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13<sup>TH</sup> PARLIAMENT- THIRD SESSION

REPORT OF THE STANDING COMMITTEE ON TRADE,  
INDUSTRIALIZATION AND TOURISM

ON

THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL, 2023  
(SENATE BILLS NO. 41 OF 2023)

**Rt. Hon. Speaker**  
You may approve for tabling  
J. M. Nyegenye, C.B.S.,  
Clerk of the senate/ secretary, PSC  
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## **ABBREVIATIONS AND ACRONYMS**

COG - Council of Governors

COHA- Central Organization of Hawkers Association

MSME- Micro, Small and Medium Enterprises

NGEC- National Gender and Equality Commission

PWD- Persons with Disabilities

## **PRELIMINARIES**

### **Establishment and Mandate of the Committee**

Article 124 (1) of the Constitution of Kenya provides for the establishment of Committees where each house of Parliament may establish committees and shall make Standing Orders for the orderly conduct of its proceedings, including the proceedings of its committees.

The Senate Standing Committee on Trade, Industrialization and Tourism is established pursuant to Standing Order 218(3) of the Senate Standing Orders. As set out in the 187, the Committee is mandated to consider all matters related to trade, industrialization, tourism, cooperatives, investment and divestiture policies.

In undertaking its mandate, the Committee oversees the Ministry of Investment, Trade and Industry, Ministry of Co-operatives and Micro, Small and Medium Enterprises (MSME) Development and the Ministry of Tourism, Wildlife, Culture & Heritage. Specifically, the Committee oversees the following state departments —

- a) State Department for Investment Promotion;
- b) State Department for Trade;
- c) State Department for Industry;
- d) State department for Cooperatives;
- e) State Department for Micro, Small and Medium Enterprise (MSME) Development; and
- f) The State Department for Tourism.

### **Committee Membership**

1. Sen. Lenku Ole Kanar Seki, MP - Chairperson
2. Sen. Esther Anyieni Okenyuri, MP - Vice-Chairperson
3. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP - Member
4. Sen. Jackson Kiplagat Mandago, EGH, MP - Member
5. Sen. Paul Karungo Thangwa, MP - Member

6. Sen. Crystal Kegehi Asige, MP - Member
7. Sen. Andrew Omtatah Okoiti, MP - Member
8. Sen. Betty Batuli Montet, MP - Member
9. Sen. Hezena M. Lemaletian, MP - Member

## **CHAIRPERSON'S FOREWORD**

**Mr. Speaker Sir,**

The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023) was introduced in the Senate by way of First Reading on 17<sup>th</sup> October, 2023, and thereafter stood committed to the Committee on Trade, Industrialization and Tourism for consideration.

The Bill is for an Act of Parliament to provide a legal framework for the recognition, protection and regulation of street vending in Kenya, the identification of minimum standards for street vending; and for connected purposes.

The Bill seeks to achieve these objectives by providing a standard framework for —

- (a) entrenching the right to informal trading;
- (b) regulation of informal trading including areas for the conduct of such trade and licensing by counties;
- (c) for the designation and use of public space for the informal trade; and
- (d) public participation in the designation of vending zones and regulations of informal traders.

**Mr. Speaker, Sir,**

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committee invited interested members of the public to submit their representations on the Bill through an advert in the Daily Nation Newspaper of 20<sup>th</sup> October, 2023 and on the Parliament Website. The National Gender and Equality Commission (NGEC), the Council of Governors, Central Organization of Hawkers Association, Nairobi County Government, Persons with Disabilities Street Vendors. Sen. Crystal Asige, M.P, presented additional amendments for Persons with Disabilities.

**Mr. Speaker, Sir,**

The Committee held a total of eleven (11) sittings to consider and review the submissions received. The Committee also undertook a comparative analysis of street vending businesses in other jurisdictions. The Committee borrowed best practices that

had been applied in other jurisdictions in the development of the bill. They include lessons on maintaining the register of street vendors, designation of vending zones and food handling among others.

