.

Accordingly, Kenyan courts have underscored the need to comply strictly with the Statutory Instruments Act. First, the courts have found that an RIA must begin with consulting stakeholders as that is the only sure way of determining the regulatory impact on the stakeholders, whether individual or juridical persons. Secondly, as was addressed in *British American Tobacco Ltd v Cabinet Secretary for the Ministry of Health & 4 others* [2015] eKLR, the mode of consultations is key, but this depends on the circumstances of each case, as was held in the case of *Republic v MOALF & Others Exparte Council of Governors and Harrison Munyi (as the Chairman of the New National Farmers' Association)* [2016] eKLR.

Regarding the process that the assessment ought to take, the court in *Okiya Omtatah Okiiti v Commissioner General, Kenya Revenue Authority & 2 others* [2017] eKLR posited the chronology of the procedure as follows: consultation of stakeholders; regulatory impact assessment; preparation of an explanatory memorandum; tabling of the statutory instrument in the relevant house; and consideration of the same by the Committee of Delegated legislation. This is in line with the requirements of the Statutory Instruments Act.

1.3 Objective of the Assignment

The general objective of the assignment is to conduct a regulatory impact assessment for the proposed Crops (Fibre Crops and Crop Fibres) Regulations, 2025 and prepare a regulatory impact statement for the same in accordance with sections 6, 7, 8 and 9 of the Statutory Instruments Act, CAP. 2A.

The consultant evaluated the effects of the proposed Crops (Fibre Crops and Crop Fibres) Regulations, 2025, both on the public and private sectors, to inform the choice of the most appropriate way to achieve the objectives of the proposed Regulations by evaluating the major feasible alternatives of intended regulatory action and other practical non-regulatory options.

The main objective of this exercise is to comply with the requirements of section 7 (1) of the Statutory Instruments Act, CAP. 2A, which requires that a regulatory impact statement is made, and the following objectives are met:

- i. Prepare a statement of the objectives of the proposed legislation and the reasons for them;
- ii. Prepare a statement explaining the effect of the proposed legislation, including in the case of a proposed legislation which is to amend an existing statutory instrument the effect on the operation of the existing statutory instrument;
- iii. Prepare a statement of other practicable means of achieving those objectives, including different regulatory as well as non-regulatory options;
- iv. Prepare an assessment of the costs and benefits of the proposed statutory rule and of any other practicable means of achieving the same objectives;
- v. Explain reasons why the other means are not appropriate;
- vi. Any other matters specified by the guidelines; and
- vii. Prepare a draft copy of the proposed statutory rule.

1.4 Project Deliverables

The assignment resulted in the following deliverables: -

- i. Inception report;
- ii. Regulatory Impact Statement for the Proposed Regulations that include but are not limited to economic, social and environmental impacts as well as administrative and compliance costs;
- iii. Draft Regulatory Impact Assessment report for the proposed Regulations;
- iv. Final Regulatory Impact Assessment report for the proposed Regulations;
- v. Explanatory Memoranda for the proposed Regulations;
- vi. Notices on the Regulatory Impact Statements for publication;
- vii. Certificate of compliance for the proposed Regulations; and
- viii. Presentation of draft regulatory impact statement and draft regulations to the national validation workshop for further comments.

1.5 Methodology and Approach

The approach to the assignment entailed an inception meeting, detailed desk review and synthesis of the draft Crops (Fibre Crops and Crop Fibres) Regulations, 2025 against the provisions of the Constitution of Kenya 2010, Crops Act Cap 318, and other relevant laws and regulations. The Consultant also reviewed relevant literature, including crops and agriculture policies, strategies and publications, Vision 2030, Fibre Crops and Crop Fibres value chain and economic analysis reports and other key policy documents for qualitative analysis, quantitative analysis, comparative analysis, trend analysis of data from these documents, trend analysis of judicial decisions on regulatory impact assessment and public participation to validate secondary data obtained from the documents. The Consultant validated stakeholders' engagement through public participation forums where views and comments were received from the key stakeholders and members of the

public. The Consultant presented the draft Regulatory Impact Statement and draft Regulations to a national validation workshop organized by the Ministry of Agriculture and Livestock Development (MoALD) to collect further comments from key stakeholders. The Consultant prepared and submitted a final report and accompanying documents to the Authority after incorporating useful comments from the workshop.

1.6 Objectives of the Regulations (Scope and Purpose of the Regulations)

The Purpose of the Crops (Fibre Crops and Crop Fibres) Regulations, 2025, is the development and promotion of production, processing, and marketing of fibre crops, fibre produce or fibre products and regulation of fibre crops and crop fibres industry.

2.0 ASSESSMENT OF THE NATURE AND EXTENT OF THE PROBLEM

2.1 The Nature of the Problem

The agricultural sector remains an integral part of Kenya's economy, contributing 21.8 percent of the Gross Domestic Product (GDP) in 2023, with fibre crops emerging as a key industry with immense unexploited potential to boost the growth of the industry. This growth is likely to lead to the achievement of Kenya's Vision 2030. Fibre crops such as sisal and cotton have the potential to reduce extreme poverty, food insecurity and unemployment due to their multiplier effects. This includes forward and backward linkages amongst the industry's players such as farmers, processors, traders, government institutions, development partners, transporters and input suppliers.

Despite their potential, fibre crops acreage and yields have fluctuated over recent decades, and the country has not fully exploited its potential in fibre production. Challenges such as a lack of proper coordination and regulation have hindered the industry's growth.

In Kenya, sisal is primarily grown by large plantations spread mainly in counties with arid and semi-arid climate/ climatic conditions for growth of cotton in the Coastal, Eastern, Nyanza and Rift Valley regions. Large-scale producers make up over 90 percent of all the sisal produced in the country while small-holder growers produce the rest. In 2023, the total area under sisal was 36,400 hectares, a decrease of 1.6 per cent from 37,000 hectares recorded in 2022. Similarly, sisal production has continued, decreasing to 25.77 Mtons (MT) in 2023 from 32.25 MT in 2022, representing a 25.14% reduction. Sisal exports during the year also reduced from 28,887 MT in 2022 to 22,358 MT in 2023, representing a 22.6 per cent reduction in sisal export volumes. (KNBS, 2024)

The sisal industry has faced several challenges which have negatively impacted its production and performance over the last several decades, including the following: -

- i. Weather changes, e.g., heavy rains, which lead to rotting stems and, hence, losses for farmers.
- ii. Lack of readily available planting material for upcoming smallholder growers.
- iii. The initial investment cost for establishing the crop is high, including farm equipment and processing machinery, in addition to protective gear during leaf cutting.
- iv. Competition from synthetic fibres, e.g., nylon and polyethene, reduces the market for sisal products.
- v. Soil exhaustion due to monoculture leads to low and poor-quality yields.
- vi. Scarcity of labour especially during the harvesting period. (KNBS, 2024)

Performance in the cotton industry has similarly been stagnant or on the decline. The BETA plan and the private sector have increased efforts to revitalize cotton production through planting seed support programs.

The cotton industry recorded impressive performance up to the early 1980s. However, the industry virtually collapsed by the early 1990s and recorded the lowest production performance by 1994. At the production peak in the late 1970s and early 1980s, Kenya's cotton farmers produced up to 13,000MT of cotton lint per year. In contrast, between 2013 and 2016, the total average production

had declined to approximately 4,760MT, with cultivation of about 25,000 hectares, and an annual lint production of 20,000 bales. Since market liberalization in 1991, the cotton-to-garment value chain in Kenya has lacked the structure and institutional dynamics required to compete globally or even with regional producers. It is far from realizing its real potential. (GoK, 2021)

In 2022/23, the farmers were supported with 28.8 tonnes of *Bacillus Thuringiensis* (BT) seeds from both the government and the private sector. In addition, 103.3 tonnes of conventional seeds were issued. The seeds were planted in an area of 14,734.1 hectares during the season.

A total of 3,900 tonnes of seed cotton was produced in 2023 in comparison to 3,800 tonnes in the previous season, an increase of 2.6 per cent. The average yield in 2023 was 129 Kg per hectare compared to 179 Kg per hectare in 2022. This was attributed to unfavorable weather conditions experienced during crop production. In addition, late planting due to late delivery of cotton seeds in some of the key cotton-growing counties contributed to a decline in productivity during the 2022/23 period. During the period, a total of 7,000 bales of lint were produced in 2023 compared to 6,800 bales in 2022, an increase of 2.9 per cent. (KNBS, 2024)

The following were the major challenges cited to have negatively affected cotton production and lowering performance, despite immense support provided to the industry by the government and the private sector.

- (a) Erratic weather conditions;
- (b) Poor agronomic practices;
- (c) High field pest losses;
- (d) Inadequate research;
- (e) Inadequate financing and investment in the value chains;
- (f) Inefficient value chains with aging technology;
- (g) Loss of quality due to poor handling of produce;
- (h) Instability in price offerings by the private sector and volatility of world prices;
- (i) Cheap imports - Influx of cheap raw fibre materials and finished products;
- (j) Weak organization of growers and grower institutions;
- (k) Limited access to supply of quality planting materials including BT seeds; and
- (l) Inadequate extension services and low prioritization of fibre crops in the County Integrated Development Plans (CIDPs) (KNBS, 2024; AFA, 2025)

Despite the dominance of cotton products in Kenya's exports, cotton is imported to meet Kenya's quantity and quality demands.

2.2 The Extent of the Problem

The cotton, textiles and apparel (CTA) industry is a significant industry, ranking as the second largest manufacturing industry after food processing, and classified as a core industry. The CTA manufacturing value chain comprises researchers, ginners, farmers, spinners, input suppliers, textile manufacturers and extension service providers, to name but a few. Approximately 40,000 farmers are involved in cotton farming, supporting around 200,000 households according to Kenya Investment Authority (2016). Cotton is primarily grown by about 30,000 to 45,000 smallholder farmers in arid and marginal regions, under rain-fed conditions on small land holdings of about

one hectare. Most of the country's cotton is cultivated in the Coast, Western and Eastern regions, while the rest is cultivated in the Central, Nyanza and Rift Valley regions. Kenya has an estimated 385,000 ha of land that is suitable for cotton – 350,000 rain-fed and 35,000 irrigated – with a production potential of more than 300,000 tons of cotton seed. Nevertheless, only a fraction of that land is under cotton cultivation. The current production of cotton lint in Kenya is approximately 7,000 tons versus a potential production of 200,000 tons of lint or 750,000 tons of seed cotton. Production has been volatile for the last few years and has not been sufficient to meet the domestic mill requirements. (KNBS, 2024)

The cotton industry is important to Kenya for several reasons. Kenya's Vision 2030 identifies cotton as the key industry with the potential to benefit 8 million people in the drier areas of the country that cover 87% of the country. The government set up the Cotton Development Authority (CODA) to coordinate the revitalization of the Cotton Industry. Previously, the industry had 52 operational textile and apparel mills employing 42,000 people. Currently, there are only three operational integrated textile factories in Kenya, namely Rivatex EA. Ltd, Thika Cloth Mills Limited and Supra Textiles Ltd. They operate at about 48% of the installed capacity. The mills use outdated technology and suffer from low-skilled labour and productivity. Kenya has a strong regional position under AGOA with a share of total SSA textile; its apparel exports to the US increased from 16% in 2004 to 37% in 2014. Apparel manufacturing in Kenya is the most attractive investment option for global investors of duty-free access to the USA and to the EU under EPA. It has well-developed export channels, infrastructure and linkages with large USA buyers, which can prove beneficial for new investors.

In 2015, Kenya's total apparel exports were valued at USD 380 million with expectations to grow at 5% reaching USD 400 million in 2016. AGOA gives most sub-Saharan Africa (SSA) firms duty free, quota free access to United States, offering a substantial competitive advantage over other textile-apparel exporting countries. Trade agreements are pivotal in the growth of the continent's textile-apparel industry. Kenya's textile and apparel industry has the potential to strengthen the country's progress into middle income status and as a source of gainful employment for its fast growing, young population. Kenya's annual demand for cotton lint was 111,000 tonnes of seed cotton, while the average annual production of seed cotton was 18,000 tonnes from 2005 to 2010 (FAOSTAT, 2012; CODA, 2008). The textile Industry meets the deficit through lint imports from Tanzania and Uganda. (Obukosia et al, 2022)

The apparel industry in Kenya has a three-tiered structure. Within the Export Processing Zones (EPZ), there are 21 large companies, while outside the EPZ, there are 170 medium and large companies and more than 70,000 micro and small ones. Raw materials and overheads are the main cost drivers of these firms. Kenya's Vision 2030 identifies the garment and textile industry as a driver of industrialization. Currently, the industry contributes 7 per cent of the country's export earnings. It employs about 30 percent of the labour force in the national manufacturing industry. The industry also supports the livelihoods of over 200,000 small-scale farmers by providing markets for cotton. (Italian Trade Agency, 2024)

The area under cotton cultivation increased by 41.5 per cent from 8,585 hectares in 2022 to 12,152 hectares in 2023. This area remains lower than the total area of 18,000 Ha in 2019, confirming

the declining performance of the crop. The increase was attributed to collaboration with the government to revitalize cotton, as a strategy to reduce importation of seed cake and lint, as envisioned in the government's Bottom-Up Economic Transformation Agenda (BETA) plan. In realizing the plan, the National Government, County Governments, ginneries, and textile mills have supported farmers with the provision of seeds during the planting seasons. (KNBS, 2024)

The trend of the industry's key indicators between 2019 and 2023 is shown in Table 1 below

Table 1: Area under cotton, seed cotton production, and yields, 2019-2023

Year	2019	2020	2021	2022	2023
Area (Ha)	18,000	9,837	10,640	8,585	12,152
Seed Cotton production (Tons)	3,015	3,390	1,300	3,762	3,864
Yield (Kg/Ha)	168	345	122	179	129

Source: AFA-Fibre Crops Directorate, 2024/KNBS, 2024

The production of lint has also continued to minimally fluctuate over the last 5 years. A total of 7,000 bales of lint were produced in 2023 compared to 6,800 bales in 2022, an increase of 2.9 per cent, but the average yield in 2023 was 129 Kg per hectare compared to 179 Kg per hectare in 2022, and still much lower than the average yield of 168kg per hectare in 2019.

Table 4.9: Lint Production and Value, 2019-2023

Source: Fibre Crops Directorate/KNBS, 2025

Year	2019	2020	2021	2022	2023
Bales of Lint cotton (185 Kg)	5,432	6,106	2,527	6,780	7,006
Average Price of Lint (Kshs/Kg)	190	180	190	230	328
Value of Lint (Kshs million)	191	203	82	283	310

Despite the slight improvement of cotton production recorded between year 2019 when a total of 5,432 bales of lint were produced to 7,006 bales produced in 2023, Kenya continues to heavily rely on cotton and cotton product imports. In 2023, various cotton products were imported from Uganda and Tanzania. These included cotton seed, cotton seed cake, crude cotton oil, and cotton lint. The main importers of cotton cake and seed meal were livestock manufacturers; the main importers of seed were oil processors while textile mills were the main importers of lint. The table below shows the breakdown of quantities (29,223 tonnes) imported in 2023 and estimated values for the imports (1.26 billion shillings)

Table 4.10: Cotton Products - Imports and Values, 2023

Commodity	Source		Total (Kg)	ImportsEstimated (Kshs)	Value
	Tanzania (Kg)	Uganda (Kg)			
Total	24,201,180	4,911,949	29,113,129	1,264,220,058	
Cotton Seeds	14,441,000	4,618,949	19,059,949	800,517,858	
Cotton Cake	8,792,180	293,000	9,085,180	363,407,200	
Crude Oil	836,500	--	836,500	83,650,000	
Cotton Lint	103,500	--	103,500	15,525,000	
Cotton Seed Meal	28,000	--	28,000	1,120,000	

-- data not available

Source: Fibre Crops Directorate, 2024/KNBS, 2024

The sisal industry also plays a significant role in Kenya's economy, primarily as a source of export revenue, employing thousands of people across large estates and smallholder farms, contributing significantly to the country's agricultural sector. This is producing a substantial amount of sisal fibre, making Kenya one of the world's top sisal producers; with most production concentrated on large estates that account for around 95% of the total output.

The sisal industry in Kenya provides several economic benefits, including:

- i. *Employment Creation*—Sisal farming and processing create thousands of jobs, especially in rural areas. Workers plant, harvest, process, and export sisal fibre.
- ii. *Foreign Exchange Earnings*- Kenya exports sisal fibre to countries like China, Saudi Arabia, and Nigeria. Sisal contributes to the country's GDP through foreign exchange earnings.
- iii. *Support for Small-Scale Farmers*- Increasing smallholder participation in Sisal farming improves rural incomes. Farmers can sell raw sisal leaves to processing plants for fibre extraction.
- iv. *Value Addition and Industrial Growth*- Sisal fibre is processed into ropes, mats, sacks, carpets, and furniture. Industries involved in sisal processing benefit from local raw materials, reducing reliance on imports.
- v. *Environmental Benefits (Indirect Economic Gains)*—Sisal is a drought-resistant crop that promotes farming in arid areas. It helps conserve the environment and soil and prevents erosion, benefiting agriculture.
- vi. *Infrastructure Development*- Large-scale sisal plantations invest in roads, schools, and healthcare benefiting their workers and the surrounding communities.
- vii. *Bio-energy and By-products*- Sisal waste is used to produce biogas, animal feed, and organic fertilizers, creating additional revenue streams.

Sisal remains a key agricultural export in Kenya, with potential for further growth through value addition and innovation (NIRAS International, 2025)

Kenya produces an average of 25,000 tonnes of sisal every year. Ten estates employing over 100,000 people account for 95% of Kenya's output, with over 10,000 small-scale producers (out growers for some of the estates and smallholders elsewhere) supplying the remaining 5%. Over 90% of Kenya's processed sisal is exported, with China being the largest market. Sisal remains one of Kenya's largest agricultural exports. Kenya competes with Tanzania as the world's second and third largest sisal exporters respectively. Kenya's sisal industry, in terms of value-addition, has grown on average by 5% per annum since 2005. Sisal farmers can sell raw sisal leaves to processing plants for fibre extraction, Payment to farmers is made based on decorticated sisal fibre.

The ten large sisal estates in Kenya generate significant quantities of bioenergy-rich effluent with good potential for anaerobic digestion (AD) to generate power and heat. These residues could generate as much as 20 MW of electricity. Environmental legislation on the treatment and disposal of these wastes provides an ideal impetus for sisal companies to invest in AD for biogas production. In the mid-to-late 2000s, there was considerable interest in using AD to generate electricity from agri-processing residues, including sisal wastes. (NIRAS International, 2025)

Despite the benefits that would accrue to a country because of sisal cultivation, global sisal cultivation has been declining. In Kenya, sisal production has been on a decline since 1961. According to statistics from the Food and Agriculture Organization (FAO), Kenya exported 71,300 tons of sisal in 1963, compared to 27,560 tons produced in 2011, indicating a major decline of Sisal production. Between 1970 and 1990, world production of the sisal henequen dropped by about 50 percent, reflecting the severe reduction in global demand. Production of these fibres is concentrated in low-income countries of Africa and production in these countries has reduced further at the turn of the century or stagnated, including Kenya. (Mwaniki Et al, 2017)

As shown in the table below, over the five years between 2019 and 2023, the area under sisal production in Kenya has declined year by year, representing an 11.7% reduction in the area under the crop, while seed production and exports have stagnated. The value of exports increased from 3.6 billion in 2012 to 5.3 billion in 2023, representing a growth of 47.2%, which can be attributed to increased global sisal fibre prices over the period driven by renewed interest and demand in sisal fibre. (KNBS, 2024)

Table 4.5: Sisal production trend, 2019-2023

Year	2019	2020	2021	2022	2023*
Area Under Sisal (Ha)	40,696	40,701	39,624	36,959	36,443
Sisal Production (Tons)	25,288	30,327	35,023	32,251	25,577
Exports (Tons)	22,282	28,463	28,928	28,887	22,358
Exports Value (Kshs billion)	3.6	4.7	5.1	6.0	5.3

Source AFA/KNBS:2024

In 2023, there was a 22.5 per cent drop in exports from 28,900 tonnes to 22,400 tonnes, mainly due to a drop in exports to our leading destination, Nigeria. The decline in exports to Nigeria during the period under review was attributed to challenges in their money markets, with many companies being banned from accessing dollars due to a surplus demand for foreign exchange. The barring of most importers from accessing the dollar led to most of them lowering the volume of sisal they could import from Kenya. The value of the exports also dropped by 11.7 per cent from Kshs 6.0 billion in 2022 to Kshs 5.3 billion in 2023 for the same reason. (KNBS, 2024)

In summary, while Kenya's sisal industry continues to offer significant economic benefits, the decline in production and stagnation in exports point to challenges that need addressing, such as improving efficiency, increasing smallholder participation, and fostering innovation and value addition in the industry.