**Mr. Speaker, Sir,**

The Committee made the following key observations on the bill —

- a) Street vending in Kenya is a key source of livelihood for many Kenyans in the informal sector and is a key contributor to the Micro and Small Enterprises Sector. Street Vending has however historically been characterized by hostile relationships with the previous municipal councils and now the county governments due to salient issues of licensing and trading in unauthorized areas. There is therefore a regulatory gap existing in the need to balance the protection of livelihood and the necessity to regulate trade and ensure orderliness, and payment of required licenses for trading activities;
- b) Various jurisdictions faced with the same situation have successfully enacted legislation governing street vending activities and brought a semblance of orderliness, livelihood protection and governance. It is therefore timely, that Kenya enacts a similar legislation to protect the livelihoods of Kenyans and also bring about a structure of accountable governance through registration and licensing of street vendors;
- c) It is imperative for systems of administration of street vendors to be digitized for purposes of efficiency and accountability. Keeping an online register of Vendors together with enabling online registration will bring about efficiency in supervision, licensing and decision making. Counties should therefore be facilitated to provide services to citizens through online platforms including but not limited to application for licenses, monitoring of applications and issuance of licenses;
- d) A segment of Street Vendors comprises of persons living with disabilities and it is important for various intersectional issues regarding access to infrastructure through the reservation of allocated vending zones for such persons. Inclusion and universal access are important aspects of county

physical planning. It therefore follows that in the formulation of County Vending Zone Plans, the interests and unique needs of persons with disabilities be considered and duly integrated. This will ensure that constitutional provisions on equality and non-discrimination are attained in the Bill;

- e) Fines and Penalties are an important aspect of implementation of statutory provisions and serve the purpose of supplementing and reinforcing compliance. Similarly, it is important to ensure that prescribed penalties are reasonable and match the imposed subject's ability to pay such fines and penalties. In this regard, the fines imposed for failure to comply with the provisions of this Bill should be cognizant and commensurate to the ability of Street Vendors to pay such fines. This is a key aspect of administrative justice as set out in Article 47 of the Constitution;
- f) Dispute Resolution under this regulatory framework is critical to the attainment of its objectives. Additionally, it is important to utilise existing forums for dispute resolution institutionally within the county and within the existing structures of the Judiciary. This is more specifically because the creation of multiple forums for dispute resolution has attendant financial consequences which will place an extra burden on the already heavily constrained national exchequer. The structure and provisions of the Bill, if properly enforced should result in minimal litigation;
- g) The role of labour relations has been recognized in the Bill and encouraged by providing that Street Vendors may constitute themselves into labour relations organizations and undertake various labour relations activities for their benefit;
- h) Counties have historically confiscated goods of Street Vendors found to be unlawfully undertaking their vending activities. There has however been a lack of transparency in this process and many street vendors have lost their wares to unscrupulous police and workers of the county. The Bill seeks to bring transparency to this process by providing specific grounds for confiscation of goods and further providing for ticketing and

proper storage of perishable goods that have been confiscated. The Bill further ensures that a county official informs a street vendor of the procedure with which they should use to reclaim confiscated goods. This is an additional measure of fair administrative action that is curing the historical menace of unfair confiscation and subsequent disappearance of goods confiscated from Street Vendors; and

- i) That existing societies and organizations representing the interest of street vendors play an important role in activism, labour relations and stakeholder engagements on critical issues affecting street vendors. Additionally, public participation is an important part of the legislative process through which the insights of the public are taken into account in the formulation of laws. The Committee notes that these societies have been instrumental in the protection of the rights of street vendors and while it will not be legislatively possible to entrench them as regulators under the Act as they have proposed, there is an opportunity for synergy, through which they will assist in the implementation of this Bill by sensitizing their members on its provisions.

**Mr. Speaker, Sir,**

The Committee recommends the following amendments

**THAT;**

- a) Clause 4 (1)(a) be deleted
- b) Amend 4(1)(b) be amended to read— “provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya”
- c) Clause 4(1) (c) be deleted
- d) Clause 4(1)(d) be deleted
- e) Clause 4(1) (e) be amended by inserting *adherence to universal design, principles, and standards for street vending zones* to read *in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and adherence to universal design, principles, and standards for street vending zones; and*