2.3 Justification for the Crops (Fibre Crops and Crop Fibres) Regulations, 2025

Fibre crop products and by-products are mainly used in textiles and apparel, geotextiles, high-quality paper, health, animal feeds, environmental conservation, biofuels, manufacture of particle boards, surfboards and the marine industry, among others. The main fiber crops grown for commercial use in Kenya are cotton and sisal mainly grown in ASAL areas. In 2023, the total production of small plantations was 24,494.17 Metric Tons and 1,083.04 Metric Tons from smallholders with a net value of Kshs. 6,061,985,211.65. There are nine (9) operational sisal fibre processing factories, mainly in sisal plantation estates. About 95 % of sisal fibre produced in Kenya is exported. The rest is sold and processed by local spinning factories (Teita Estates Rope Works Division and Majani Mingi Estates Ltd - spinning factory) and cottage industries. (AFA, 2025)

Cotton is cultivated in 21 counties with notable potential in other counties such as West Pokot, Laikipia, Murang'a, Marsabit and Turkana. In 2023, cotton was grown on 30,051 acres, yielding 7,006 bales of lint of 185 Kg against an annual lint requirement of about 48,000 bales. This shortfall was met through imports. The number of cotton farmers is between 25,000 and 45,000 in any season depending on the price of seed cotton in the previous season. The value of seed cotton and lint was Kshs. 560 million. The country has a cotton spinning installed capacity of 20,000MT (100,000 bales) of lint hence operating below the installed capacity. There are six (6) operational ginneries namely, Makueni Ginneries Limited, Equatorial Nut Processors Limited, Rift Valley Products Limited, Sun Gin Limited, Zayn Agro Industries Limited and Luanda Cotton Farmers Cooperative Union. Two other ginneries are upcoming in Lamu and Kwale Counties. There are also three (3) cotton spinning factories namely; Rivatex E.A Limited, Supra Textiles Mills Limited and Thika Cloth Mills Limited.

The other scheduled fibre crops are kenaf, flax and jute. There is, however, substantial potential for the development of these crops to reduce the national deficit, which is currently filled through imports. The jute species *Corchorus olitorius* is grown in Lower Midland zone 1 as a vegetable by few scattered smallholder farmers mainly in Nyanza and Western Kenya region in sandy loam soils while *Corchorus capsularis* can be grown for fibre in Lowlands zone 2 in the Coastal region. (AFA, 2025)

Cotton has been prioritized in the Bottom Up Economic and Transformation Agenda (BETA) Plan for import substitution of cotton lint and seed cake as well as for the lint. In this plan, the area under production of cotton was expected to increase from 21,462 acres in 2022 to 103,000 acres in 2024 and increase to 160,000 acres in 2027. It is expected that the country will reduce imports of lint by 100% in 2024 and of seed cake by 50% in 2027. Key interventions to reach the targets include the development of a local certified seed system, investments in ginneries and oil mills, and the development and dissemination of Good Agricultural Practices, among others. (AFA, 2024)

The sisal value chain, on the other hand, is prioritized in the National Export Strategy of 2018. Kenya is the third largest producer of sisal after Brazil and Tanzania. The global demand is 400,000MT compared to production of 300,000MT, primarily driven by the construction industry and other emerging users such as the automotive industry. Key interventions proposed in the National Strategy are: awareness creation, recruitment of farmers, formation of farmer/processor associations, promotion of production of seedlings, and support investments in small-scale processing equipment, among others. Currently, sisal fibre is produced in an area of 36,000 Ha with an annual production averaging 35,000MT of sisal fibre valued at about KES 6 billion. Out of this fibre, 95% is usually exported, with Nigeria, Saudi Arabia, Spain, China, Morocco and Ghana being the leading market destinations (AFA, 2024)

An enabling policy environment and framework are necessary for the fibre crops to realize the desired or set industry objectives. Previous efforts to introduce fibre crops regulations to steer the development of this industry in the year 2020 vide the Crops (Fibre Crops) Regulations 2020 failed. In 2020, the Crops (Fibre Crops) Regulations, 2020 were gazetted and published on 8th July 2020 but were annulled by the National Assembly. In the 2023-2024 financial year, the Authority, in consultation with the Ministry of Agriculture and Livestock Development and the Council of Governors, initiated the development of new Fibre Crops Regulations to support the development, promotion, and regulation of the industry. (AFA, 2025)

The need for regulation of this once important and now re-emerging industrial crops sector remains a priority to revamp and hasten the production and processing of fibre crops and crop fibres with significant potential for local production. The operationalization of the Crops (Fibre Crops and Crop Fibres) Regulations, 2025, is expected to play a pivotal role in realizing these goals.

2.4 Regulatory Context

The first legal instrument regulating the cotton industry in Kenya was the Cotton Lint and Seed Marketing Act of 1955. This Act established the Cotton Lint and Seed Marketing Board, whose main function was to purchase both lint and seed from the ginneries and advise the Minister for Agriculture on the prices to be paid by ginneries to growers. The Act was repealed by the Cotton Act, Cap 335 in 1990 which established the Cotton Board of Kenya as a State Corporation under the Ministry of Agriculture. The Cotton Act was amended in 2006 to create the Cotton Development Authority under section 3.

The first legal instrument to govern the production of sisal was the Sisal Industry Act, 1946 (No. 77 of 1946) which established the Sisal Board of Kenya. This Act aimed at promoting and

controlling the segment of the sisal industry. In 1951, the Sisal Industry (Sale of Sisal and Collection of Cess) Rules, were made under the Sisal Industry Act Cap 341 to regulate some aspects of the sale of sisal or sisal fibre. These rules stipulated that no sisal or sisal fibre produced within Kenya would be sold except through an agent duly licensed under section 7 of the Act. The Board would, from time to time, prescribe conditions to a licence and determine the prices that should be paid for sisal and sisal fibre. (AFA, 2025)

At the turn of the century, the agriculture sectoral reforms in Kenya gained momentum from 2003 with the Government developing diverse policy documents and strategies. They were aimed at revitalizing, revamping and/or further developing and commercializing key crops in the sector including fibre crops. The policies included Economic Recovery Strategy for Wealth and Employment Creation (ERS-WEC-2003); the Strategy for Revitalizing Agriculture, 2004-2014; Agriculture Sector Development Strategy 2010-2020; the Vision 2030 in the year 2007; Agricultural Sector Transformation and Growth Strategy 2019-2029; The Government's Big 4 Agenda 2017-2022; and more recently the Bottom-Up Economic Transformation Agenda (BETA).

The Ministry of Agriculture also initiated policy and structural reforms in 2010 which sought to streamline regulatory and research functions. They aimed to reduce the multiplicity of regulatory and research functions, maximize the benefits of economies of scale by merging parastatals with similar or related functions, and strengthen the capacity of parastatals responsible for regulation and research to effectively undertake their core mandates. These reforms culminated in the enactment of the Agriculture and Food Authority Act (AFA), No. 13 of 2013; The Crops Act, Cap 318 and the Kenya Agriculture and Livestock Research Act, 2013 (KALR Act, No. 17 of 2013). Following the operationalization of the Crops Act Cap 318, the Cotton Act, Cap 335 and the Sisal Industry Act, 1946 (No. 77 of 1946) were repealed. The Fibre Crops Directorate was established and assumed the functions of the Sisal Board of Kenya and Cotton Development Authority. Currently, the regulatory, development and promotional mandate of the fibre value chains is under the AFA-Fibre Crops Directorate. (AFA, 2025)

After the merger of former Boards responsible for various value chains to form the Agriculture and Food Authority (AFA), the envisaged efficiency gains were not realized due to challenges. The challenges included a lack of an AFA Board of Directors, inefficiencies in operations and financing challenges following the revocation of crop levies in 2016. These reforms did not achieve the intended objectives leading to a decline in the performance of all the major crop industries. This decline raised concern among stakeholders, many of whom have advocates for the Ministry's reintroduction of the former regulatory boards. (AFA, 2025).

Additionally, efforts to introduce fibre crops regulations in the country, vide the Crops (Fibre Crops) Regulations, failed in 2020. The Crops (Fibre Crops) Regulations, 2020, were gazetted and published on 8 July 2020 vide Legal Notice No.120 of 2020. However, the National Assembly annulled the Regulations due to a lack of satisfactory public participation during their development.

In the 2023-2024 financial year, the Authority, in consultation with the Ministry of Agriculture and Livestock Development (MOALD) and the Council of Governors, initiated the process of

developing new Fibre Crops Regulations to address the shortcomings cited by the National Assembly. The draft regulations will be important to support the development, promotion and regulation of the industry. (AFA, 2025)

Further, the Cotton Industry Development Bill 2024, which seeks to establish the Cotton Industry Development Board, is pending before the Senate. According to the draft bill, in addition to establishing the Board, the Act will provide for the regulation, production and value addition, marketing and distribution of cotton products in Kenya, provide a framework for cotton farming, ensuring value addition to cotton and its related products and for connected purposes. (GoK, 2024)

The State Department for Industry in the Ministry of Investments, Trade and Industry is also engaging stakeholders, including county governments, the Council of Governors, the State Department of Cooperatives, the AFA Fibre Crops Directorate, cooperative societies and farmers. These consultations aim at developing the National Cotton Textile and Apparel Policy which will significantly impact the cotton industry and other fibre crops industry. (Ministry of Investments Trade and Industry, 2025)

2.5 Current Policy and Legal Status

Fibre crops in Kenya are vital for economic growth and social development. Kenya's fibre crops and crop fibres industry, which mainly encompasses sisal and cotton, operates under a framework of laws and regulations designed to promote sustainable development, regulate activities, and ensure enforcement of quality standards. The Crops Act Cap 318 is the primary legislation guiding fibre crops regulation. The Cotton Industry Development Bill 2024, which seeks to establish the Cotton Industry Development Board, is pending before the Senate, while the National Cotton Textile and Apparel Policy is under development. Both are expected to have a further impact on the fibre crops and crop fibres industry.

There are, however, numerous other legislations, government strategies and policies in the agricultural sector and in other related industries that directly or indirectly affect regulation, promotion and development of the fibre crops and crop-fibres industry. These include:

The Constitution of Kenya 2010 (CoK): Article 10 of the Constitution provides for the participation of the people in the enactment of any law. National values and principles bind all state organs, state officers, public officers, and all persons whenever they apply the Constitution and enact any law. The Fourth Schedule of CoK provides for devolution of specific functions in agriculture to the County governments. The National Government retains the executive function of policy making under Part 1 Section 29 of the Fourth Schedule. Counties on the other hand implement policies generated by the National Government. The CoK further stipulates that the two levels of government shall conduct their mutual relations based on consultation and cooperation (Article 6 and Article 189 (1) (b) (c)). Due to the importance of agriculture to economic development and realization of the Constitutional requirements, it is necessary to have a comprehensive Agricultural Policy that guides the development of the entire agricultural sector while clearly defining the national and county governments' functions. The roles of county governments include agriculture (crop husbandry) and implementation of programmes in the agricultural sector to address food security in the county. The county governments are also

responsible for developing programmes to intervene on soil and water management and conservation of the natural resource base for agriculture and land development services for horticultural production for food security among others.

In addition, Article 11 (3) (b) of the CoK, provides for Parliament to enact legislation to recognize and protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics, and their use by the communities of Kenya. Moreover, there are initiatives to provide for an Access and Benefit-sharing (ABS) system that will allow for access and exchange of seeds among communities, i.e., recognizing the importance of farmer-managed seed systems.

The Crops Act Cap 318: This is one of the various legislations in the agricultural sector. It was enacted to accelerate the growth and development of agriculture in general, enhance productivity and incomes of farmers and improve the investment climate and efficiency of agribusiness. It also oversees the development of crops as export crops that will augment the foreign exchange earnings of the country through the promotion of production, processing, marketing, and distribution of crops in suitable areas of the country. The draft Crops (Fibre Crops and Crop Fibres) Regulations 2025 are anchored on section 40 of the Crops Act Cap 318, which mandates the Cabinet Secretary in charge of agriculture, in consultation with AFA and County Governments, to make regulations. Under the Act, fibre crops are scheduled crops.

Other relevant legislations to the production, processing and marketing of fibre crops and crop fibres are:

Agriculture and Food Authority Act No. 13 of 2013 is an Act of Parliament to provide for the consolidation of the laws on the regulation and promotion of agriculture generally. It provides for the establishment of the AFA, administration of matters of agriculture and preservation, and making provision for the respective roles of the national and county governments in agriculture, excluding livestock and related matters in furtherance of the relevant provisions of the Fourth Schedule to the Constitution, among others.

Seeds and Plant Varieties (Seeds) Regulations, 2016: The regulations established a Seeds Regulation Committee membership drawn from the directorate responsible for crops in the State Department of Agriculture (chairperson), KALRO, KEPHIS, the Seed Trade Association of Kenya, the AFA, the Council of Governors, the Kenya National Farmers' Federation, the Plant Breeders Association of Kenya, and two members to represent interests that may from time to time be determined. The Seeds Regulation Committee advises the cabinet secretary on matters regarding seed policy and regulations and industry performance; determines seed certification standards and fees; determines actions against cases of malpractice in the seed industry; hears and determines appeals by aggrieved parties; and develops guidelines for authorization.

Trade Description Act (Cap 505) is an Act of Parliament that prohibits misdescriptions of goods, services, accommodation and facilities provided during trade, prohibits false or misleading indications as to the price of goods and confer powers to require information or instructions relating to goods to be marked on or to accompany the goods or to be included in advertisements. Part III of the proposed Regulations on the standards and quality assurance is relevant to the sale of goods as described.

Weights and Measures Act (Cap 513) is an Act of Parliament to amend and consolidate the law relating to the use, manufacture and sale of weights and measures and to provide for the introduction of the International System of Units (SI). This Act would apply to agriculture produce trading regarding their correct weights and labeling for efficient marketing. Regulations 20 and 21 of the proposed Regulations provide for baling, packaging and labeling as well as grading and validation.

Standards Act (Cap 496) is an Act of Parliament to promote the standardization of the specification of commodities, and to provide for the standardization of commodities and codes of practice; to establish a Kenya Bureau of Standards, to define its functions and provide for its management and control; and for matters incidental to, and connected with, the foregoing.

Pest Control Products Act (Cap 346) is an Act of Parliament to regulate the importation, exportation, manufacture, distribution, and use of products used for the control of pests, the organic function of plants and animals, and related purposes.

County Governments Act No. 17 of 2012 is an Act of Parliament to give effect to Chapter 11 of the Constitution. *The various County Integrated Development Plans (CIDPs) and country-specific legislation, policies and strategies:* Individual County governments have developed different pieces of country-specific legislation, policies and strategies for the development of agricultural production and marketing in the individual counties. These instruments will affect the fibre crops and crop fibres industry differently in the individual counties.

The Kenya Agricultural and Livestock Research Act No. 17 of 2013 is an Act of Parliament to provide for the establishment and functions of the Kenya Agricultural and Livestock Research Organization, its organs, the coordination of agricultural research activities in Kenya, and related purposes.

The Plant Protection Act (Cap 324) is an Act of Parliament to improve provisions for preventing the introduction and spread of disease-destructive plants. It also provides for the requirements of seeds and plants that are ready for imports and exports, including the accompaniment of the Phytosanitary Certificate. Thus, imports from fibre crops are subject to the provisions of this Act.

Agricultural Sector Transformation and Growth Strategy (ASTGS). The central theme of the ASTGS (2019–2029) is food and nutrition security. The ASTGS aims to enhance food and nutrition security by transforming Kenya's agriculture sector into a vibrant, commercially oriented, and modern industry. It is anchored on three pillars: increasing incomes of small-scale farmers, pastoralists, and fisher folk; increasing agricultural output and value-added; and increasing household food resilience. The ASTGS identified 13 value chains with the highest potential for transformation that will be central to its nine implementation flagships. These value chains include crops such as potatoes, staples such as maize, rice and beans, fruits and vegetables, beef, poultry, sheep/goats, dairy, and camels among livestock, and fish. The ASTGS's inclusion of fibre crops such as cotton and sisal among its priority value chains indicates the critical role of these crops, and the importance of the proper functioning of the fibre crops and crop fibres industry in the agricultural development and transformation of the country.

Vision 2030: Kenya's Vision 2030 is the country's development blueprint document and proposes sustainable management of natural sources, conservation and combating environmental degradation as actions towards fulfilling the social development pillar. It aims to transform Kenya into a newly industrializing, *"middle-income country providing a high quality of life to all its citizens in a clean and secure environment by the year 2030"*, while simultaneously meeting the Sustainable Development Goals for Kenyans by 2030.

Kenya Climate-Smart Agriculture Strategy 2017 – 2026: The Strategy is keen on addressing the gaps in policy implementation and actualization of policies. The broad objective of the Kenya Climate-Smart Agriculture Strategy (KCSAS) is to adapt to climate change and build the resilience of agricultural systems while minimizing emissions for enhanced food and nutritional security and improved livelihoods. It recognizes the national issues on climate change and agriculture, such as ecosystem services and climate regulation in the agricultural sectors.

National Industrialization policy 2012-2030- This framework was designed to promote and sustain a vibrant, globally competitive and diversified industrial sector for the generation of wealth and employment through the creation of an enabling environment. The policy is focused on addressing the factors affecting the industrial sector, exploiting the strengths and opportunities arising from regional integration and globalization, and positioning the industrial sector to become the leading investment destination in Africa to take advantage of investment flows.

International and regional conventions and agreements: Kenya is also a signatory of various international policies employed by the international community to regulate trading or to reduce the volatility of different products markets. These include trade agreements, international arrangements or controls or limitations on activities on commodities markets, and regional and bilateral policies that are employed by governments to regulate trade. These policies, among others, may include export bans, variable export taxes or import tariffs. These regional and global policies, protocols and treaties including the East African Community (EAC), Common Market for Eastern and Southern Africa (COMESA), African Union (AU), United Nations (UN) and the WTO Agreement affect performance of agriculture in the country through specific international requirements for trade, harmonized regional seed agreements, market access, sanitary and phytosanitary standards among others. The importation or exportation of fibre crops produce, and products will be subject to these trade agreements, international arrangements, regional and bilateral policies, protocols and treaties.