- f) Cause Section 4 (2) be deleted
- g) Clause 5 (1) be amended by deleting *county gazette* so as to read “*Each county executive committee member shall, by notice in the Kenya Gazette, demarcate and designate the county into—*”
- h) Clause 7(2) be amended to read “*The County Executive Member shall publish the conditions imposed under subsection (1) through such platforms as the Committee Member may consider appropriate.*”
- i) Clause 10 2 (1) (b) be amended to read “*develop a county vending zone plan in the manner prescribed in the Schedule*”
- j) Clause 13 (5) be amended by deleting *including water, lighting, security and waste disposal facilities*”
- k) Clause 14 (a) be amended by deleting *enact* and replacing thereof with *make* to read—*The County Executive Committee Member shall; Make such county regulations as may be necessary for the implementation of this Act and the effective regulation of Street Vendors in the County.*
- l) Clause 15(1) be amended to state that in addition to the number of street vendors within the respective locality the county executive committee member shall also keep records of the numbers of streets and the number of PWDS within the designated area.
- m) Clause Delete 15 (3) be deleted
- n) Clause 15(4) be deleted
- o) Clause 16 (1) be amended by deleting *with the respective county executive committee member* to read—*A person shall not conduct the business of a street vendor unless such person is registered as a street vendor.*
- p) Clause 17(5) be amended by inserting 17(5)(i) as follows *The PWD Council number.*
- q) Clause 18 (1) be amended to provide for an appeal mechanism for those denied vendor licence.
- r) Clause 21(4) be amended to establish a Dispute Resolution Committee appointed by the Governor to replace the Tribunal provided under the bill.

- s) Clause 21 be amended by inserting a new sub-clause 21(5) as follows —*If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the county legislation within thirty days of the receipt of the decision.*
- t) Clause 22 (2) be amended to read that *the County Executive Committee Member or the County Executive Committee Member responsible for food safety may from time to time prescribe regulations relating to the proper handling of food by hawkers and street vendors.*

**Acknowledgement**

**Mr. Speaker Sir,**

The Committee wishes to acknowledge the time and considerable effort made by the institutions and individuals that prepared and submitted the memoranda to the Committee. I also wish to express my gratitude to my colleague, Members of the Committee for their thoughtful insights and contributions to the Bill. The Committee acknowledges and appreciates the sponsor of the Bill, Sen. Esther Okenyuri, MP, who sat through all the sessions during the consideration of the Bill.

Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating the Committee.

**Mr. Speaker, Sir**

It is now my pleasant duty, pursuant to standing order 148 (1) of the Senate Standing Orders, to present the Report of the Standing Committee on Trade, Industrialization and Tourism on the Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023). I thank you.

Signed.......... Date ..... 17/4/2024 .....

**SEN. LENKU OLE KANAR SEKI, MP**  
**CHAIRPERSON, SENATE STANDING COMMITTEE ON TRADE,**  
**INDUSTRIALIZATION AND TOURISM**

## **CHAPTER 1: INTRODUCTION**

### **Background and context**

1. The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023) was read a First time on 17<sup>th</sup> October, 2023, and subsequently committed to the Committee on Trade, Industrialization and Tourism.
2. The Bill is for an Act of Parliament to provide a legal framework for the recognition, protection and regulation of street vending in Kenya, the identification of minimum standards for street vending; and for connected purposes.
3. The Bill seeks to achieve these objectives by providing a standard framework for —
  - (e) entrenching the right to informal trading;
  - (f) regulation of informal trading including areas for the conduct of such trade and licensing by counties;
  - (g) for the designation and use of public space for the informal trade; and
  - (h) public participation in the designation of vending zones and regulations of informal traders.
4. The legislative mandate regarding the objectives of the Bill is drawn from the Fourth Schedule (Part 2) of the Constitution that sets out trade licensing and development as a devolved function of County Governments.

### **Street Vending situation in Kenya**

5. Street vending is an economic and social component of urban areas and urban living within developing countries. This is due to the high rate of unemployment in the formal sector and lack of formal training and certification of persons in low earning capacities. There is also a demand for fast moving items in an easily accessible manner therefore providing an opportunity for market vendors to sell their wares.
6. Trade licensing frameworks in counties have not accommodated street vending and this has resulted in fraught relations between authorities and the vendors. This has further resulted in harassment, extortion and insecurity in street vending.
7. Taking into account that the informal sector is a key contributor to the economic growth of the country, it has become increasingly imperative to accommodate street

vending by providing a regulatory framework with the requisite structures for licencing and supervision.