Government's Bottom-Up Economic Transformation Agenda (BETA) 2022-2027: The Bottom-Up Economic Transformation Agenda is the manifesto of the Kenya Kwanza administration that will be implemented over the next five years. The agenda is built on five main pillars being: economic diversification, industrialization and value addition; infrastructure (including energy) and the natural environment; ICT for digitalization and transformation; private sector; and skills formation and policy coordination. In particular, the agenda emphasises value addition and portends a clear policy direction to address the phenomenon of "reverse structural transformation" observed in Kenya's recent development trajectory as the agricultural sector continues to dominate Kenya's GDP relative to the manufacturing sector. Fibre crops are an important aspect of the country's agricultural transformation.

3.0 EFFECTS OF PROPOSED REGULATIONS

This chapter examines the effects of the proposed regulations on the public and private sectors as well as on the fundamental rights and freedoms of individuals.

3.1 THE CROPS (FIBRE CROPS AND CROP FIBRES) REGULATIONS, 2025

These Regulations have been developed by the Cabinet Secretary for Agriculture and Livestock Development in exercise of the powers conferred by section 40 of the Crops Act Cap 318 in consultation with the Authority and County Governments.

Regulation 1 of these regulations prescribes the citation of the regulations as the Crops (Fibre crops and crops fibres) regulations 2025.

Regulation 2 is on the interpretation and definitions and specifies meanings of terminologies employed in the regulations.

Regulation 3 outlines the purpose of these regulations as the development and promotion of production, processing and marketing of fibre crops, fibre produce or fibre products and regulation of fibre crops and crop fibre industry.

Regulation 4 defines the scope of the regulations and specifies that they shall apply to-

- a. Development and promotion of fibre crops, fibre produce and fibre products;
- b. Procedures and conditions for registration, licensing and compliance of dealers;
- c. Standards and quality assurance of fibre crops, fibre produce and fibre products;
- d. Collection and maintenance of data related to fibre crops, fibre produce and fibre products;
- e. Conduct of inspections and compliance aspects;
- f. Determination of pricing formula of fibre produce and fibre products;
- g. Marketing of fibre produce and fibre products;
- h. Grading of fibre produce and fibre products;
- i. Agreement between grower and dealer; and
- j. Issuance of certificates, licenses and permits for dealing in fibre produce and fibre products.

Regulation 5 provides for the maintenance of growers' and growers' associations' registers. It requires a grower's association to maintain a register of all smallholder growers registered with it in the format prescribed in these regulations. Such a register should contain the smallholder growers' annual production data.

This regulation also requires the respective County Executive members to maintain a register of all fibre crop growers and growers' associations in the prescribed format. A growers' association should also notify the Authority and the respective County executive members in writing of any change in the particulars of the smallholders contained in the registers maintained within thirty days.

This regulation will enable the establishment and maintenance of an accurate real-time database of smallholder fibre growers, their production, and their associations. It will allow for close

monitoring, supervision, and regulation of the fibre industry and provide accurate data on industry trends to inform decision-making and policy development. However, some industry actors may view the provisions of this regulation as excessive bureaucracy and interference in private businesses.

Regulation 6 provides for an inspection for a certificate of compliance and mandates that all operators of an aggregation store or manufacturers of fibre products only operate when they have a valid certificate of compliance from the Authority. This regulation provides the procedure for applying, processing, and issuing the certificate of compliance. It further provides that such a certificate remains valid until the thirtieth day of June following the day of issuance unless earlier cancelled.

This regulation further ascertains that a manufacturer issued with a certificate of compliance shall be deemed duly registered. It also requires the Authority to maintain and share with the respective County Executive Committee Member a register of all aggregation stores and manufacturing factories issued with certificates of compliance.

This regulation also pronounces an offence for operating of an aggregation store or as manufacturers of fibre products without a valid certificate of compliance from the Authority.

This regulation will ensure the registration of all operators of aggregation stores or manufacturers of fibre products, allowing for monitoring and supervision of their operations and their regulations. This will thus safeguard the interests of industry actors who employ services of such operators and manufacturers and the fibre crops and crop fibres industry in general, especially in maintaining quality.

This regulation may, however, shut out business existing operators of aggregation stores or manufacturers of fibre products who may not meet the set compliance requirements.

Regulation 7 provides for the registration of persons intending to aggregate and operate a fibre produce or fibre product aggregation store. It requires such persons to register as an aggregator with the respective County Executive Member. It further provides the procedure for the application, processing and issuance of registration certificates; and rejection with reasons.

This will ensure compliance with any set fibre crops aggregation and manufacturing standards and thus enhance quality standards of Kenyan fibre produce and products. It will also allow for effective monitoring and supervision of these operations and their regulation while protecting smallholder growers' interests in the industry.

This regulation may, however, shut out business existing operators of aggregation stores or manufacturers of fibre products who may not meet the set compliance requirements.

Regulation 8 provides for the designation of an aggregation store to the effect that an aggregation store issued with the certificate of compliance shall stand designated for purposes of consolidating fibre produce or fibre products. This will ensure that aggregation of fibre produce, or fibre products will only be done in designated and compliant stores. It will also allow for effective monitoring,

supervision and regulation of these operations, including quality aspects for the good of the entire industry. It will also ensure the protection of the smallholder growers' interests in the industry.

Regulation 9 provides for the licensing of an aggregator and mandates persons aggregating fibre produce or fibre products not to operate without an aggregator license from the respective county government. It provides the procedure for the application, processing, approval and issuance of licences or rejection of applications that are non-compliant with the set requirements under these regulations with reasons.

The regulation further requires licensed aggregators to submit monthly returns to the respective County Executive Member and the Authority. It also pronounces an offence of aggregating fibre produce or fibre product without an aggregator license from the respective county government thus a deterrent to unlicensed aggregators in the country.

This regulation will allow for effective monitoring and supervision of persons aggregating fibre produce or fibre products while also protecting smallholder growers' interests in the industry. It will also ensure the maintenance of real-time data on transactions and volumes of aggregated fibre produce or fibre products for better industry policy decision-making.

This regulation may, however, shut out of business existing operators of aggregation stores or manufacturers of fibre products who may not meet the set compliance requirements

Regulation 10 sets out the requirements for setting up a manufacturing factory and forbids the setting up of a fibre manufacturing factory without preliminary approval of the Authority except for cottage manufacturing.

This regulation provides the procedure for the application, processing and approval by the Authority in consultation with the respective County Executive Committee Member. It also provides for the issuance of preliminary approval or rejection of applications that are non-compliant with the set requirements with reasons. This preliminary approval authorizes the applicant to proceed with setting up the manufacturing factory and, upon completion, to apply to the Authority for a certificate of compliance.

The regulation also makes setting up a manufacturing factory without preliminary approval of the Authority, except for cottage manufacturing, an offence. This will serve as a deterrent to setting up unapproved manufacturing factories in the country.

This will allow for the regulated setting up of manufacturing factories, efficient development of the fibre produced and the manufacturing infrastructure in the country for the industry's benefit, and avoid investment in idle manufacturing capacities. It also allows cottage industries to develop in the industry, thus allowing innovative value addition at lower production levels.

However, the regulation may shut out existing business operators of manufacturing factories who do not meet the set compliance requirements.

Regulation 11 provides for the licensing of fibre products manufacturers and forbids the manufacturing of fibre products without a certificate of compliance from the Authority and a license from the respective County Government.

This regulation provides the procedure for the application, processing, and issuance of registration certificates to manufacture fibre products and for rejection with reasons where such applications do not meet parameters as set out in the Sixth Schedule of the Draft Regulations.

This regulation requires the County Executive Committee Member to maintain a register of licensed manufacturers. It also provides that licensed manufacturers submit monthly returns to the County Executive Committee Member and the Authority in the format prescribed.

The regulation pronounces an offence for manufacturing fibre products without a certificate of compliance from the Authority and a license from the respective County Government and prescribes a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or both upon conviction.

This regulation will ensure compliance with any set fibre crops manufacturing standards and thus enhance quality of Kenyan fibre produce and products as well as allow for effective monitoring and supervision of these operations and their regulation. It will also protect the growers' interests in the industry. It will further allow the maintenance of an up-to-date register of licensed manufacturers and industry manufacturing trends for informed decision-making. The prescribed penalty upon conviction for manufacturing without a license and certificate of compliance will serve as a deterrent for non-compliance to the provisions of this regulation.

This regulation may, however, shut out of business existing operators of aggregation stores or manufacturers of fibre products who may not meet the compliance requirements of these regulations.

Regulation 12 requires the registration of all importers and exporters of fibre products with the Authority.

This regulation provides the procedure for the application, processing, and issuance of a certificate of registration to import or export fibre products by the Authority and for rejection with reasons where such applications do not meet set parameters.

The regulation pronounces an offence for non-compliance with the provision to register as an importer or exporter of fibre products. Upon conviction, it prescribes a fine not exceeding five million shillings or imprisonment for a term not exceeding three years or both.

Regulation 13 provides for the licensing of importers and exporters of fibre products and makes it mandatory for all importers and exporters to have a license from the Authority to import or export fibre products.

This regulation provides the procedure for the application, processing, and issuance of import or export licences by the Authority and for rejection with reasons where such applications do not meet set parameters.

This regulation also requires fibre products' importers to submit monthly returns to the Authority in the format prescribed in these regulations. It pronounces an offence for non-compliance with the requirement to have a license as an importer or exporter of fibre products and prescribes a fine

not exceeding ten million shillings or imprisonment for a term not exceeding five years or both upon conviction.

Regulation 14 provides for the issuance of import and export permits and prohibits any import or export of fibre products without a permit for every consignment.

This regulation provides the procedure for the application, including fees payable, comprising inspection service fees and re-baling fees where the applicant requires re-baling. It also provides for the processing and issuance of import or export permits by the Authority and rejection with reasons where such applications do not meet set parameters.

This regulation pronounces an offence for non-compliance with the provision to have an import or export permit for every consignment of import/export fibre product. It also prescribes a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding one year or both upon conviction.

Regulations 12, 13 and 14 will regulate actors in the importation and exportation of fibre products into and out of the country, allowing for deliberate interventions to regulate both the country's fibre import and export markets. This includes shielding the local fibre industry from undue external pressure for cheap and poor-quality imports, ensuring price stability. It will further shield the country from the re-export of such cheap and poor-quality imports designated as Kenyan exports, thus denting the high held Kenyan fibre exports. The provisions of regulations 12, 13 and 14 will additionally protect smallholder growers from exploitation by unscrupulous exporters who take advantage of such growers' limited knowledge of the industry and global markets dynamics as has been the case in other industries in the country.

Regulations 12, 13, and 14 prescribe stern penalties upon conviction for importing or exporting fibre products without a certificate of registration or a valid license, which will serve as a deterrent to non-compliance with the provisions of this regulation.

Regulations 12, 13 and 14 may, however, shut out existing importers and exporters of fibre products who may not meet the compliance requirements of these regulations. Some industry actors may also view the provisions of the three regulations, 12, 13 and 14, as duplicated, repetitive, and increasing bureaucracy, especially regulation 14, which requires a permit for every consignment of imports or exports. This will thus increase the cost of business operations for such actors.

Regulation 15 guides the renewal of licenses under these regulations and specifies that licenses remain valid until the thirtieth of June immediately after issuance unless earlier cancelled. This regulation stipulates that an application for renewal of a licence is to be made in the same manner as a new application, should comply with the set licensing requirements, and be made thirty days prior to the expiry of the current licence.

This regulation will ensure continuity of business in the fibre industry and avoid disruptions due to delays in renewing expired licenses or prolonged time lags between license expiry and renewal.

However, industry actors may regard the requirement that renewal of expired licenses must follow same process as new applications as an unavoidable bureaucracy although the renewal is based on

pre-set criteria outlined in the Sixth Schedule of the draft Regulations. This contrasts license renewals being based on the recorded performance of individual applicants in previous years.

Regulation 16 provides for late license applications and allows the licensing authority to consider them. Upon approval of such applications, the applicants pay a late license renewal fee of ten percent of the license fee.

This regulation will provide a window for applicants who, for whatever reason, are unable to comply with the license renewal timelines requirements of these regulations to regularize their licensing and comply with the licensing provisions of these regulations.

However, industry actors may also view this regulation's provision of a late licensing fee as a window that may be subjectively applied to abuse of the licensing provisions of the regulations, with ulterior motives. It may also be seen as a provision to increase licensing costs even when industry actors are unable to comply with the set timelines for license renewal for reasons beyond their control.

Regulation 17 outlines the obligations of a fibre crop grower and requires every grower to adhere to the applicable national, regional and international standards and codes of practice in the cultivation of fibre crops and handling of fibre produce. This regulation specifically requires every grower to harvest only physiologically mature fibre produce to all grade fibre produce before offering it for sale in accordance with the set parameters and to only offer fibre produce for sale at collection centres operated by persons registered with the respective County Government or as indicated in the agreement between a grower and a dealer.

This regulation will ensure compliance with applicable set fibre crops' national, regional, and international standards in the cultivation, production, harvesting, handling, and grading of fibre produce. It will, therefore, enhance general quality standards and thus the value of Kenyan fibre produce while also safeguarding the interests of smallholder growers in the industry by ensuring they only deal with registered dealers.

This regulation may, however, be viewed as curtailing individuals' rights to make decisions on when or how to cultivate fibre crops, harvest, handle, or sell fibre produce.

Regulation 18 outlines a dealer's obligations and requires them to adhere to applicable national, regional, and international standards and codes of practice. It requires a dealer to only buy, store, sell, and offer for sale fibre produce or fibre products at a designated aggregation store.

This regulation further requires a dealer to conspicuously display prices offered per kilogram for each grade of fibre produce and fibre product in the local dialect, Kiswahili and English and display standard sample grades of fibre produce and fibre product and the corresponding price for each. It also requires the use of weighing scales that have been properly calibrated and serviced; the issuance of original receipts for fibre produce and products received from farmers; the retention of duplicates; and the offer of growers applicable prices as determined by Fibre Produce and the Fibre Product Pricing Formula.

The regulation also requires a dealer operating a fibre product manufacturing plant to only install additional capacity or a variety of manufacturing with prior approval of the Authority, package and grade fibre produce and fibre products in accordance with these regulations and ensure no contamination of fibre produce or fibre products.

This regulation will ensure compliance with applicable set fibre crops national, regional and international standards. Dealers are required to buy, store, sell and offer for sale fibre produce or fibre products only at designated aggregation stores; and to package and grade fibre produce and fibre products in accordance with these regulations. They are also required to ensure no fibre produce or fibre product contamination thus enhancing the general quality of Kenyan fibre produce and products and better value for Kenyan fibre produce/product.

This regulation will also safeguard the interests of smallholder growers in the industry by ensuring the dealers only use well-calibrated and serviced weighing scales. The prices offered should also be as determined by the Fibre Produce and Fibre Product Pricing Formula and clearly displayed at the aggregation stores.

The regulation will further ensure that fibre product manufacturing plant capacities or types of manufacturing are regulated, and dealers will only install additional capacity or varying types of manufacturing with prior approval from the Authority. This will forestall investment in idle capacity or unchecked capital expenses, which may erode fibre industries' profit margins or be transferred to growers.

However, the provisions of this regulation may be viewed as directly infringing on individual business rights to make key business decisions. These rights include reviewing their production capacities, product variation and diversification, production costing and product prices, product packaging, and major business decisions such as mergers and acquisitions within the industry.

Regulation 19 provides for a traceability of fibre produce and fibre products system and requires a dealer in fibre produce and fibre products to declare to the licensing authority their source(s) of fibre produce and fibre products. This regulation requires every dealer to comply with the traceability system prescribed by the Authority in consultation with industry stakeholders. This will be important to trace the history and location of production, processing and distribution stages of fibre produce and fibre products. It will also allow sharing of information of the source fibre produce and fibre products between licensing authorities on need basis.

This traceability system will enhance the value of Kenyan fibre products, especially in international niche markets that are particular about the history and location of the production, processing, and distribution stages of fibre products. These markets often offer better prices for traceable products, thus guaranteeing better returns to local growers and dealers.

Establishing and maintaining an effective traceability system, especially in a production system with very many small-holder growers, is a big challenge and is more costly for the less-developed dealers. Many of them may not be able to comply with the requirements of this regulation and may be forced out of business to review their operations. They may also be forced to revise their roles

in the industry and serve as agents for the more established dealers, further increasing the nodes in the value chain and thus increasing business costs.

Regulation 20 provides guidelines for baling, packaging and labeling in the industry and requires manufacturers to package and label indelibly the name of the fibre product, grade, country of origin, bale and lot number of the product, year of harvest and net weight in kilograms.

This regulation requires that the ink used in labeling does not penetrate the fibre product to avoid contamination. Additionally, all packaging should be done in accordance with national, regional, and international crop standards and the industry code of practice and best practices.

This regulation will standardize baling, packaging and labeling in the country, enhancing the general quality of Kenyan fibre produce and products presented in the market. It will also enhance Kenyan fibre produce and product marketing, including acceptability, recognition, market value and competitiveness in the regional and international markets.

Regulation 21 provides guidelines for grading and validation in the industry and requires the County Executive Committee Member to ensure that growers and dealers grade fibre produce and fibre products in accordance with these regulations.

Further, this regulation invites a person who intends to validate the grade of a fibre produce and fibre product to apply in the prescribed format and submit a sample to the Authority. The Authority will, within seven days of receiving the application and sample, issue a report specifying the results of the analysis and recommending the grade for the samples delivered.

The regulation will ensure standardized grading of Kenyan fibre products and enhance the quality of marketed fibre products, translating to increased demand in local and international markets and better returns to fibre industry actors.

Full compliance with grading in accordance with the provisions of this regulation may be a challenge to some growers and dealers, who may end up dealing with middlemen and thus losing their anticipated benefits.

Regulation 22 provides for classing cotton lint and requires a competent authority to class it as set out in the fifth schedule of these regulations.

This regulation prohibits a manufacturer from selling cotton lint that has been ginned, an exporter from exporting lint or an importer from importing lint unless the lint has been classified by a competent authority. It also provides the procedure for application for classing, sample submission and requisite fee payable, and for the competent authority to conduct tests of the samples and issue a classing report or reject sample with reasons.

This regulation will enable a standard classing of cotton lint across the country, which will translate to a better general quality of lint in the country. This will also ensure more competitive Kenyan lint for the local and international markets, translating to better returns to the industry actors.

Some industry actors may view the classing process and the accompanying fees as additional barriers to their businesses and as increasing the cost of doing business, respectively, and thus as undesirable.

Regulation 23 prohibits the adulteration of fibre produce and fibre products and pronounces contravening this provision as an offence.

This regulation seeks to guarantee maintenance of the quality of fibre produce and fibre products in the country for the local and international markets. Pronouncing adulteration as an offence serves as a deterrent to adulteration.

Regulation 24 guides the purchasing of fibre produce and fibre products. It requires a dealer to purchase fibre products based on a pricing formula determined by the Fibre Produce and Fibre Products Pricing Formula committee. No person should buy fibre produce and fibre products unless the price is pegged on the formula determined by these regulations. This regulation pronounces an offence for contravening this provision on pricing.

This regulation will protect growers from exploitative dealers who may want to take advantage of them especially the smallholder growers, and purchase fibre produce and fibre products at prices lower than those determined by the pricing formula. This will make fibre crops less attractive to such growers, leading to a reduction in production.

However, the provision of this regulation may be viewed as contravening the very basic principle of a free market in which the forces of demand and supply are left to fully determine prices.

Regulation 25 establishes a Fibre Produce and Fibre Products Pricing Formula committee, defines its composition and identifies parameters to be considered by the committee in determining the pricing formula. These parameters include supply and demand forces, cost of production, aspects of fibre quality, revenue sharing along the value chain, percentage value of by-products, and any other prevailing factors. It also provides for the committee to review the formula on a need basis to provide for continuous improvement.