8. It is postulated that the regulation of street vending through this proposed framework will bring about order in urban spaces through the designation of vending areas and the provision of supporting amenities to traders. A regulatory framework will also mitigate human rights injustices occasioned to vulnerable Kenyans attempting to make a living. Finally, the counties will be able to adequately monitor street vending through the issuance of licences and collection of data on street vendors.

### **Salient Provisions of the bill**

9. The Bill therefore proposes the following —

#### **(a) Street Vending Unit**

10. Part II of the Bill sets out that the Cabinet Secretary (CS) shall designate a section of department within the ministry responsible for matters relating to street vending as a Street Vendors Unit whose functions shall be formulating national policies on Street Vending.

#### **(b) Designation of Vending Zones**

11. Part III of the Bill provides that each county executive member shall demarcate and designate the county into vending zones as follows—
  - (a) restriction-free vending zones;
  - (b) restricted vending zones; or
  - (c) no-vending zones.
12. A restriction free vending zone shall be an area in which a licenced street vendor may conduct vending activities. A restricted vending zone shall be a zone in which a validly licensed street vendor may conduct vending activities subject to special permission granted by the county government pursuant to applicable county laws. A no-vending zone shall be a zone in which vending activities are prohibited.

**(c) Vending Zones Plan**

13. The county executive member shall within twelve months of the commencement of the Act, undertake a survey of all existing street vendors and potential vending zones and thereafter every three years.
14. The county executive member shall then develop a county vending zone plan taking into account the results of the survey and submit them to the count assembly for approval which will include public participation. The approved zoning plan shall be published in the National gazette and at least one newspaper of wide circulation and submit a copy of the plan to the Cabinet Secretary.

**(d) Vending Centres**

15. Each County shall progressively provide for the construction and maintenance of vending centres. Relevant state agencies shall adequately provide for vending zones and centres as provided in county vending plans in the enactment of physical planning legislation at county or national level.

**(e) Periodic Markets**

16. A county executive committee member may designate a specific street, building or zone to be a vending zone for a period not exceeding five days. The county government shall provide essential services for the periodic markets such as sanitation, security and waste disposal.

**(f) Relocation or eviction of Street Vendors**

17. A county government may declare a zone to be a non-vending zone for any public purpose and relocate any street vendors vending in that area. The County shall evict any street vendor—
  - a) whose licence has been revoked;
  - b) who does not have a vending licence; and
  - c) carries out vending activities without such licence.
18. A vendor shall not be relocated or evicted without the provision of thirty days' notice of the relocation and eviction. A street vendor shall be evicted in such a manner as may be prescribed in county legislation after the street vendor has failed to vacate the place specified in the vending license after the expiry of the notice

period. Failure to relocate or vacate shall result in a fine not exceeding ten thousand shillings.

**(g) Obligations of County Executive Committee Member**

19. The county executive member shall within twelve months of the commencement of the Act enact county legislation for the implementation of the Act, monitor the implementation, periodically survey and assess the street vending activities in the county, formulate and implement the county vending plan and designate vending zones and periodic markets within the county.

**(h) Registration and Licensing of Street Vendors**

20. Part IV of the Bill sets out that the county executive committee member shall be responsible for registration of street vendors and shall maintain a register of all licensed street vendors and submit to the Unit an up to date list of all licensed street vendors. The Director of the Street Vendors Unit in the Ministry will maintain a national registry of street vendors.

21. A street vendor shall register within their respective county and a certificate of registration issued by the county executive committee member shall be conclusive evidence of registration as a street vendor.

22. A vending licence shall classify a street vendor as a stationery vendor, mobile vendor or any other category as may be specified. An application for a licence shall contain the following pertinent information—

- a) name of applicant;
- b) type of Licence;
- c) vending Location;
- d) contact details of the applicant;
- e) type of goods or services to be sold;
- f) time and date of vending activities;
- g) type and registration number of vehicle where applicable; and
- h) any other details as prescribed by the county government.

**(i) Terms and Conditions of License**

23. The bill provides as follows —

- (a) a stationery street vendor shall not sub-let, transfer, assign or otherwise alienate any vending space, stall or property allocated to them;
- (b) a county government may levy an annual licence fee;
- (c) a vending licence shall be valid from the date it is issued and shall expire on such a date as may be specified in the licence;
- (d) a licenced street vendor shall not transfer or assign any rights accruing to them in a valid licence unless the vendor has applied for, and obtained the approval of the county executive committee member;
- (e) a street vendor may, when applying for a vending licence under this Act, designate such number of persons as the county legislation may specify to enjoy rights enjoyed by the licensed street vendor under the issued licence.
- (f) Upon expiry, a vending licence may be renewed for such further period not exceeding one year.

**(j) Revocation of a Licence**

24. The county government shall have the power to renew any vending licence and may decline to renew, revoke or suspend a licence for a period not exceeding twelve months if it is satisfied that the street vendor is in breach of any provisions of the Act or any other written law.
25. Before declining to renew, revoke or suspend a licence under subsection the county government shall notify the holder of the licence to show cause, within fourteen days, why such licence should not be revoked, suspended or denied renewal.
26. The county government shall consider the application within seven days and inform the holder of the licence of the county government's decision in writing and shall give reasons for the revocation or suspension.
27. A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection may appeal to the relevant county tribunal against the decision within thirty days of receipt of the decision.

**(k) Handling of Food**

28. Any licensed street vendor and all persons working for the street vendor who are involved in handling of food shall be handled in accordance with the provisions of the Public Health Act and the Food Drugs and Chemical Substances Act and any other applicable law on the handling of food.
29. The county executive committee member may from time to time, prescribe regulations relating to the proper handling of food by hawkers and street vendors.

**(l) Rights and Obligations of Street Vendors**

30. Part V of the Act sets out the rights of street vendors as follows —
- (a) Right to carry on the business of street vending in accordance with the terms of the Licence.
  - (b) Right to essential facilities of a reasonable quality including but not limited to security, lighting, sanitation services and parking facilities where necessary.
  - (c) Right to quiet possession of goods (where goods are confiscated, the officer confiscating the goods shall issue the vendor with a receipt stating the goods that have been confiscated, the approximate value of the goods, reason for confiscation and the time within which the goods must be recovered).
  - (d) Protection from harassment by officers of the national or county government (Any officer contravening this will be liable to imprisonment for a period not exceeding one year and a fine not exceeding two hundred thousand shillings)
  - (e) Right to association.
31. The Bill also sets out the obligation of Street Vendors as follows —
- (a) Maintain the cleanliness and public hygiene of vending zones and adjoining areas;
  - (b) Conduct vending activities in a manner that do not impede the public's right of way; and
  - (c) Restrain from blocking access to fire hydrants, building entrances, bus stops, roads or other public amenities.

**(m) Miscellaneous Provisions**

32. A county government may enact legislation that shall set out —
- (a) the terms and conditions for the issuance of vending Licences;
  - (b) the conditions for the maintenance of the register of street vendors in the county;
  - (c) process of determination of an application for a street vending licence;
  - (d) the conditions for the issuance or renewal of a licence under this Act;
  - (e) process of application for the renewal of licenses, de-registration and revocation of a licence issued to an applicant under this Act; and
  - (f) such other matters that may be necessary for the effective management of street vending activities in the county.

## CHAPTER 2: COMPARATIVE ANALYSIS

33. Street vending is common in both developed and developing countries albeit with different frameworks for operationalization and regulation as presented below —

### 2.1 Singapore

34. Singapore became an independent state in 1965, whereby it immediately embarked on building large, and public housing complexes. Due to limited number of formal employment, food vending (Hawking) became a popular entrepreneurial activity. Street hawkers set up their carts or artificial food stalls along major thoroughfares, at public spaces and near public housing complexes. In the late 1960s, there were some 24,000 street hawkers in Singapore- out of a population of 2 million at the time.<sup>1</sup>
35. The high number of unregulated street hawkers turned into a serious problem for the country. Cleanliness and sanitation of food preparation areas and utensils became a major issue for vendors. Food quality and foodborne illnesses also became part of the public health issue. Food and liquid wastes polluted the city's streets. The hawkers also caused obstruction to pedestrian and vehicular traffic.
36. In the late 1960s, the Singaporean government embarked on a compulsory registration drive for all street hawkers and designated temporary off-street locations for them to operate. In the 1970s and 1980s, hawker centres, or public food courts, were constructed to house the vendors.
37. The Government constructed open air and semi-enclosed hawker centres which not only provide dining areas but, most importantly permanent facilities for cooking, food storage, preparation, and sanitary amenities like restrooms, sinks, and disposal receptacles. The end result was something that satisfied both the government's penchant for urban cleanliness and the country's culinary traditions.<sup>2</sup> The Centres are located in ethnic enclaves for instance Singapore's Chinatown and Little India districts due to culture oriented cuisines. The centres are typically found adjacent to high-density housing complexes and commercial districts.