This regulation also provides guidelines for the appointment, service, and exit of the committee and designates the Authority to serve as its secretariat.

This regulation will ensure a balanced pricing of fibre produce and fibre products using a formula that considers different parameters hence ensuring fair pricing to both growers and dealers. Further, the membership of the committee is wide and incorporates all key stakeholders including representatives of smallholder growers, counties, processors and millers among others which will ensure interests in each category of stakeholders are addressed.

Some categories of stakeholders, though represented in the committee, may feel underrepresented and their voices drowned by the overwhelming government and government agencies representation who make the bulk of the membership of the committee.

Regulation 26 provides for an agreement between a grower and a dealer in a prescribed format set out in the regulations. It also allows a person who intends to support production of fibre crops or

crop fibres to enter into an agreement with a grower or growers' association and a copy of the agreement be deposited with the County Executive Committee Member and the Authority.

This regulation will ensure transparency in the engagement between growers or growers associations and dealers and thus safeguard the interests of smallholder growers. It will also avoid the exploitation of growers by unscrupulous dealers while also promoting structured support in production fibre crops or crop fibres to individual growers or organized registered growers' associations.

Dealers may view the requirement to have agreements with growers and deposit such agreements with the County Executive Committee Member and the Authority as increasing their responsibilities and, consequently, their business costs.

Regulation 27 provides for the Authority's appointment of Crop Inspectors and publishing in the gazette the Crop Inspectors appointed. It also defines the eligibility, qualifications, and requirements for such an appointment.

This regulation will ensure the presence of qualified technical personnel across the fibre industry producing regions to monitor and enforce compliance with these regulations. Thus, it will support the realization of their intended benefits. However, the presence of inspectors may be viewed as interference with their operations or unnecessary by some industry actors, especially well-developed dealers who consider themselves technically adequate to run their own affairs.

Regulation 28 provides guidelines for inspections and surveillance by Crop Inspectors, including grower field operations, inspecting fibre produce and fibre products facilities, handling packaging, labeling, pricing, grading, sampling units of measurement, fibre produce, and fibre products and any equipment used thereof. This ensures monitoring and enforcing compliance with these regulations, standards and codes of practice and carrying out surveillance at entry points where fibre produce, and fibre products are traded. This regulation further identifies the different possible types of inspections as impromptu and scheduled or requested. It also provides for the procedure of making an application for requested inspections. It additionally requires an Inspector to serve a notice for corrective action upon observing non-compliance, with a possibility for suspension of licence/permit/certificate or even revocation if corrective action is not addressed.

The more effective crop inspectors' inspections and surveillance are, the more much-needed technical support, especially to growers and dealers, in the face of declining agri-extension services in the country. This will also help increase production and improve the quality of fibre produce and fibre products across the country, translating to increased returns for industry actors.

However, increased inspections and surveillance may also be viewed as a bother and interference with private business operations by some industry actors who may not cooperate or do so reluctantly or partially with inspectors. This will thereby erode the intended gains of such services.

Regulation 29 prohibits the illegal manufacture and possession of fibre products. It stipulates that a person not registered and licensed in accordance with the Act and these Regulations shall not manufacture, sell, transport, offer for sale, or possess fibre produce and fibre products. It

pronounces contravening this provision an offence, prescribing a fine not exceeding ten million shillings or imprisonment for a term not exceeding five years or both upon conviction.

This regulation will ensure that only persons registered and licensed in accordance with the Act and these regulations shall be engaged in the fibre industry. This will allow for close monitoring, supervision, and regulation of the fibre industry actors and provide accurate data on industry trends to inform decision-making and policy development. The stern penalty prescribed in this regulation will serve as a strong deterrent to non-compliance.

This regulation may, however, be viewed by some industry actors as excessive bureaucracy and interference with private businesses or infringing on age-practiced rights of producing fibre for household, cultural and traditional uses by sections of society.

Regulation 30 stipulates the conditions for the revocation and surrender of the certificate, license of permit. It mandates the licensing authority to revoke a certificate, license or permit issued under these regulations if conditions imposed on the certificate, license or permit are not met or the certificate of compliance is cancelled or withdrawn. This regulation requires the licensing authority to give a fourteen-day notice of intention to revoke a certificate, license or permit and the revoked certificate, license or permit to be surrendered to the licensing authority. This regulation also requires the holder of a revoked certificate, license or permit to be accorded an opportunity to be heard on the revocation and further allows the licensing authority to publish the revoked certificate, license or permit. If the certificate of compliance is revoked, the license issued shall be regarded as cancelled.

This regulation will allow the roguing out of errant, non-compliant actors from the industry. This provision of this regulation will serve as a deterrent against non-compliance with all the provisions of these regulations, benefiting not only all compliant actors in the industry but also the industry in general.

This regulation may, however, be viewed as subject to abuse by sections of the industry that may apply it subjectively to realize intended objectives by those mandated to exercise the role of revoking certificates, licenses, or permits.

Regulation 31 provides an appeal mechanism for aggrieved applicants and holders of certificates, licenses or permits to the Cabinet Secretary or County Executive Committee Member in respect of the grant, refusal, renewal, variation, revocation or conditions imposed on the grant, renewal or variation of a certificate, license or permit.

This regulation will give applicants for a certificate, license or permit holders a second chance to be heard and for a review of decisions on their certificate, license or permit.

This provision may, however, be viewed as unobjective, as the review of the initial decision remains totally the prerogative of the government agents and thus may lack independence.

Regulation 32 defines the general penalty for contravening any of the provisions of these regulations or for commission of an offence for which no penalty is prescribed, which on

conviction is a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding one year or both.

The prescribed penalty will serve as a deterrent to non-compliance with the provisions of these regulations.

Regulation 33 prescribes the imposition of levies in the industry. It allows the Cabinet Secretary to impose a levy of 0.25% FOB value on export of fibre products; 0.2% CIF value of import of fibre products; and 0.4% CIF value of import of finished fibre products, to be remitted to the Authority. This regulation also allows the Authority to recover any unpaid levy as a civil debt and interest at the prevailing market rate to be payable for the period the levy due remains unpaid.

This regulation will serve to stabilize the local fibre market by regulating exports and imports to ensure market and price stability while also protecting the local industry from undue competition from cheap and poor-quality imports and finished fibre products.

However, the regulation may be viewed as inconsistent with the principles of a free market. It may thus deny the local market diverse fibres that are not produced locally or specialty finished fibre products not produced by the local industry, leading to high prices of such fibres or products.

Regulation 34 provides different fees payable for services rendered under these regulations and which are prescribed in the eighth schedule. However, it prohibits the licensing authority from charging a registration fee.

The fees payable will enhance service delivery as anticipated in these regulations. These include surveillance and inspections across the industry, close monitoring, supervision, and regulation of the fibre industry, as well as collating and maintaining accurate data on industry trends to inform decision-making and policy development.

However, the different fees payable may be viewed as duplicated, repetitive, or even excessive, increasing the costs of doing business in the industry.

Regulation 35 provides for the transition to these regulations. It provides those certificates, licenses and permits validly in force before the coming into force of these regulations shall remain valid until their expiry, and the holder to acquire any subsequent certificates, licenses and permits in accordance with these regulations.

This regulation will ensure continuity of business in the industry and avoid any disruptions that may result from the delayed issuance of certificates, licenses and permits.

3.2 Affected Groups

The proposed regulations may affect the following groups:

- i. National Government.
- ii. County Governments.
- iii. Government agencies – including AFA, Pest Control Products Board (PCPB), Kenya Agricultural & Livestock Research Organization (KARLO), Kenya Bureau of Standards (KEBS) and National Environment Management Authority (NEMA).

- iv. Smallholder fibre crops growers
- v. Large scale/estate fibre crops growers
- vi. Fibre crops Producers' Associations/Organizations.
- vii. Fibre crops produce Transporters.
- viii. Fibre crops produce aggregators and traders
- ix. Financial and Micro- Financial organizations
- x. Agriculture produce warehousing operators
- xi. Fibre crops products processors
- xii. Fibre crops produce and products dealers and agents
- xiii. Farm inputs and equipment suppliers;
- xiv. Fibre crops processing technologies, equipment and machinery suppliers
- xv. Fibre crops and crop fibres industry auxiliary service providers
- xvi. Academia and research organizations
- xvii. Fibre crops produce and products Exporters.
- xviii. Fibre crops produce and products Importers
- xix. Agricultural advisory services providers

3.3 Effects on the Public Sector

The Constitution of Kenya (CoK) 2010 provides for two levels of government: national and county governments. The two levels of government have specific, residual and concurrent functions and powers as provided for under Article 186 and the Fourth Schedule – Part 1: National government and Part 2: County governments. The Fourth Schedule of the Constitution has specified functions of the National Government as formulation of agricultural policies and strategies to develop the industry, while the County governments are responsible for agriculture (crop husbandry); implementation of programmes in the agricultural sector to address food security, soil and water management and conservation of the natural resource base for agriculture and land development services.

In view of the above, the anticipated effects of the proposed regulations on the public sector will be:

- i. These regulations will establish a clear and effective framework to regulate the operations of all actors in Kenya's fibre crops and crop fibres industry. These actors may include small-scale growers, medium-scale and large-scale/estate growers, exporters, importers, warehouse operators, manufacturers and dealers who may include transporters. This will enhance the industry's coherence and development.
- ii. There will be enhanced compliance with the provisions of these regulations coupled with increased surveillance, monitoring and inspections across all nodes of the industry. The activities within the value-chain include production, processing, marketing, grading, storage, collection, transportation, warehousing and manufacturing. This will ensure better the quality of Kenyan fibre and fibre products in accordance with the national and applicable international standards, resulting to better market prices.

- iii. These regulations will eliminate illegal trade practices in the fibre crops and crop fibres industry, including illegal imports, exports, processing, and manufacturing, which not only deny the Government revenue in the form of taxes but also exploit growers.
- iv. A levy on fibre produce and products imports will discourage importation. This will protect the local industry from cheap and poor-quality imports that currently threaten its survival and lower the quality of Kenyan exports when these imports are re-exported as of Kenyan origin.
- v. There will be improved documentation on development and trends in the industry. These include actual crop acreage, trading data, registration and licensing of all active industry actors. This will, therefore, provide reliable real-time data and other important details on production and price trends, market performance, and trade volumes - both local and exports. It will thus allow for better planning, informed decision, and proactive interventions in the industry
- vi. Fibre produce and products marketing, which has remained mainly informal, unstructured, poorly organized, and ridden by unfair trade practices, will be better organized and structured. There will be harmonized trade and operations standards which will guarantee compliance with acceptable international standards to ensure Kenyan fibre produce and products grow their market share globally.
- vii. All industry actors will be registered and/or licensed including growers, dealers and manufacturers. Additionally, activities such as fibre crops establishment, production, aggregation, trading, processing, manufacturing and value addition, imports and exports will be documented. This will allow for easy monitoring of the industry's performance and corrective interventions, improved industry regulation, effective compliance monitoring and enforcement across the entire industry.
- viii. The increase in revenue generated through the proposed fees, permits and levies can be invested in the industry. This will improve production, research and value addition, promote trade and marketing development, and ensure industry regulation, thereby increasing returns from the industry.
- ix. Increased revenue will reduce the Authority's dependency on the National Treasury and Economic Planning for funding.
- x. Increased production, manufacturing and value addition of fibre produce, and products will create employment opportunities across all the industry value chain nodes.
- xi. The adoption and implementation of the pricing formula will reduce price fluctuations in the industry. This will stabilize producer prices, dealers' incomes and regularize remittances to the government from the industry.
- xii. Implementation of an effective traceability system will enhance the attractiveness of the Kenya fibre crops produce and products in the more developed global markets that value traceability. This will attract better prices, increasing foreign exchange earnings from increased trade and better prices.
- xiii. The introduction of the proposed fees and levies will generate more income for the Authority. This will ensure equity and value sharing within the industry. Additionally, there will be possible reduction in price volatility.

- xiv. The introduction of the proposed fees and levies may make Kenyan fibre produce and products slightly expensive in the world market. This may result in the slight loss of the country's market share globally.
- xv. The process of adoption and operationalization of the regulations will require additional resources to facilitate public participation, development of a framework to manage the licensing and registration processes and the proposed fees and levies.

3.4 Effects on the Private Sector

The private sector actors are critical stakeholders in the fibre crops and crop fibres industry. They include smallholder and largescale growers and their organizations and/or associations; produce aggregators, transporters, manufacturers, fibre produce and products exporters and importers; financial institutions, non-governmental and civil society organizations, community-based organizations, assorted service providers in the industry, and a cross-section of entrepreneurs in the industry. Private sector players are the principal drivers of the economy in this industry.

The proposed Regulations will potentially affect both directly and indirectly affect the private sector in the following ways: -

- i. The private sector actors in the industry will benefit from the introduction of a well-structured, organized and regulated industry which will provide a conducive operating environment for their different businesses. This will promote fair trade and shield them from the frequent negative effects of inconsistencies or changing policy positions in the industry.
- ii. The pricing formula committee, comprising representatives from the various stakeholders, will determine the formula. They will ensure fair fibre crops, produce, and product pricing in the industry for the benefit of all actors by reducing price volatility. This will, therefore, stabilize markets and incomes for different actors, especially the small growers who are often reduced to mere price takers.
- iii. Accurate and real-time data on industry actors, crop acreage, fibre crop production, manufacturing, produce and products trade volumes and prices, among others, will readily be available to industry players for better business planning and operations.
- iv. The fibre crops and crop fibres industry will be well streamlined and operate on common processes, procedures, and standards. This will promote fair trade practices and eliminate or reduce the emergence of unscrupulous players in the industry, especially middlemen and monopolistic cartels.
- v. Fibre industry actors may be required to pay various requisite fees and levies stipulated in these regulations and re-align their operations to the provisions of these regulations. This may increase the cost of doing business slightly and may result in the closure of some businesses that do not meet the specific requirements of these regulations. This will result in a decline in livelihoods for some families and reduced returns for enterprises across the industry.
- vi. Improved quality of Kenyan fibre produce and products will result from increased adherence to national and applicable international standards and guidelines across the industry. The industry will also enjoy enhanced monitoring and surveillance of quality

- in production, handling, transportation, processing, and manufacturing, ensuring Kenyan products remain the world's top quality.
- vii. The proposed levy on imports will discourage the importation of fibre products and products. This will, therefore, protect the Kenyan fibre industry from cheap and often poor-quality imports that threaten its survival, ensuring its sustainability and continuity into the future.
 - viii. The growers'/dealers' contracts will guarantee growers, especially smallholder growers, markets for their produce. This will eradicate instances where growers sell their produce cheaply due to lack of markets.
 - ix. The proposed fees and levy will increase the cost of doing business for all actors in the industry, reducing returns for enterprises across the industry.
 - x. Local consumer prices for fibre products are likely to increase as the levy and fees costs are transferred to the end consumers. This may further reduce the already low domestic consumption of these products.
 - xi. Increased fibre crops production, manufacturing and value addition will create jobs and business opportunities across all nodes of the value chain.
 - xii. The industry actors may view some processes as additional bureaucratic processes. These include the requirement for permits for each consignment of produce or product transported, and the submission of the required industry data and information to the Authority or county government, as well as the requirement for different registrations and licensing. These requirements may be time-consuming and as additional costs to their business.

3.5. Effects on Fundamental Rights and Freedoms

The proposed regulations may affect the fundamental rights and freedoms of individuals and industry players in the following ways.

Article 31 of the Constitution provides for the right to privacy. This right may be affected by the draft regulations. The requirement for grower associations to maintain a register of all smallholder growers, including annual production data, may raise concerns about data privacy. The obligation to share such data with government agencies may result in unauthorized access or misuse of personal and commercial information. If the regulations do not include data protection measures, the collected data could be misused or accessed without the growers' consent. The Authority should limit access to the filled forms to only required individuals within the Authority or respective County Government to mitigate the risk of data mining.

Article 35 of the Constitution provides for the right of access to information. The traceability and reporting requirements under the draft regulations impose obligations on traders to disclose information about their fibre sources and transactions. However, if the government fails to provide adequate public information on licensing procedures, grading criteria, or industry regulations, it could hinder compliance and violate the right to access information. The draft regulations also allow the Authority to publish in the Gazette the Crop Inspectors appointed. This will ensure that the industry actors are aware of the approved Crop Inspectors.

Article 36 provides for the right to freedom of association, which includes the right to form, join, or participate in the activities of an association. Promoting collective action among growers through the formation of growers' associations produces aggregation at the growers' association's levels, and grower-dealer agreements will improve farmers' negotiating power. This will enhance the economies of scale within the fibre crops and crop fibres industry.

Article 46 of the Constitution provides for consumer rights and that consumers have the right to goods and services of reasonable quality and to information necessary for them to gain full benefit from goods and services for the protection of their health, safety and economic interests and to compensation for loss or injury arising from defects in goods or services. The draft regulations emphasize quality control, grading, and standardization of fibre crops and products, which align with consumer protection by ensuring that only high-quality products reach the market. The introduction of quality standards ensures that consumers receive fibre products that meet regulatory safety and quality requirements.

Article 47 of the Constitution guarantees the right to expeditious, efficient, lawful, reasonable, and procedurally fair administrative action. The regulations introduce various licensing, registration, and compliance measures, requiring approval from government authorities at different levels. They also empower the County Executive Committee Member and the Authority to approve or reject license applications where the Authority shall indicate the reasons for the rejection.

Article 48 provides that the state shall ensure access to justice for all persons and, if any fee is required, it shall be reasonable and shall not impede access to justice. The regulations impose penalties for non-compliance, including criminal sanctions for operating without a license. There are clear appeal channels indicated within the regulations with elaborate timelines to hear and determine such appeals.

4.0 REGULATORY AND NON-REGULATORY OPTIONS

This chapter highlights other regulatory and non-regulatory options that could be adopted to achieve the same intended objectives of the Crops (Fibre Crops and Crop Fibres) Regulations, 2025 in Kenya. The alternatives to rule-based regulations are more flexible than a rule-based approach because they may not require setting the rules out in legislation which then takes more time and effort to develop and change.

4.1 Option 1: Maintaining the Status Quo

Before considering new interventions, it is important to consider whether the problem could be resolved by making changes to practices within the existing regulatory framework, thus maintaining the status quo. Examples of this are:

- i. Making use of existing laws, regulations and/or guidelines
- ii. Simplifying or clarifying existing regulations.
- iii. Improving compliance and enforcement of existing regulations; or
- iv. Making legal remedies more accessible or cheaper.

It is, however, noted that the status of the fibre crops and crop fibres industry has not been conducive nor supportive to its growth. There is also no demonstrable capacity to support the sustainable development of the industry into the future despite the fast-growing demand for fibre produce and products locally and globally. The fibre crops and crop fibres industry continue to operate with little regulation for many decades to the disadvantage of all. This situation must change if the industry is to experience positive transformation.

While recent initiatives to transform Kenya's agricultural sector in general have aimed to better organize every key industry, including fibre crops, these goals have not yet been fully achieved in the fibre crops and crop fibres industry. The Crops (Fibre Crops and Crop Fibres) Regulations 2025 seek to transform the fibre crops and crop fibres industry into an efficient and viable industry that contributes significantly to the national economy and development. It also provides good returns to enterprises in the industry and transforms the livelihoods of communities where fibre crops are grown.

Maintaining the status quo, therefore, would leave the fibre crops and crop fibres industry in the current state with no effective regulatory framework. There will be need for transformation in crop production and technology developments, market development and value addition. This will leave the industry being non-competitive enough in the world market and thus at risk of continued declining performance. Poor performance of this industry poses a threat to the stability of the national economy and to the livelihoods of Kenyans who depend on these important industrial fibre crops.

4.2 Option 2: Passing the Regulations

The Government can achieve its policy objectives by utilizing taxpayers' money or through a range of non-spending interventions, including regulation. The objective and purpose of these regulations are the development and promotion of production, processing and marketing of fibre crops, fibre produce or fibre products and regulation of fibre crops and crop fibre industry. These

regulations, complimented by other relevant legislations and regulations, seek to increase the production, processing and marketing of fibre crops in the country. They also seek to establish a conducive regulatory environment, industry structure and systems that will transform this industry into an efficient and viable industry.

In addition to developing and promoting the production, processing, and marketing of fibre crops and products, the regulations prescribe the procedures, terms, and conditions for the registration and licensing of all categories of fibre crops and crop fibres industry. They also provide for the maintenance of records and submission of returns to the Authority or county governments on production, processing, manufacturing, and marketing.

The regulations also prioritize produce grading, standards, and quality assurance, which will enhance Kenyan fibre produce and products across the industry in general and ensure that Kenyan fibre produce and products remain some of the best in the world in quality.

These Regulations further seek to generate additional revenue from the industry to support further growth in production and technology developments, market development, and diversification, ensuring the sustainability and competitiveness of the Kenyan fibre industry in the global arena.

However, they could also create costs for businesses and public sectors and, if overused, poorly designed, or poorly implemented, stifle competitiveness and growth.

Adoption and operationalization of the proposed Regulations will translate to the following: -

- i. These regulations will establish a clear and effective framework that will regulate operations of all actors in Kenya's fibre crops and crop fibres industry, enhancing coherence and synergy in the continued development of the industry.
- ii. They will also facilitate renewed growth and sustainable development of the fibre crops and crop fibres industry in Kenya and establish the necessary support structures and an enabling industry environment.
- iii. Better regulation of the industry to eliminate unfair trade practices that exploit other disadvantaged industry actors and practices that contribute to the loss of quality of Kenyan fibre products.
- iv. Enhance quality standards and guidelines for fibre crops and crop fibres industry operations. These include production and post-handling processes, manufacturing, produce traceability and produce quality standards, thus improving market value while reducing price volatility and market supply fluctuations.
- v. Develop and maintain a real-time database on the fibre crops and crop fibres industry, including registers of all the different industry actors, production and manufacturing and traded volumes, produce sources, prices, and market trends, among others. This will ensure better coordination, control, planning, and decision-making in the industry.
- vi. Streamline fibre produce and products' marketing for a coherent, organized, and regulated market environment. This will ensure effective oversight, improved management, and the removal of marketing hurdles that have negatively impacted this industry in the past.

- vii. Increase employment opportunities in fibre crop production, processing, industry operations, and resultant auxiliary services, thus improving the livelihoods of many families within this value chain.
- viii. Establish a fibre produce and products pricing formula committee to determine the prices of the produce and products, comprising representatives from different stakeholders to ensure fair pricing in the industry for the benefit of all actors and particularly the smallholder farmers.
- ix. Enhanced monitoring and surveillance of fibre produce and products quality, transportation, manufacturing and handling standards to maintain or improve quality of Kenyan fibre produce and products.
- x. Increased access to Kenya's traditional fibre markets and developed new alternate and diversified markets. This will guarantee industry actors reliable markets for the increasing production and prices stability.
- xi. Levy on fibre imports will discourage the importation of fibre produce and products, therefore protecting the Kenyan industry from the proliferation of cheap and poor-quality imports that are a threat to the survival of the local industry.
- xii. Increased revenue from proposed levies and fees will enable the Authority to better undertake her role in the industry, including the provision of various critical services offered by the Authority. It will also ensure better regulation of the industry and market development for Kenya's fibre products.
- xiii. Increased revenue from the levy will reduce the Authority's dependency on the National Treasury for funding

The Regulations are thus important for the renewed and continued growth and sustainable development of the fibre crops and crop fibres industry in Kenya and the country in general.

4.3 Option 3: Other Practical Options

Alternatives to regulation include information and education, market-based structures, self-regulation and co-regulation. In addition, any existing policies can be improved, without further regulation, using techniques such as behavioral insight or changing enforcement practices to improve compliance. Such approaches may be better or worse for business and the economy than an equivalent regulatory measure.

Alternatives to regulation include:

- i. **No new intervention/do nothing:** This may include making use of existing laws (or none) and regulations; simplifying or clarifying existing laws and regulations; improving enforcement of existing laws and regulations, or making legal remedies more accessible or cheaper and as discussed in the section above, status quo in the industry is likely to remain since currently there is no effective regulation framework for a fibre crops and crop fibres industry in the country.
- ii. **Information and education:** Information and education can be used to empower the fibre crops and crop fibres industry actors, including growers, dealers, agents, processors and other industry actors and stakeholders to make their own decisions,

improving choices for the mutual benefit of all. However, there are potential risks associated with this, since information and education can take time to make an impact. Access to information on research, technologies and market information in the country is still a big challenge and has remained very limited in the industry. The ability to use the little available information varies among the industry actors, the fibre crops and crop fibres producers and other stakeholders. Besides, the available information may not reach all equally. It may also not be straightforward to assess how people will react or change their behavior in response to industry information available. The use of information and education, however, will increase costs for the government and businesses that will be providing the information and education required.

- iii. **Incentive/market-based structures:** The government can use economic instruments, such as taxes, subsidies, quotas and permits, vouchers, etc., as initiatives to realize the desired objectives. These initiatives, however, are only practically possible in well-developed and efficiently functioning sectors which have well-defined structures. This is unlike in the diverse fibre crops and crop fibres industry with many actors at the different nodes of the fibre crops and crop fibres value chain driven by very different objectives. Further, often these sorts of systems need their own regulation to establish the framework and may have additional costs to the government and are unlikely to be effective in the fibre crops and crop fibres industry as it is currently structured.

4.4 Alternative models of regulation:

- i. **Self-regulation.**

Self-regulation entails industry players developing a framework to self-regulate an industry. This could be done using codes of conduct or practice, customer charters, standards or accreditation. In many cases, rules and codes of conduct or practice will be formulated by the industry representatives or organizations under their own initiative. In the absence of well-developed and all-inclusive industry organizations as in the fibre crops and crop fibres industry, self-regulation currently may not be effectively possible.

- ii. **Co-regulation.**

Co-regulation is an intermediate step between state-imposed and self-regulation that involves some degree of explicit government involvement where the industry may work with the government to develop a code of practice whose enforcement would be by the industry, or a professional organization accredited by the government. In the absence of well-developed and all-inclusive industry organizations as in the fibre crops and crop fibres industry, effective co-regulation may not be possible currently in the country.

5.0 COST-BENEFIT ANALYSIS (CBA)

This chapter analyses the economic, environmental, and social impacts, as well as the administrative and compliance costs, of adopting the proposed Regulations. It also assesses and quantifies the proposed regulations' return on investment and how the impact of the proposed Regulations is likely to be distributed between the public and private sectors.

5.1 Economic Impacts of the Proposed Regulations

The economic impact of the proposed regulations are outlined below.

5.1.1 Economic benefits

The anticipated economic benefits of the proposed Regulations are: -

- i. Improved production, quality and value addition of Kenyan fibre produce and products, increasing returns for all industry actors including growers, dealers, manufacturers and other industry stakeholders.
- ii. Increased exports, sales volumes, and market value due to improved fibre production and product quality will result in increased foreign exchange earnings and, thus, improved balance of payments for the Country.
- iii. Growth in the traditional Kenyan fibre produce and products markets and development of new alternative markets, thereby increased sales and prices stability, assuring industry actors of stable prices and reliable markets.
- iv. Increased manufacturing, innovations and value addition of fibre produce and products in the country from increased promotion and development support.
- v. Create more jobs and business opportunities in production, handling, transportation, manufacturing, value addition, and marketing of fibre products and products.
- vi. Eliminating unfair trade practices in the industry, including illegal imports and exports. It will also eliminate practices that may exploit disadvantaged industry actors such as smallholder growers and reduce the quality of Kenyan fibre products.
- vii. *Increased farm incomes*: The draft regulations will ensure a streamlined marketing structure with no exploitation of growers by cartels, increased production, and sales of fibre produce and products. It will also ensure better produce prices from improved produce quality, coupled with reduced price volatility through the interventions of the pricing committee, which will increase incomes for growers' families and other industry actors.
- viii. Increased revenue from proposed fees and levies will enable the Authority to better undertake its role in the industry, including regulation of the industry and market development for Kenya's fibre industry. It will also reduce the Authority's dependency on the National Treasury for funding.
- ix. Reduced imports of cotton lint and cotton products and sisal or sisal substitutes into the country, saving the country's foreign exchange. For example, in 2023 alone, a total of 29,223 tonnes of cotton and cotton products of an estimated value of 1.26 billion shillings were imported.

5.1.2 Economic Costs

The anticipated economic costs of the proposed Regulations are: -

- i. The introduction of the proposed fees and levies will make Kenyan fibre produce and products more expensive in the world market, making them less competitive. This may lead to reduced demand, reduced volumes of offtake, and thus price instability in the industry. It may lead to loss of livelihoods for fibre crops-dependent households.
- ii. The proposed fees and levies may increase the cost of doing business for some actors in the fibre crops and crop fibres industry and thus reduce profits from investments in the industry.
- iii. Local consumer prices for fibre produce and products are likely to increase as proposed fees and levies are transferred to the end consumers, which may further reduce domestic consumption.
- iv. The implementation of these regulations will require concerted efforts and investments from the Authority, county governments, and other complementing agencies to support a rigorous and effective regulatory system.
- v. Effective monitoring for compliance across all nodes of the fibre crops value chain and industry will require significant investment to realize and sustain the benefits of the regulations.

5.2 Social Impacts of the Proposed Regulations

The Regulations are expected to have the following social impacts.

5.2.1 Social benefits

The anticipated social benefits of the proposed Regulations are:

- i. A well-regulated and growing fibre crops and crop fibres industry will enhance and create sustainability in employment opportunities, especially for rural youth in fibre crops production, processing, manufacturing, trade, and marketing processes.
- ii. Increased production and marketing of quality fibre products will translate to increased income for households in the fibre crop value chain, thus increasing households' disposable income to meet their daily needs.
- iii. Reduced tide of rural-urban migration in search of employment opportunities by creating attractive paying alternatives in the industry in the rural areas.
- iv. Improved income distribution among the rural communities in general and thus reduced inequalities. This is due to the increased production and participation in the industry by smallholder producers, aggregators, transporters, agents and dealers.
- v. Improved education levels, health care and nutrition in societies due to improved income and thus improved social well-being of the rural communities in fibre crops growing regions.
- vi. Attracting more smallholders to fibre crop production as it was during the peak fibre crop production era in 1980-1990, e.g., for cotton, from 40,000 currently to over 200,000 when

the industry peaked in the mid-1980s. This will uplift livelihoods for more farm families in fibre crop growing regions.

5.2.2 Social Costs

The anticipated social costs of the proposed Regulations are:

- i. Consumer prices for fibre produce and products may increase as proposed fees and levies are transferred to the end consumers, reducing demand and thus consumption.
- ii. Reduced competitiveness of Kenyan fibre produce and products in the world market due to increased prices resulting from the levy may lead to a loss of Kenya's market share. This may threaten the livelihoods of Kenyans who depend on the value chain.
- iii. An attractive fibre crops and crop fibres industry may result in farmers putting more land into fibre crops production at the expense of food production. This will food and nutrition insecurity among families in the fibre crops growing regions.

5.3 Environmental Impacts of the Proposed Regulations

The proposed Regulations are expected to have the following environmental impacts.

5.3.1 Environmental benefits

The anticipated environmental benefits of the proposed Regulations are:

- i. The development and promotion of fibre crop production will enable the optimal production of fibre crops in traditional growing regions and encourage expansion into non-traditional growing regions, including marginal areas. This will increase crop cover in these regions.
- ii. Reduced soil degradation due to improved crop cover from the increased land area under fibre crops production and recycling of fibre crops waste and residues back in the farms.
- iii. Improved land utilization and management, especially in otherwise idle, underutilized, or low-potential and marginal farming areas.

5.3.2 Environmental costs

The anticipated environmental costs of the proposed Regulations are:

- i. Environmental degradation resulting from the installation of new or additional fibre crop processing, manufacturing, and marketing facilities and rural road infrastructure.
- ii. Increased soil degradation due to the opening of new areas or expansion of land for fibre crops production, increased soil operations and increased use of agrochemicals to support increased fibre production.
- iii. Poor disposal of increased fibre crops processing waste.

However, with proper and effective implementation of these regulations, these negative environmental impacts can be significantly mitigated, and impacts reduced.

5.4 Quantification of the Benefits

i. Documented economic benefits of fibre crops

The Fibre Crops and Crop Fibres Regulations follow Government and stakeholders' efforts to revitalize the once vibrant industry. The new Regulations align with these efforts, and there are already clear economic benefits expected.

However, it is not in doubt that fibre crops have a very significant impact on the households' livelihoods in the fibre-producing regions of the Country. Despite their current low contribution to the national economy, fibre crops have the potential to become even more important economically in the country.

a. Benefits of cotton industry in Kenya

From the available data, documented reports and studies publications, the identified key economic indicators of the cotton industry include:

- i. Kenya has significant potential for growing cotton production both in terms of area and yield. It is estimated that the country has 385,000 hectares of land suitable to produce up to 73,000 MT (400,000 bales) of cotton lint annually. However, only about 25,000ha are currently being utilized for this purpose by about 40,000 farmers (KNBS, 2024).
- ii. In 2006, lint yields were 303 kg/ha, and the average yield from that year to 2018 was 196 kg/ha. In comparison, counties such as Uganda and China averaged 325kg/ha and 1,535kg/ha, respectively, over the same period. This reflects major inefficiency in production in Kenya. (Obukosia et al, 2022)
- iii. Cotton production has declined from a peak of 70,000 bales in 1986 to about 10,000 bales in 2018. The current domestic annual lint consumption by the textile mills is 41,200 bales, while the demand to meet our entire textile requirements stands at about 140,000 bales (GoK, 2021)
- iv. Approximately 40,000 smallholder farmers form the production base of the cotton industry in Kenya. This is a substantial decrease from over 200,000 when the industry peaked in the mid-1980s. (GoK, 2021)
- v. The country produces an average of 20,000 bales annually against a demand potential of 200,000 bales. Despite the industry's decline, cotton is still considered one of the few cash crops with real potential for increasing employment opportunities and food security through income generation in the Arid and Semi-Arid Lands (ASALs) of Kenya. (GoK, 2021)
- vi. According to the National Steering Committee (NSC) on Revival and Revitalization of Cotton & Pyrethrum report of 2021, the target is to increase national annual cotton production from the current 20,000 bales to 113,500 bales by the year 2025. This will support the requirements for local cotton mills while significantly reducing cotton imports. (GoK, 2021)
- vii. The cotton, textile, and apparel industry is Kenya's second largest manufacturing sector and can support about 200,000 households. In 2016, the textile industry made up about 9% of total exports, bringing in \$438 million in earnings, of which 80% came from the United States market. (KIPPRA, 2020)

- viii. The main market for the few milling and apparel industries in Kenya is the US with 70% of Kenya's apparel companies selling over 80% of their products to this market and creates employment opportunities for over 20,000 people. (KIPPRA, 2020)
- ix. In the Medium-Term Plan III of the Kenya Vision 2030, value addition in cotton and textile apparel is targeted to increase cumulative investment to US\$ 2 billion with 500,000 new cotton jobs and 100,000 new apparel jobs (KIPPRA, 2020)
- x. Kenya continues to rely heavily on cotton and cotton products imports. In 2023, various cotton products were imported from Uganda and Tanzania. These included cotton seed, cotton seed cake, crude cotton oil, and cotton lint. A total of 29,223 tonnes of cotton products of an estimated value of 1.26 billion shillings was imported. (KNBS, 2024)

b. Benefits of sisal industry in Kenya

From the available data, documented reports and studies publications, the identified key economic indicators of the sisal industry include:

- i. The country is estimated to produce an average of 25,000 tonnes of sisal annually. Ten large estates account for 95% of Kenya's sisal output, employing over 100,000 people. Over 10,000 small-scale producers (out growers and smallholders) supply the remaining 5%. (AFA, 2023)
- ii. Kenya produces 20,000–25,000 metric tonnes of sisal fibre annually and contributes about 0.3% to Kenya's GDP. (Business Daily Africa, 2020)
- iii. In 2017, sisal exports earned Kenya Ksh2 billion, which increased to Ksh3.72 billion in 2019. In the 2023 financial year, 6,052.70 tons of sisal fibre were exported, valued at KES 1.39 billion. This represents a 20 percent decline from the quantity of fibre exported in 2022. (AFA, 2023)
- iv. The demand for sisal is on the rise globally. According to Cognitive Market Research, the global sisal market size is USD 1351.2 million in 2024 and will expand at a compound annual growth rate (CAGR) of 4.30% from 2024 to 2031. (Cognitive market research, 2025)
- v. Sisal is one of the fibres that has recently recorded a rapid increase in demand. This can be attributed to an increasing awareness of the need to use eco-friendly materials. However, 80% of the sisal grown in Kenya is exported as raw materials. This is a major concern and, therefore, needs to be addressed urgently. (Phologolo et al, 2012)
- vi. Kenya is one of the top producers of sisal in Africa, exporting to China, Nigeria, Saudi Arabia, and Europe earning about KES 3 billion (\$20–30 million) in foreign exchange annually. (Nation Africa, 2025)
- vii. The industry directly and indirectly employs over 300,000 people, including farmers, factory workers, and transporters. (Business Daily Africa, 2020)
- viii. In 2024, the total area under the crop was estimated at 33,424 hectares with 96% of the area being under estates and the rest under smallholder growers. This smallholder

grower utilized their crop commercially, by selling their green leaf to estates and licensed dealers for further processing; while others used both traditional decortication and mobile sisal decorticators provided by the Authority to add value and sell their fibre to licensed exporters (AFA 2025)

- ix. About 10,000 smallholders currently are dependent on sisal cultivation and sisal provides a steady source of income in arid and semi-arid areas where other crops struggle due to adverse weather conditions. (Farmers Review Africa, 2023) (Nation Africa, 2025)
- x. Large sisal plantations support infrastructure development including roads, water, electricity improvements, schools and health centres in rural areas. (Nation Africa, 2020)
- xi. Sisal is a drought-resistant crop which thrives in arid/semi-arid areas, allowing land utilization in areas where food crops fail. It also reduces land degradation by enhancing crop covers. (Nation Africa, 2020)
- xii. Smallholder sisal farmers produce approximately 1,247 metric tons of sisal on 1,200 hectares of land. (AFA, 2024)
- xiii. Sisal contributes to carbon sequestration and is eco-friendly, with each hectare of sisal absorbing about 15–30 tons of CO₂ annually and provides a biodegradable alternative to plastic-based products. (FAO, 2025)
- xiv. Sisal waste (98% of the plant) is used in biofuels, biogas, fertilizers, and animal feed, reducing waste. (FAO, 2025)

ii. Fibre crops value chain cost-benefit analysis

a. Cotton enterprise economic analysis

An economic analysis in the Cotton National Value Chain Development Strategy 2024-2028, by the MOALD, assessed the potential benefits of cotton enterprises in Kenya. It focused on current farmer practices, break-even points, and optimal practices for enhanced competitiveness. The analysis also examined the distribution of added value from seed cotton and seed cake.

The average yield for conventional cotton at farm level was 175 kg/acre. The economic analysis on the status, commercialization threshold, and aspired optimal practice are presented in the Table below. Farmers cultivated one acre, producing an average of 175 kg. Based on the market price of KES 72 per kg, they realized KES 12,600, leading to an annual loss of KES 16,912.

Table 5: Economic analysis of cotton enterprises at different production levels

PRODUCTION LEVELS				
Item	Unit	Current	Commercial	Optimal
Yields	Kg/acre	175	700	800
Area	Acres	1	2.5	20
Market price	KES	72	72	72
Total revenue	KES	12,600	126,000	576,000
Variable costs	KES	29,512	91,728	393,288
Profit/Loss	KES	-16,912	34,272	182,712
Monthly Profit/Loss	KES	-2,818	5,712	30,452
Cost per unit	KES	169	52	49
Benefit cost ratio		0.4	1.4	1.5

Source: MOA&LD, 2024

Interpretation:

- Due to the small land, cotton producers in Kenya aim to expand to one hectare (i.e. 2.5 acres) and increase productivity to 700 kg/acre with an improved market price of KES 72 per kg. This requires a conducive, well-structured, and regulated environment.
- The analysis demonstrates that farmers will earn significant profits that can improve their livelihoods when they cultivate 10 acres and increase productivity per acre to 800 kg (Table 1) with an improved price of KES 72 per kg. This translates to a profitability level of KES 30,452 per month. To realize full benefits to the farmer, strategic investments are needed to facilitate quality preservation, value addition activities, and collective marketing.
- Currently, the benefit cost ratio of 0.4, which means that for every shilling invested, the grower loses 60 cents ($= 0.4 - 1$). At the aspired commercial level, the benefit cost ratio is 1.4, which means that for every shilling invested, the grower gets a return of 40 cents ($= 1.4 - 1$). At the optimal level, the BCR is 1.5, that is the grower is getting 50 cents for every shilling invested ($= 1.5 - 1$).

These commercial or optimal production levels are only achievable with a structured industry. This conducive and well-regulated environment is only possible with the right legal framework in place, hence the need for these regulations.

b. Sisal enterprise economic analysis
b.1 Smallholder Production System

OUTPUT	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Annual Gross INCOME- Yield/ha 1000 kg @ 80/= /kg*			80000	80000	80000	80000	80000	80000	80000	80000
Sale Poles- 3200 @ Kshs 50 per pole										
sale of tow - @ Kshs 30 per Kg			1000	4500	4500	4500	4500	4500	4500	4500
A: Total Annual Gross output	0	0	81000	84500	84500	84500	84500	84500	84500	84500
B: Total Annual Costs	53500	3,000	3,000	37,000	38,000	37,000	13,500	39,000	39,000	39,000
Annual Net Income/ Ha (A-B)	-53500	-3000	78,000	47,500	46,500	47,500	71,000	45,500	45,500	45,500
Cumulative Net income	-53500	50,500	27,500	75,000	121,500	169,000	240,000	285,500	331,000	376,500
Benefit cost ratio	0.0	0.0	27.0	2.3	2.2	2.3	6.3	2.2	2.2	2.2

Source, AFA – Fibre Directorate, Sisal Handbook

Interpretation:

- The farmer had no returns in the first 2 years of the establishment of the crop.
- Gross Margin Per Ha per Year = Kshs 37,650 (Assuming market interest rates are constant through the years – Discounting of the 10th year income has not been factored).

- The fibre will be sold at a farm-gate price of Kshs 100/= per Kg. It is an ungraded hand-decorticated Sisal (UHDS) grade.
- The benefit-cost ratio (BCR) in the first two years is zero as there are no returns. The highest BCR is in the third year and is 27, meaning the farmer gets back Kshs.27 for every shilling invested by then. Thereafter, the BCR varies and averages 2.7 for the 10 years, meaning the farmer gets back Kshs.2.7 for every shilling invested over this period.
- A viable enterprise must have a BCR of more than 1.

b.2 Sisal Estate Farms Production System

	year 1	year 2	year 3	year 4	year 5	year 6	year 7	year 8	year 9	year 10
Establishment costs	7700	14500	1000	0	0	0	0	0	0	0
Maintenance, Harvesting and Processing	4,500	2,250	126,250	120,500	120,500	120,500	120,500	120,500	120,500	120,500
Total costs	12200	16750	127250	120500	120500	120500	120500	120500	120500	120500
OUTPUT										
Annual Gross INCOME-Yield/Ha- 1200kg @ Ksh160/kg	0	0	192,000	192,000	192,000	192,000	192,000	192,000	192,000	192,000
Sale Poles- 3200@kshs30	0	0	0	0	0	0	0	0	0	96000
Total Annual Gross	0	0	192,000	192,000	192,000	192,000	192,000	192,000	192,000	288,000
Annual Net Income/Ha	(12,200)	(16,750)	64,750	71,500	71,500	71,500	71,500	71,500	71,500	167,500
Cumulative Net income	(12,200)	(28,950)	35,800	107,300	178,800	250,300	321,800	393,300	464,800	632,300
Benefit cost ratio	0.0	0.0	1.5	1.6	1.6	1.6	1.6	1.6	1.6	2.4

Source, AFA – Fibre Directorate, Sisal Handbook

Interpretation:

- The Estate has no returns in the first 2 years of establishment of the crop.
- Gross Margin Per Ha per Year = Kshs 63,230 (Assuming market interest rates are constant through the years – Discounting of the 10th year income has not been factored).
- The yield under estate management is higher at 1,200kg per Ha compared to 1,000 kg per Ha for smallholder farmers.
- The estate production has a value price of Kshs.160 per Kg compared to Kshs.100 per Kg for small holder farmers.

- v. The benefit cost ratio (BCR) in the first 2 years is zero as there are no returns. The BCR is in the 3rd year and is 1.5, meaning the farmer is getting back Kshs.1.50 for every shilling invested by then. Thereafter, the BCR varies and averages 1.6 for the 10 years, meaning the farmer is getting back Kshs.1.60 for every shilling invested over this period.
- vi. The Estate has higher total costs (Kshs. 999,700) per Ha. compared to the smallholder farmer (Kshs. 245,500) pa Ha over the 10-year crop cycle.
- vii. The Estate has a total gross income of Kshs. 1,632,000, compared to the smallholder income of Kshs. 672,500 per Ha over the 10-year crop cycle.

From the above data, sisal production in Kenya remains a viable agricultural enterprise despite the absence of an effective and supportive regulatory framework. This is due to its resilience to harsh climates, high demand for fibre, and potential for value addition. With a conducive and supportive regulatory environment, the performance of this industry can be transformed to the benefit of all industry actors. These include higher earnings for farmers through stable pricing and quality control, better global competitiveness due to improved fibre quality, environmental sustainability through responsible farming practices, and enhanced local processing rather than exporting raw fibre, thus creating jobs.

If well-implemented, regulating fibre crops and crop fibres industry in Kenya could significantly boost exports, create jobs, and improve sustainability, outweighing the initial costs as demonstrated above for both cotton and sisal industries. However, a balanced regulatory approach that supports farmers rather than overburdens them is crucial for long-term success.

5.5 Cost-Benefit Analysis Assumptions

From the above discussions, it is quite clear that the expected economic, social, and environmental benefits from the implementation of the proposed Regulations heavily outweigh the corresponding costs. The analysis of the cost and benefits of implementation of the draft Regulations is, however, based on the following assumptions: -

- i. The Regulations will be implemented holistically, with all their provisions implemented.
- ii. The country's and fibre crop-producing counties' development strategies, and political and policy environment will continue to prioritize and support the development of fibre crop value chains.
- iii. The climatic conditions will remain favourable for fibre crops production.
- iv. The fibre crops and crop fibres industry value chain actors and all other auxiliary industry actors in general will respond rationally to the implementation of the proposed Regulations and voluntarily comply with them.
- v. The additional revenue generated from the various fees and levies will be used to further develop the fibre crops subsector.

5.6 Assessment of Return on Investment (Benefit)

The adoption and operationalization of the proposed Crops (Fibre Crops and Crop Fibres) Regulations 2025 will be critical to revitalize Kenyan fibre crops and crop fibres industry. These regulations will support the implementation of key Government development plans as envisaged in different government development strategies, including Vision 2030 and the Bottom-Up Economic Transformation Agenda.

While it is difficult to directly apportion the actual impact of these regulations, it is quite clear that industry regulation is critical for the transformation of the Kenyan fibre crop and crop fibres industry.

These regulations seek to reverse the stagnation or decline in the production of fibre crops in the country and return the industry to 1980-1990 years when this industry was one of the key economic pillars in Kenya's agricultural sector. This will be achieved by promoting fibre crops in the country. To effectively realize this, these regulations seek to regulate the industry and have proposed a set of provisions for registration, licensing and ensuring compliance to all provisions of these regulations and all other relevant laws by all industry actors.

These proposals of the regulations, coupled with enhanced capacity building for farmers on good agricultural practices (GAPs) and other key technical areas in fibre crops production are expected to increase fibre crops production and productivity of growers' fibre crops fields. They are also expected to improve the quality of the produce while reducing post-harvest losses. This will result in increased earnings for the growers, dealers, processors and manufacturers and increased foreign exchange earnings for the country.

The increased availability of affordable fibre crops and products locally will reduce the need for cheap and poor-quality fibre product imports, saving the country's foreign exchange. Promoting collective action among the growers through the formation of growers' associations, produce aggregation at the growers' association's levels, and grower-dealer agreements will improve the farmers' negotiating power. This will lead to better prices and other terms of trade, thus allowing farmers to benefit from the economies of scale in marketing their produce collectively.

The regulations will also promote fair trade, supporting Kenya's agricultural development and manufacturing pillars outlined in policies such as Vision 2030, ASTGS, and individual counties' CIDPs. This will help develop industry and contribute to the nation's development.

These regulations aim to enhance the country's manufacturing and value-added capacity to shift from the current situation. About 90% of fibre crops are exported as raw material, which denies the country employment opportunities and optimizes foreign exchange earnings from the fibre crops and crop fibres industry.

These regulations will ensure that the quality of fibre crop produce and products meet the set national and applicable international quality standards. This which will raise the demand and value of Kenya's fibre products in the global market. Compliance with these standards and the establishment of an effective traceability mechanism also envisaged in the regulations will make

Kenya's fibre products more competitive in the global market. This will enable the development of new markets across the world. The regulations will also regulate fibre crops produce and products imports and exports thus controlling illegal trade actions that have in the past negatively impacted the Kenyan local and export markets.

Implementing the determination of the pricing formula for fibre produce and fibre products proposed in these regulations will ensure fair pricing across the industry. This will protect all industry actors, particularly small-holder farmers, from any form of exploitation.

The implementation of the regulations will also create numerous employment opportunities, both on-farm to increase production and off-farm to provide auxiliary services in industry.

In broad terms, the RIA noted that the following broad benefits and returns on investment will be achieved:

- i. The Regulations will support the establishment of a well-structured, streamlined, and regulated fibre crops and crop fibres industry promoting the sustainable development of fibre crops, fibre produce, and fibre products. This will improve crop production, produce aggregation, collection and transportation, manufacturing, value addition, and quality assurance, among other things, for the benefit of all fibre crops and crop fibres industry stakeholders and the country.
- ii. The regulations will promote compliance with national and applicable international quality standards and an effective traceability mechanism to enhance the competitiveness of Kenya's fibre crops produce and products in the world market. They will also support the growth of existing markets and the development of new markets in the growing global market.
- iii. They will improve the production and productivity of fibre crops by enhancing access to effective agricultural advisory services, increased crop research support, and improved production and access to quality planting materials.
- iv. The regulations will support the organization of fibre crop growers into growers' associations, enabling collective marketing of fibre crops products, allowing grower-dealer agreements and optimizing economies of scale for smallholder growers.
- v. Post-harvest and quality losses will be reduced through better handling, transportation, and storage, enhanced surveillance, and compliance with other quality assurance provisions of these regulations.
- vi. The regulations will control the importation of cheap, low-quality fibre products, protect the local industry, and preserve the reputation of Kenya's exports.
- vii. Increased production, processing, manufacturing and value addition in the fibre crops and crop fibres industry will create additional jobs and business opportunities across the value chain and in the supportive industry auxiliary services.
- viii. Improved maintenance and access to reliable industry data maintained by different actors in the industry and by other service providers will provide planning and decision-making basis for the Government and private sector businesses.

- ix. Increased revenue from proposed levies and fees will enable the Authority to better undertake its role in the industry such as regulation of the industry and market development for Kenya's fibre produce and products.
- x. The creation of the pricing formula committee will reduce the price volatility of the fibre crops products, thus ensuring fair trade and sustainability in the industry.
- xi. Increased income for fibre crops growers' families resulting from increased fibre production and quality, and stable prices. This will lead to improved livelihoods and social well-being of the rural communities in fibre-crop-producing regions.
- xii. Increased production, processing, manufacturing, and exports will boost agricultural GDP, increase foreign exchange earnings, and reduce imports of low-quality fibre products, saving foreign exchange.

6.0 REASONS WHY OTHER REGULATORY OPTIONS ARE NOT APPROPRIATE

6.1 Option 1: Maintaining the Status Quo

Maintaining the status quo will mean the country does not establish a legal and regulatory framework to guide the development, promotion, and regulation of the fibre crops and crop fibres industry for the benefit of the industry stakeholders. This will deny the industry stakeholders the prospects of benefiting from opportunities in the fibre crops and crop fibres industry, thus curtailing the realization of the country's development objectives.

Maintaining the status quo will impact the fibre crops and crop fibres industry as follows:

- i. Without development, promotion, and regulation, the fibre crops and crop fibres industry will remain unorganized and poorly regulated. This will lead to declining production, shrinking markets, and the persistence of unscrupulous players who undermine quality, damaging the reputation of Kenyan fibre products in global markets. Fibre crops growers will lose the opportunity to increase their income and improve their livelihoods due to unregulated prices and low production.
- iii. Low production and quality decline will continue, reducing the incomes of growers, dealers, processors, manufacturers, and agents and negatively impacting their livelihoods.
- iv. Declining incomes will further limit capital access for smallholders and estate growers as well as processors, manufacturers, agents, dealers and traders in the industry. This will deny them the capital to re-invest in their businesses for development.
- v. The absence of accurate, real-time data will result in planning based on unreliable information, hindering the industry's growth.
- vi. Without sufficient crop research, quality planting materials, and agricultural advisory services, fibre crop production and value addition will remain low, causing the industry to stagnate or decline further.
- vii. The failure to form effective growers' associations will leave individual growers with limited market access and poor bargaining power, making them vulnerable to industry cartels or brokers.
- viii. Without a pricing committee, price volatility will continue, and growers will remain subject to cartels and brokers, preventing stable incomes.
- ix. Illegal trade practices through uncontrolled fibre crops produce and products imports and exports may be used by unscrupulous traders to impact the Kenyan domestic and main export markets negatively. This will distort demand, prices and quality and may lead to the total loss of such markets.
- x. The anticipated employment opportunities to be created by the increased fibre crops produce and products production, processing, manufacturing, trading, and other complementing services will not materialize. The sustainability of current jobs in the industry will be at risk.

The situation is undesirable, and the RIA recommends that the proposed Regulations be implemented to ensure optimal development and regulation of the fibre crops and crop fibres industry. This will benefit all stakeholders in the industry in the country. It will also enable the

industry to contribute effectively to the national objectives of Vision 2030, the ASTGS, the National Agriculture Sector Strategy, the Government's BETA, the respective fibre crops producing Counties' CIDPs, and other national policies and strategies on agricultural, trade, industrialization, and economic transformation.

6.2 Option 2: Other Practical Options

Alternatives to regulation include:

i. No new intervention/do nothing

This may involve utilizing existing regulations, simplifying or clarifying existing regulations, improving enforcement, or making legal remedies more accessible or affordable. However, this approach is unlikely to bring significant change, as the fibre crops and crop fibres industry in the country currently has had no specific regulation in the past and existing applicable regulations have failed to effectively stir its growth and development optimally. The industry has, instead, been on a decline for the last 4 or so decades. In the absence of any new intervention, the industry would likely remain as it currently is, and this will be to the detriment of all the industry's stakeholders and the country in general.

ii. Information and education

Information and education can empower stakeholders to make their own decisions, improving choices for the mutual benefit of all. However, information and education can take time to make an impact and may not be acceptable. This approach may also increase costs for the government, agencies, and businesses that will be providing the required information and education. The desired objectives are unlikely to be realized within a reasonable time for the common good of all.

iii. Incentive/market-based structures.

The government can use economic instruments such as taxes, subsidies, and initiatives to realize the desired objectives. These initiatives, however, are only practically possible in well-developed and efficiently functioning sectors with well-defined structures. These sorts of systems often need their own regulation to establish the framework and may have additional costs to the government. They are, however, unlikely to be effective in the fibre crops and crop fibres industry in Kenya as it is yet to be well established.

6.3 Alternative Models of Regulation

The alternative modes of regulating the fibre crops and crop fibres industry include the following:

i. Self-regulation

Though the industry has standards and a Grower's handbook (Sisal and Cotton) that may constitute a form of self-regulation framework, complete compliance of the standards set in the handbooks is yet to be realized. This makes effective self-regulation in the industry currently as it is structured not possible.

ii. **Co-regulation.**

Co-regulation is an intermediate step between state-imposed and self-regulation that involves some degree of explicit government involvement. The industry may work with the government to develop a code of practice. An industry or a professional organisation accredited by the government would enforce the code. The fibre crops and crop fibres industry in Kenya currently does not have universally acceptable and all-inclusive industry representative organisation (s) that can mobilize and organize the actors towards this. Co-regulation is practically impossible in the local fibre crops and crop fibres industry as it is currently structured.

7.0 OUTCOME OF STAKEHOLDERS PARTICIPATION

This chapter examines the legal requirements and threshold for stakeholders' engagements in the regulation-making process. It also analyses the outcome of stakeholder engagements in developing the proposed Regulations to assess whether they met the legal threshold set for stakeholders' engagements in Kenya.

7.1 Legal Basis for Stakeholder Engagements

The principle of public participation is based on the belief that those who are affected by a decision have a right to be involved in the decision-making process. This principle upholds the sovereignty of the people by allowing them to make views in the decision-making process. Section 2 of the Statutory Instruments Act, 2013 defines public participation as the involvement by the regulation-making Authority of persons or stakeholders that the statutory instrument may directly or indirectly apply to.

The Constitution of Kenya provides for national values and principles of good governance and participation of the people of Kenya. Article 10 provides for the involvement of the people in the enactment of any law. The national values and principles bind all state organs, state officers, public officers, and all persons whenever they, *inter-alia*, apply the Constitution and enact any law.

Courts of law have in several instances provided for modes of ensuring public participation is effective and meaningful. For instance, in, *Independent Electoral and Boundaries Commission (IEBC) v National Super Alliance (NASA) Kenya & 6 others [2017] eKLR* (para 164 – 5) the court of appeal stated:

“...The mode, degree, scope and extent of public participation is to be determined on a case-by-case basis.

What is critical is a reasonable notice and reasonable opportunity for public participation. In determining what reasonable notice is, a realistic time frame for public participation should be given. Also, the purposes and level of public participation should be indicated. Reasonableness is also to be determined from the nature and importance of legislation or decision to be made, and the intensity of the impact of the legislation or decision on the public. The length of consultation during public participation should be given and the issues for consultation. Mechanisms to enable the widest reach to members of the public should be put in place; and if the matter is urgent the urgency should be explained...”

Further, in *Poverty Alleviation Network & Others v President of the Republic of South Africa & 19 others, CCT 86/08 [2010] ZACC 5*, public participation was emphasized in the following terms;

“...engagement with the public is essential. Public participation informs the public of what is to be expected. It allows the community to express concerns, fears and even to make demands. In any democratic state, participation is integral to its legitimacy. When

a decision is made without consulting the public the result can never be an informed decision...”

In the totality of all the above pronouncements, the following points are important in determining the effective threshold for public participation:

- i. Public participation was never intended to be a superfluous or ornamental suggestion; rather, it should be implemented and enforced to have a practical substantive value.
- ii. Public participation should never be a mere cosmetic venture, formality, and public relations exercise, rather it ought to be conducted in a manner that informs the public of what is at stake, and how it will impact society and the end document should mirror and reflect the spirit of the public in concern; and
- iii. Public participation should never be equated to mere consultations. The product of legislation ought to be a true reflection of public participation so that the end product bears the seal of approval by the public.

Section 5 of the Statutory Instruments Act, 2013 requires a regulatory Authority to, before issuing a statutory instrument, make appropriate consultations with persons who are likely to be affected by the proposed instrument. Specifically, section 5(3) (a) of the Act requires a regulatory authority to notify, either directly or by advertisement, persons who are likely to be affected by the proposed regulation.

Failure to conduct stakeholder engagement may risk the regulation being challenged in court and subsequently annulled. For example, in *Republic v Cabinet Secretary, Ministry of Agriculture, Livestock & Fisheries & 4 others Ex Parte Council of County Governors & another* [2017] eKLR, the court declared the Coffee (General) Regulations, 2016 unlawful for failure to comply with the provisions of the Statutory Instruments Act.

In *ODM & 4 Others -vs- The Speaker of the National Assembly & 5 Others* [CONSTITUTIONAL PETITION NO. E 491 OF 2023 (Consolidated with E010 of 2024 and E025 of 2024)] the court declared the Privatisation Act, 2023 unconstitutional for lack of meaningful and sufficient public participation. The court held that limiting public participation to select few stakeholders could not be considered reasonable, meaningful and effective both quantitatively and qualitatively as envisioned by the Constitution. The court pronounced that the public ought to have been informed of the intended public participation on the impugned Act.

In *National Assembly & another v Okiiti & 55 others* (Civil Appeal E003 of 2023 & . E016, E021, E049, E064 & E080 of 2024 (Consolidated)) [2024] KECA 876 (KLR) (31 July 2024) (Judgment) Neutral citation: [2024] KECA 876 (KLR), the Court of Appeal held that Article 10 of the Constitution requires state organs and regulatory bodies to inform the general public and stakeholders why their views were not taken into account and why the views of some of the stakeholders were preferred over theirs. Such an approach will not only enhance accountability in

the decision-making processes by State organs but also enhance public confidence in the processes and in our participatory democracy. It is on this basis that the court held that the Finance Act, 2023 offended Article 10 (1) and (2) (c) of the Constitution.

Stakeholder engagement is a statutory requirement and a constitutional mandate that the Authority should observe. It bears great importance to the public as it enables people who are likely to be affected by the proposed regulations to present their concerns to the regulatory body so that they can be considered in deciding the changes that need to be made to the draft regulations. This process should not be considered a formality. The views gathered during the process should be given serious consideration by the Authority even though they are not binding. Failure to consider the comments without justification may have adverse consequences on the draft regulations including legal, economic and cost implications.

7.2 Stakeholders Engagements

The Authority developed and implemented the Crops (Fibre Crops) Regulations, 2020, in the industry. In 2022, the National Assembly annulled these Regulations for lack of satisfactory public participation. In 2024, the Authority, in consultation with the Ministry of Agriculture and Livestock Development and the Council of Governors, initiated the process of developing new Crops (Fibre Crops) Regulations to address the shortcomings cited by the National Assembly.

The Ministry of Agriculture and Livestock Development (MOALD), together with the Agriculture and Food Authority (AFA) organized stakeholders' engagement and public participation workshops to provide an opportunity for the public to participate in the regulation-making process. MOALD held specific engagement workshops with key stakeholders including national government ministries, government agencies, County Governments, Council of Governors, research organisations and academia, and private players in the industry. The public workshops were distributed in different counties to allow for proper public participation.

On 22nd June 2024, the Authority in consultation with MOALD convened a Sector Agriculture Working Group on Policy, Legislation and Standards (SWAG PLS) and the Joint Agriculture Sector Steering and Coordination Committee (JASSCCOM) to seek views on the Draft Crops (Fibre Crops) Regulations, 2024.

On 8th – 12th July 2024, the incorporated the SWAG PLS comments into the Draft Crops (Fibre Crops) Regulations, 2024. SWAG PLS gave its comments which were incorporated in the Draft Crops (Fibre Crops) Regulations. The Authority, in consultation with the Council of Governors, identified and mapped out the value chain actors based on the current geographical production, manufacturing and marketing of fibre crops. This was for purposes of convening public participation forums in line with the Constitution of Kenya 2010.

The zero draft of the Crops (Fibre Crops) Regulations has since gone through various legal processes, including public participation. The attendees gave written comments which were incorporated into the draft regulations during the stakeholder workshops.

The Authority held eleven consultative forums in different counties between 14th August 2024 and 30th January 2025. The public participation workshops took place at the following locations: Nairobi (Hillpark Hotel), Kisumu (Kisumu Hotel), Homabay (Tourist Hotel), Busia (The Breeze Hotel), Baringo (Chamastar Hotel), Uasin Gishu (The Grand Empire Hotel), Meru (Alba Hotel), Embu (Nokras Silver Oak Hotel), Machakos (Kyaka Hotel), Mombasa (Sunset Paradise Holiday Homes), Lamu (Breeze View Hotel). The workshops attracted different stakeholders including growers, grower representatives, cooperative societies, Community Based Organizations (CBOs), input suppliers, financial institutions, retailers, processors, spinners, weavers, exporters, importers, Council of Governors, County Governments, State departments, partner government agencies, advocacy groups, private sector, research and academia institutions.

On 30th January 2025, the Authority presented the outcome of the public participation to the SWAG PLS wherein the Authority incorporated the comments from the public participation exercise.

The records from the public forums show extensive deliberations on the myriad issues that arose from the proposed Regulations. Stakeholders were allowed to read and analyze the draft Regulations and share their views with the Authority. There was evidence to show that the Authority collated, reviewed, and incorporated the issues raised into the proposed Regulations and received comments from the workshops.

7.2.1 National Government Consultations

Consultations were conducted with representatives of various national government agencies and state departments of the Ministry of Agriculture and Livestock Development, various Directorates of Agriculture Food Authority, Kenya Agriculture Livestock Organization (KALRO), Kenya Plant Health Inspectorate Service (KEPHIS), Kenya Bureau of Standards (KEBS), Kenya Revenue Authority (KRA) and Kenya Industrial Research and Development Institute (KIRDI).

7.2.2 County Governments Consultations

MOALD, in collaboration with the Authority, conducted several public participation workshops in different counties such as Homabay, Kisumu, Busia, Kabarnet, Eldoret, Meru, Embu, Machakos, Mombasa, Lamu and Nairobi, with a total of thirty counties involved in the county consultations.

On 14th August 2024, MOALD, in collaboration with the Authority, held a meeting at Hillpark Hotel in Nairobi. The meeting was to present the Draft Crops (Fibre Crops) Regulations and

discuss the Stakeholders' Comments. The meeting was attended by representatives from the Egerton University, Export Processing Zones Authority (EPZA), Moi University, KILRDI, KenTrade, State Department of Industry (SDI), KALRO, Kenya Institute for Public Policy Research and Analysis (KIPPRA), KEPHIS, KRA, MOALD, Kenyatta University, RIVATEX East Africa Limited, KEBS. The attendees gave written comments.

On 2nd September 2024, MOALD, in collaboration with the Authority, held a meeting at the Tourist Hotel in Homabay County. The counties represented in the consultations were Homabay and Migori. The meeting was attended by representatives from growers, growers' representatives such as cooperative societies such as Kipasi Framers Cooperative Society, Prose Agencies Limited, Rhino Self Help Group, Al – Naqel Holding Limited, Lambwe Framers Cooperative Society Limited, Homabay County Cotton Value Chain Cooperative Union Limited, Otati Farmers Sisal Growers, Kipasi Farmers' Cooperative Society, Capital Grown Multi – Purpose Cooperative Society Limited, Kedar Gap Israel Group, Homalume Cooperative Society, Muhuru –Kadem Cooperative Society, community-based organizations (CBOs), financial institutions such as Cooperative Society, traders, retailers, processors, exporters, importers, Council of Governors, county governments CEMC from Migori County and Homabay County, State departments and academia institutions. such as Tom Mboya University. The attendees gave written comments.

On 4th September 2024, MOALD, in collaboration with the Authority, held a meeting at Kisumu Hotel in Kisumu County. The counties represented in the consultations were Kisumu and Siaya. The meeting was attended by representatives from the county government of Siaya and Kisumu, Uyoma Farmers' Cooperative Society, Double Cooperative Society, Olex Techno Enterprises, Uyoma Cotton Farmers Networking Group, Mama Pamba Kisumu Cooperatives Society Sakwa/Yimbo Farmers' Cooperative Society Limited, Siaya Cooperatives Union, Kisumu County Cotton Growers Union, Siaya District Cooperative Union, Pith Kodhiambo Small Scale Farmers Development Group, Equity Bank, Rift Valley Products Limited, New Kisumu District Cooperatives Union, Green lake farmers Limited, Asembo Farmers' Cooperative Society Limited Mahtco Kenya, AFA and Cooperative Bank Lake Nyaboli. The attendees gave written comments.

On 6th September 2024, MOALD, in collaboration with the Authority, held a meeting at the Breeze Hotel in Busia County. The counties represented in the consultations were Busia and Bungoma. The meeting was attended by representatives from council of governors, Malaba Malakisi Cotton Farmers Cooperative Union Limited, Bwiri Farmers' Cooperative Society Limited, Nmazali FCS Limited, county government of Busia, Jairos Farmers' Cotton Cooperative Society, Thika Cloth Mills Limited, Amkura Society, MHATCO Kenya, Malakusi Cooperative Society, Cooperative Bank, Busia Farmers' Cooperative Society, Luanda Cotton Farmers Cooperative Union, Nmabale Farmers Cooperatives Union, Alupe University, Adungosi Cotton Cooperative Society, Matayo's Farmers' Cooperative Society; MOALD –SDA and AFA. The attendees gave written comments.

On 17th September 2024, MOALD, in collaboration with the Authority, held a meeting at Breeze View Hotel in Lamu. The counties represented in the consultations were Lamu and Tana River. The meeting was attended by representatives from AFA, Lake Kenyatta Framers Cooperatives Society, Lamu County – Directorate of Trade and Investment, Bura Irrigation Farmers Sacco, Lamu County Cotton Cooperatives Society Limited, United Genrtion Self Help Group, Witu Cooperative Society ,Widow Saund CBO Hindi, National Irrigation Authority – Tana Irrigation Scheme, Pangani Sisal Farmers, Ungu Development Self Help Group, Hindi Maogoni Cooperative Society, Tusaidiane Self Help Group, IKFCS and Maramande Jitegemee Self Help Group. The attendees gave written comments.

On 19th September 2024, MOALD, in collaboration with the Authority, held a meeting at Sunset Paradise Holiday Homes in Mombasa. The counties represented in the consultations were Mombasa, Taita Taveta, Kwale and Kilifi. The meeting was attended by representatives from AFA, CEMC of Kilifi, Kwale Mombasa and Taita Taveta Counties, KALRO, Council of Governors, Kwale Pavi Cooperative Society, Saman Sisal Estate, Teita Estate Limited, Wigglesworth Exporters, Taveta Pamba ni mali , Rea Vipingo Plantations, Kilifi County and Taita Taveta County, Voi Point Limited, Kichaka Best Limited, MOALD, Magarini Farmers' Cooperative Society Limited, Kilifi Plantations Limited and Farmers. The attendees gave written comments.

On 14 October 2024, MOALD, in collaboration with the Authority, held a meeting at Alba Hotel in Meru. The counties represented in the consultations were Meru, Laikipia, Isiolo, and Marsabit. Representatives from AFA, Igembe South Cotton Farmers Group, Kiringa Sisal Growers Association, Real Cotton Growers Cooperative Society, Rapsu Farmers Marketing Cooperative Society, Meru County Cooperatives Society, Meru County, Agri – Pride Cotton Farmers' Cooperative Society Limited, Meru Ginnery, Isiolo Cotton Farmers Chema Group, MOALD, Tigania Estate and farmers attended the meeting. The attendees gave written comments.

On 16th October 2024, MOALD, in collaboration with the Authority, held a meeting at Nokras Silver Oak Hotel in Embu. The counties represented in the consultations were Embu, Kirinyaga, Muranga and Tharaka Nithi. The meeting was attended by representatives from Council of Governors, Nkomatucia Cotton Farmers Cooperative Society, Kirinyaga University, Mutobarie Cotton Farmers' Cooperative Society, Society for Biotech Farmers of Kenya, Gatum Group, Mukothrima Multipurpose Cooperative Society, Kirinyaga Cotton Farmers Cooperatives Society Limited, Sobifak, Mutuobare Cooperative Society, Mbeeere North Cotton Farmers Cooperatives Society, Tunyai cotton growers' groups, Kamwangu Cotton Group and farmers. The attendees gave written comments.

On 18th October 2024, MOALD, in collaboration with the Authority, held a meeting at Kyaka Hotel in Machakos. The counties represented in the consultations were Nairobi, Machakos, Kitui

and Makueni. The meeting was attended by representatives from AFA, Youth in Agriculture Group, Katumbu Cotton Group, Supra Textile Limited, Makueni Ginneries Limited, Konza Cotton Growers, Kitengeni Cotton Growers Group, Uvuoni Cotton Farmers Cooperatives Society Limited, Athi Cotton, Kitui Sisal Cooperatives, Ndauni Sisal Value addition group, Utithini fibre and fruits and CBO oasis of farmers, Kaka Cotton – Lower Yatta, Kee Sisal Value Addition Centre, Mtito Andei Cotton Farmers Cooperative Society, MOALD, Kwa Matungu Cotton Growers Association, The Don's Fibre Limited, Makueni County, Kitengeni Cotton Farmers Group, Kaka Cotton Growers, Kitui County, council of governors and farmers. The attendees gave written comments.

On 29th October 2024, MOALD, in collaboration with the Authority, held a meeting at Chamastar Hotel in Kabarnet. The counties represented in the consultations were Baringo and Nakuru. The meeting was attended by representatives from Baringo Kerio Valley Farmers' Cooperative Society Limited, Kapluk Farmers Cooperatives Society Limited, Kegrtai Sisal Growers Cooperatives Society, Matani Mingi Sisal Estate Limited, KALRO, Boresha Sacco Limited, Skyline DT Sacco Limited, AFA, Adhie Holdings, National Irrigation Authority, Majani Mingi Sisal Estate Limited, Skyline DT Sacco Limited and farmers. The attendees gave written comments.

On 31st October 2024, MOALD, in collaboration with the Authority, held a meeting at the Grand Empire Hotel in Eldoret. The counties represented in the consultations were Uasin Gishu, Elgeyo Marakwet, West Pokot and Turkana. The meeting was attended by representatives from AFA, Elgeyo Marakwet and Turkana County, Kerio Valley Development Authority, Moi University, Katilu Irrigation Scheme, Chegilet Farmers produce, and marketing cooperatives society limited, Ripkor Sisal Farmers, Rivatex Limited and MOALD. The attendees gave written comments.

By a letter dated 10th December 2024, the Authority sought comments through submission of memoranda from 17 counties where fibre crops are majorly grown. These included Nyeri, Kajiado, Wajir, Garissa, Nyandarua, Nandi, Narok, Transzoia, Samburu, Mandera, Kiambu, Bomet, Kisii, Nyamira, Kakamega, Kericho and Vihiga.

7.2.3 Research and Academia

MOALD, in collaboration with the Authority, involved stakeholders from research institutions such as KALRO, KIPPRA and KEPHIS; and Universities such as Moi, Kenyatta, Egerton, Kirinyaga, Tom Mboya and Alupe universities who gave insightful comments on improving the draft regulations.

7.2.4 Private Sector

MOALD, in collaboration with the Authority, held various forums with various farmers, growers' associations, cooperative societies, marketing organizations and exporters, who gave considerable comments on improving the draft regulations.

On 20th January 2025, the Authority held a consultative workshop with in Nairobi at Hillpark Hotel which was attended by participants from various juke stakeholders including Thika Mills Limited,

NKG Coffee Mills Kenya Limited, Coffee Management Services Limited, First Quality Supplies Limited, Kitabwalla Enterprises, British American Tobacco Kenya PLC, Kahawa Bora millers, Elite Tools Limited, Devki Nandan Limited, One World Technology Limited, Sustainable Management Services Limited, Kens Metal Limited, Top Link Trading Company Limited, ASL Limited, Endsa International Company Limited, Waylittte Enterprises Limited, Ndovu Supplies Limited, APA Insurance Limited, Galaxy Pharmaceutical Limited, Evergreen Logistics Company Limited, Surgipharm Limited and Pinecrest Holdings Limited.

During the county consultations, co-operative societies, input suppliers, retailers, processors, importers, and exporters also attended the consultations.

7.3 Summary of Stakeholders' Views

Stakeholder views were captured, discussed, and addressed in consultative meetings. They were thereafter documented in a matrix, which indicates the issues and how they were addressed. Some views were incorporated into the proposed regulations, while others were not. MOALD indicated the reasons for the non-adoption of some views, including the fact that some of the views had already been addressed by other regulations.

A summary of the public consultation outcomes was as follows:

Item	Key Areas of the Regulations	Proposed Changes by the Stakeholders	Responses from The Technical Drafting Team	Justification/Action Taken
1.	Regulation 2	Criteria to differentiate between smallholders from plantation growers	Amended by inserting a new definition	To provide clarity
2.	Regulation 4	Scope of product to be limited to cotton seeds and sisal fibres only	Amended by defining the word fibre crop	To provide clarity
3.	Regulation 3	Include the development component of the fibre crops in accordance with section 3 of the Act	Section 3 of the Crops Act Cap 318 provides for the development of agricultural crops to augment exports	Amended by incorporating the comments in accordance with section 3 of the Act
4.	Regulation 5	Smallholder farmers to be secured and need not to register	Amended	Smallscale farmers are not required to register under the Act

5.	Regulation 5	Incentives to farmers to grow the crops	Not actioned	Incentives are provided for in the Act and the Agriculture Policy
6.	Regulation 5	Farmers to be registered under groups and cooperatives	Actioned	Farmers are encouraged to register under the cooperatives Act and societies Act
7.	Regulation (5)1 as read with 33(1)(b)	It is illegal to acquire from unregistered grower	Actioned by deleting regulation 33	To enhance clarity
8.	Regulation 6.7.8.9.12 and 14	Create a technical advisory committee	Not actioned	CECM to handle administratively
9.	Regulation 8	Prescribing compliance certificates is over-regulation.	There is a need for a compliance certificate as an enforcement mechanism. Enforcement of standards is provided for in Section 8(k) of the Crops Act Cap 318	Not actioned to ensure consumer protection and improved market access.
10.	Regulations 7,9,14,15,17	There is a need for a waiver for dealers in the value chain segments	Not actioned	There is a need to discourage anticompetitive behavior
11.	Regulation 8,12,14,16,18	Use one license for multiple fibre businesses	Not actioned	To discourage anticompetitive behavior
12.	Regulation 9(7)	Fine of Kshs. 500,000 for failure to register as an aggregator is high	Actioned by deleting Regulation 9(7)	Offense and penalty under section 16(4) of the Crops Act Cap 318
13.	Regulation 11(1) and 14(1)	Clarity on the order of manufacturer's compliance certificate and license	Not actioned	Certificate of compliance comes first
14.	Regulation 12	Include manufacturing to be for counties to license.	Licensing of manufacturers by counties is provided in Regulation 12	Not actioned
15.	Regulation 15,16,17	Exemptions on imports/exports for	Not actioned	Regulation of entities in an EPZ is under EPZ Act

		manufacturers regulated by other agencies		
16	Regulation 17	Redress mechanism for imported/exported goods where fines have been levied	Not actioned	This would require amendment of the Act.
17	Regulation 18 (1)	Renewal of licenses should be based on calendar year rather than financial year	Not actioned	This would require amendment of section 20(3) of the Act
18	Regulation 20	Farmers to be allowed to use local registered varieties	Actioned by deleting Regulation 20	Seeds are regulated under the Seed and Plant Varieties Act
19	Regulation 20	Provide mechanism for information sharing with counties	The mechanism for sharing information is missing.	Actioned by adding sub-regulation (3) to provide for information sharing between parties.
20	Regulation 21 (1)	County agriculture officer to be available to offer support	Actioned	The support to be handled administratively
21	Regulation 22	Need to introduce traceability of fibres from production to market	Actioned	Introduced new regulation to provide for global trade requirements
22	Regulation 22(3)(c)	Need to provide for weighing scales that cannot be manipulated	Noted	The same is provided under the Weight and Measures Act
23	Regulation (4)(b)	Bale size to be reduced to 50kgs	Actioned	To cater for cottage industries and local distribution
24	Regulation 24	Grading and validation services to be availed at county level	Actioned	To be addressed administratively
25	Regulation 25	Classing should be mandatory	Actioned by making classing as mandatory	To enhance enforcement standards for market access
26	Regulation 26	Include a representative from the State Department for Trade Authority and Ministry	The pricing committee has a trade-related function thus the need to	Amended by introducing Regulation 26 (2)(b) for a nominee from the state department

		are the same and no need to nominate from each	include the State Department for Trade	
27	Regulation 27	Cotton price to be increased for smallholder	Revised for	Minimum price to be determined by pricing committee
28	Regulation 28	Provide for direct appointment of crop inspectors by counties	Regulation 28(3) provides for the role of counties in nominating qualified persons for appointment by the Authority as crop inspectors.	Not amended pursuant to section 27 of the Act.
29	Regulation 28(2)	Fibre crops pricing committee to include one representative from small holders	Amended section 28(2) to include small holders nominated by the associations.	To increase inclusivity
30	Regulation 32(1)	Redraft for clarity.	The Crops Act Cap 318 provides for interpretation of licensing Authority	Amended Regulation 32 for(1) by replacing the words 'Authority or the respective County Executive Committee Member' with the words 'licensing authority'
31	Regulation 33	Redraft for clarity on the appeals procedure given to both levels of authorities under the Regulations	Appeals can be made to Government based on the licensing authority	Amended Regulation 33(1)(b) by inserting the words 'for appeals against the Authority' after the words 'Cabinet Secretary'
32	Regulation 36	Consider having an appeal committee at the county level	No amendment	Regulation 36(3) as drafted is adequate.

33	General	Should have in place administrative arrangements on revenue sharing with County Governments	Under these Regulations, fees collected by the County Governments as indicated in Schedule 8 will be left to the respective counties	Not actioned. Section 17 of the Crops Act Cap 318, enables county governments to impose fees for the development and regulation of agricultural crops within their borders.
34	General comment	Link the Regulation to other existing Acts/Regulations/Laws	Actioned	Cross referenced to CAP 317 and 318
35	Penalties	Re-examine the levels of the penalties	Not actioned.	Penalties are adequately provided for in the regulations

7.4 Assessment of Adequacy of Stakeholder Participation

MOALD conducted various stakeholder consultation meetings and stakeholder public participation forums, which allowed it to receive various comments, especially from farmer's co-operative societies, growers' associations and self – help groups, which would help in developing and improving the draft regulations.

The public participation workshops took place across 11 counties in the Republic of Kenya. The consultations covered participants from 30 counties including Homabay, Migori, Kisumu, Siaya, Busia, Bungoma, Lamu, Tana River, Mombasa, Taita Taveta, Kwale Kilifi, Meru, Laikipia, Isiolo, Marsabit, Embu, Kirinyaga, Muranga, Tharaka Nithi, Nairobi, Machakos, Kitui, Makueni, Baringo, Nakuru, Uasin Gishu, Elgeyo Marakwet, West Pokot and Turkana counties. The records show that MOALD proactively mapped out and sent invitations to various stakeholders from different regions.

From the records, the Consultant established that attendees of the public participation workshops raised their issues and gave their comments, and the Authority was able to respond to the issues raised. Additionally, the attendance lists revealed that the attendance was a good representative of the stakeholders who are likely or will be affected by the proposed regulations in accordance with the law.

The records from the public forums show extensive deliberations on the issues that arose from the proposed Regulations. Stakeholders were allowed to read and analyze the Regulations and share their views with MOALD. There was evidence to show that MOALD collated, reviewed, and incorporated into the proposed Regulations the issues raised, and comments received from the

workshops. However, some comments were accepted by the Authority but not incorporated into the regulations. For instance, the Authority affirmed to have amended the regulations to provide for information sharing between parties whereas the regulations do not have any regulation on information sharing.

Having reviewed the records from the public participation forums organized by the Authority, it was the opinion of the Consultant that key stakeholders were consulted in the agricultural sector and fibre crop and crop fibres industry in Kenya especially those who are likely to be impacted by the proposed Regulations. These included farmers, AFA, County Governments, agricultural experts, and related sector Ministries who were adequately consulted in the formulation of the draft Regulations. The Consultant also noted that the Authority engaged research institutions and members from academic institutions such as KALRO, KIPPRA and KEPHIS, and various universities.

Overall, the formulation of the draft regulations is largely compliant with the relevant laws on public participation and stakeholder engagement in Kenya.

The consultations may also extend to members of the public to receive extensive comments on the proposed Regulations.

8.0 ENFORCEMENT AND COMPLIANCE

The following regulatory tools have been proposed to help ensure compliance with the regulations: the appointment of Crop Inspectors to assist the Authority in the development and promotion of production, processing, and marketing of fibre crops, fibre produce or fibre products and regulation of fibre crops and crop fibre industry.

The Authority will employ the following enforcement tools to help ensure compliance with the regulations: imposing interest on unpaid levies and criminal sanctions, which include fines and imprisonment against the contravening party.

The following compliance and enforcement tools are provided in the draft Regulations:

1. The Authority is required to inspect all aggregation stores and manufacturers of fibre products before issuing a valid certificate of compliance under Regulation 6.
2. The Authority is required to maintain and share with the respective County Executive Committee Member a register of all aggregation stores and manufacturing factories issued with certificates of compliance under Regulation 6(8).
3. There is a requirement for a person intending to aggregate fibre produce or fibre products to obtain an aggregator license from the respective County Government under Regulation 9(1).
4. Under Regulation 10 (1), a person intending to set up a fibre product manufacturing factory must obtain preliminary approval from the Authority, except for cottage manufacturing.
5. There is a requirement for a person manufacturing fibre product to obtain a certificate of compliance from the Authority and a licence from the respective County Government. Failure to do so constitutes an offence, and upon conviction, the person shall be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or both under Regulation 11.
6. A licensed fibre product manufacturer is required to submit monthly returns by the fifteenth day of every month to the respective County Executive Committee Member and the Authority in Form COUNTY/C4 as set out in the Third Schedule under Regulation 11(6).
7. A exporting or importing fibre products must register with the Authority. Failure to comply constitutes an offence, and upon conviction, the person shall be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years or both.
8. Every licensed exporter and importer is required to submit monthly returns to the Authority in Form AFA/FCD/C2 by the fifteenth day of each month, as set out in the Third Schedule under Regulation 13(5).
9. There is a requirement for a person exporting or importing fibre products to obtain a permit from the Authority for each consignment under Regulation 14(1).
10. Under Regulation 15, all licenses must be renewed and are only valid until the end of the financial year in which they were issued.

11. Under Regulation 19 (3), the Authority is required to share information on the source of fibre products or fibre products with licensing authorities on a need-basis to enhance traceability.
12. The establishment of a Fibre Produce and Fibre Product Pricing Formula Committee, appointed by the Cabinet Secretary, is required under Regulation 25 (4). The committee is responsible for developing the pricing formula for fibre crop produce and fibre crop products.
13. There is a requirement for a person intending to support the production of fibre crops or crop fibres to enter into an agreement with a grower or grower association. A copy of the agreement under Regulation 26(1) shall be deposited with the respective County Executive Committee Member and the Authority under Regulation 26(3).
14. The licensing authority is required to exercise its revocation powers for certificates, licenses, and permits issued under the regulations if certain conditions are not met, as stipulated under Regulation 30.
15. There is a general penalty for a person who contravenes any provision of the draft Regulations under Regulation 32. The person shall be liable to a fine not exceeding five hundred thousand shillings or imprisonment for a period not exceeding one year.
16. A person who fails to pay any levy provided for under Regulation 33 (1) shall, in addition to paying the levy, pay interest at the prevailing market rates for the period the levy remains unpaid.
17. A person who applies for services rendered under the Regulations shall pay fees as set out in the Eighth Schedule as provided for under Regulation 34.

9.0 REVIEW, MONITORING, EVALUATION AND LEARNING

Monitoring, evaluation, and learning (MEL) of the regulations is important in determining their effectiveness, efficiency and adequacy in achieving their intended objectives and purpose. It informs the government and players in the industry whether the regulations are working or not. The proper use of M&E mechanisms constitutes a significant change in the operational style and working culture of regulatory authorities, enabling them to set up a process of continuous learning through experience and evidence. A well-functioning system of M&E would directly influence the ability of the regulations to foster competitiveness and economic growth in the industry. A review of regulations will ensure they are consistent and effective in regulating the activities in the industry.

The Authority has established the following mechanisms to enhance the monitoring and evaluation of the draft regulations.

- i. Section 27 of the Crops Act Cap 318 empowers the Authority to appoint crop inspectors for fibre crops and crop fibres. Regulation 28 of the draft regulations outlines the functions of the crop inspectors. Among them are inspecting grower field operations and fibre produce and fibre product facilities, power of entry, and monitoring and compliance.
- ii. The Authority may publish information in the Kenya Gazette on the crop inspector appointed under section 27 of the Crops Act Cap 318. This would provide the public with adequate information on the authorized inspectors and avoid instances of misrepresentation by middlemen.
- iii. The crop inspectors may conduct scheduled, impromptu or requested inspections of any fibre crops growers, dealers, licensees or permit holders on their premises or vehicles. These inspections ensure compliance with the proposed Regulations, fibre crops and crop fibre standards, applicable international standards and other relevant laws. This will help ensure that only registered and licensed people are involved in the fibre crops and crop fibres trade and related activities, maintaining high standards in the industry.
- iv. Regulation 5 (1) and (4) require the grower association and County Executive Committee Members (CECM) to maintain a register of all fibre crop growers and grower associations in the prescribed forms. The CECM member is also required to maintain a register of licensed manufacturers. These registers accurately monitor the persons growing fibre crops and those licensed as manufacturers.
- v. Regulations 5 (3) and 11 (6), among other regulations, require the grower association to submit the annual returns of the smallholder fibre crop growers registered with it and licensed fibre product manufacturers to submit their returns to the County Executive Committee Members by the fifteenth day of January every year.

- vi. To ensure the traceability of fibre products, the Authority requires the dealer to comply with the traceability system. The system will trace the history and location of the production, processing, and distribution stages of fibre products. Information on the source will also be shared with the licensing authorities on a need-basis.
- vii. Regulation 30 empowers the licensing authority to revoke a certificate, licence or permit issued under the proposed regulations if the holder fails to meet the conditions on the certificate, licence or permit or if a certificate of compliance is cancelled or withdrawn. This would ensure that persons registered under the Regulations comply with national standards, international standards and the law while engaging in fibre crops and crop fibres trade.

10.0 CONCLUSION AND RECOMMENDATIONS

This chapter provides other laws and policies that could complement the proposed Regulations. It also provides concluding observations regarding the proposed Regulations and makes a specific recommendation on whether they should be adopted and implemented.

10.1 Conclusion

The RIA has examined the history of fibre crops and crop fibres in the industry. It has stated the justifications for allowing the proposed regulations and analysed their effects on the private and public sectors. In addition, the RIA has examined the economic, social, and environmental costs and benefits of the proposed regulations and the viability of the alternative options.

It has been concluded that if the proposed regulations are implemented, they will introduce formal controls and regulations in the fibre crops and crop fibres industry. They will also establish the necessary structures and environment including compliance enforcement structures and Fibre Produce and Fibre Product Pricing Formula Committee to develop the pricing formula for fibre crops produce and fibre crop products.

10.2 Recommendation

The RIA recommends a further public participation phase to collect final public views and consider the comments on the proposed regulations before gazetting and implementing them in the country's fibre crops and crop fibres industry.

10.3 Linking the Draft Regulations to Other Laws and Regulations

The RIA certifies that the Crops (Fibre Crops and Crop Fibres) Regulations 2025 will be complemented by other statutes and policies with overlapping/complementary objectives, including:

- i. Agriculture Sector Transformation and Growth Strategy (ASTGS), 2019-2029
- ii. Agricultural Finance Corporation Act, Cap 323
- iii. Agricultural Produce (Export) Act, Cap 319
- iv. Agricultural Policy 2021
- v. Auctioneers Act, Cap 526
- vi. Co-operative Societies Act, Chapter 490
- vii. County Governments Act, 2012
- viii. Crops Act Cap 318
- ix. Data Protection Act, 2019
- x. Disposal of Uncollected Goods Act, 1987
- xi. East African Community Agriculture and Rural Development Policy, provided under Article 105 of the Treaty for the Establishment of the East African Community

- xii. Environmental Management and Coordination Act, 1999 (Act No. 8 of 1999) revised in 2015.
- xiii. Food, Drugs & Chemical Substances Act, Cap 254
- xiv. Insurance Act Cap 487
- xv. Kenya Climate-Smart Agriculture Strategy 2017 – 2026
- xvi. Kenya Vision 2030
- xvii. Micro- and Small Enterprises Act, No. 55 of 2012
- xviii. Moveable Property Security Rights Act, 2017
- xix. National Agricultural Research Systems Policy, 2012
- xx. National Agricultural Sector Extension Policy, 2012
- xxi. National Cereals & Produce Board Act, Cap 338
- xxii. National Environment Policy, 2013
- xxiii. National Environmental Management Authority (NEMA) Regulations, 2006
- xxiv. National Food and Nutritional Security Policy, 2012
- xxv. National Food Safety Policy, 2013
- xxvi. National Trade Policy, 2009
- xxvii. Pest Control Products Act, Cap 348
- xxviii. Plant Protection Act, Cap 324
- xxix. Public Audit Act, 2015
- xxx. Public Finance Management Act, 2012
- xxxi. Public Health Act, Cap 242
- xxxii. Public Officers Ethics Act, 2003
- xxxiii. Relevant County Policies and Legislation
- xxxiv. Sale of Goods Act (Cap 31)
- xxxv. Science, Technology and Innovation Act, No. 28 of 2013
- xxxvi. Seed & Plant Varieties' Act, Cap 326
- xxxvii. Sessional Paper Number 6 of 1999 on Environment and Development Policy
- xxxviii. Standards Act, Cap 496
- xxxix. Statutory Instruments Act, 2013
- xl. The Constitution of Kenya, 2010
- xli. The Kenya Agricultural and Livestock Research Act, 2013 (No. 17 of 2013)
- xlii. Trade Description Act, Cap 513
- xliii. United Declaration of Human Rights
- xliv. Warehouse Receipts System Act, 2019
- xlvi. Weights and Measures Act, Cap 513

11.0 PERTINENT ISSUES

The Consultant noted the following pertinent issues relating to the proposed regulations, which may be considered when finalizing them.

11.1. Structural Gaps

The Consultant noted the following structural gaps:

11.1.1. Punctuation and other Related Gaps

Most sections lack the correct punctuation marks. The drafters should review the regulations to ensure that appropriate punctuation is used throughout. Semicolons should be placed correctly in interpretation and listing clauses.

Additionally, the drafters should ensure that sentences are complete for clarity. For example, in Regulation 6(4), the word "to" should be inserted between "subject" and "the."

For consistency, the drafters should use "sub-regulation" when cross-referencing earlier paragraphs. This is an oversight in Regulation 30(3).

11.1.2 Clarity

Regulation 29 prohibits unregistered and unlicensed individuals from buying or possessing fibre products. Requiring consumers to be registered before purchasing or possessing fibre products would be unreasonable and impractical.

11.1.3 Missing Words

Some important words are missing in the interpretation part, yet they have been used in the regulations. These include gross turnover and scheduled crops. These words should be defined to offer clarity on what they mean in relation to the Regulations.

11.2 Access to information

Article 35 of the Constitution guarantees each citizen access to information. The Authority should consider prescribing mandatory publication of information that may be needful to the public. These include the publication on the Authority's website, the list of appointed crop inspectors, revoked licenses, licenses or permits. This would enhance access to information and, in turn, protect consumers from dealing with growers, dealers or manufacturers whose licences have been revoked. The Authority should thus use the words "shall" instead of "may" when mandating the Gazettement and publishing of such information as has been used in Regulation 27 (4).

11.3 Penalty under the Regulations

Section 24 (5) of the Statutory Instruments Act prescribes a penalty not exceeding one million Kenyan shillings or such term of imprisonment not exceeding six months, or both for Regulations.

Similarly, the Interpretation and General Provisions Act, Cap 2 under section 31(e) provides that where an Act confers power to make subsidiary legislation, it is implied that the power to prescribe penalties shall not exceed a fine of six thousand shillings or six years imprisonment or both as the authority may deem fit.

Regulations 11 (7), 12 (5), 13 (6) and 29 (2) prescribe a penalty that is way above the statutory limit both in terms of the fine and the imprisonment terms. Regulations 14 (6) and 32 prescribe an imprisonment term of one year, which is more than the prescribed six months in the Statutory Instruments Act. Similarly, the general Penalty under Regulation 32 of the Regulations is a fine not exceeding five hundred thousand shillings or imprisonment not exceeding one year.

The Authority should realign the penalties by either lowering the penalties prescribed in these Regulations or by cross-referencing the Act where penalties are higher than those allowed in the Regulations.

Failure to comply may lead to the Regulations being challenged before a court of law and likely to be declared void as illustrated in the following cases:

The court, on several occasions, has rendered clauses in violation of the provisions of the Statutory Instruments Act void. For instance, in the case of *Kenya Country Bus Owners' Association (Through Paul G. Muthumbi – Chairman, Samuel Njuguna – Secretary, Joseph Kimiri – Treasurer) & 8 others v Cabinet Secretary For Transport & Infrastructure & 5 others [2014]eKLR*, the Court found Regulation 16 of the National Transport and Safety Authority (Operation of Public Service Vehicles) Regulations, 2013 *ultra vires*.

Similarly, in the case of *British American Tobacco Kenya Ltd v Cabinet Secretary for the Ministry of Health & 4 others [2016] eKLR*, the court found that the Tobacco regulations were *ultra vires* for providing for penalties exceeding the provisions of section 24(5) of the Statutory Instruments Act.

11.4 Monthly Reports

Regulations 9(6), 11(6), and 13(5), mandate licensees to submit their returns monthly, specifically by the fifteenth day of every month. While this monthly requirement is designed to ensure timely reporting and monitoring, it would be advisable to adopt submissions of the monthly returns on a quarterly basis. This would ensure administrative efficiency, enhanced accuracy, cost savings, more strategic oversight, alignment with licensee operational cycles and increased compliance.

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