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<sup>1</sup> <https://www.kcet.org/socal-focus/the-singapore-solution-to-l-a-s-illegal-street-food-vending-problem>

<sup>2</sup> Ibid

38. Some of the renown Hawker markets include —
- a) Lau Pa Sat is a hawker centre bound by law to maintain its historical significance, gazetted under the Preservation of Monuments Act in 1973. It has seating capacity of 2,500 people.
  - b) Maxwell Food Centre, a market that opened in 1928 and converted into a food centre in 1987, housing relocated hawkers previously from China Square
  - c) Tiong Bahru Market & Food Centre opened in 2005. The old market was formerly known as Seng Poh Road Market, which opened in 1951, constructed with wood and zinc roofs.
  - d) The Old Airport Road Food Centre among others spread across the country.
39. In 2020, Singapore's hawker culture was declared an intangible UNESCO cultural heritage.<sup>3</sup>

#### **Requirements for Practice/ Licensing Requirements**

40. Section 34 (1) of the Environmental Public Health Act 1987, states that *a person must not act as an itinerant hawker without first obtaining a licence from the Director-General, Food Administration.*
41. Section 34(2) of the same act further states that *The Director-General, Food Administration may, subject to any conditions that he or she may think fit, permit licensed itinerant hawkers to occupy stationary positions for any period that he or she may think fit on any site or sites that may from time to time be approved by him or her for this purpose.*
42. Section 36 of the Act states that *a person must not use any building, situation or place as a private market without first obtaining a licence from the Director-General, Food Administration.*
43. It is an offence for any person to operate as a hawker in Singapore without obtaining a licence from the National Environment Agency. According to section 41A of the Environmental Public Health Act, any person found guilty of the offence will face a fine of up to S\$5,000. Commission of a second or subsequent offence shall be

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<sup>3</sup> UNESCO (2020) <https://ich.unesco.org/en/RL/hawker-culture-in-singapore-community-dining-and-culinary-practices-in-a-multicultural-urban-context-01568>

subject to a fine not exceeding S\$10,000 or imprisonment for a term not exceeding three months, or both.

44. The National Environment Agency is tasked with regulating and managing all hawker centres and markets across Singapore (approximately 118)<sup>4</sup>. Its Hawkers Department is responsible for the formulation, implementation and administration of hawker policies, including management of tenancies and upgrading of hawker centres. It is also in-charge of maintaining register/database of all traders/vendors.<sup>5</sup>
45. While regulation and management of hawker centres is centralized at the National Environment Agency, these centres are owned by three different government units, namely the Ministry of the Environment and Water Resources<sup>6</sup>, the Housing and Development Board ("HDB")<sup>7</sup>, and the JTC Corporation<sup>8</sup>. There are subsidized and non-subsidized stalls in the hawker centres. Subsidized stalls are rented to the hawkers who were previously relocated from the streets to hawker centres or those who were allocated stalls under the former hardship scheme. Non-subsidized stalls are operated by stallholders who pay a rent determined by professional valuations or tender exercise.
46. Each hawker center has Hawker Association comprising representatives of hawkers. National Environment Agency maintains regular dialogue with the association for solving problems pertaining to the centers.

### **Food handling**

47. From 1 April 2019, Singapore Food Agency took over food-related functions previously carried out by former Agri-Food & Veterinary Authority of Singapore, National Environment Agency, and Health Sciences Authority.
48. Food stallholders in the hawker centres are required to ensure that food prepared in their stalls are safe for public consumption. The rules they must comply with are set out in the Environmental Public Health Act, the Environmental Public Health (Food

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<sup>4</sup> <https://www.nea.gov.sg/our-services/hawker-management>

<sup>5</sup> <https://e-services.nea.gov.sg/hcms/>

<sup>6</sup> HDB is Singapore's public housing authority and operates as a statutory board under the Ministry of National Development.

<sup>7</sup> HDB is a government ministry responsible for national land use and development planning in Singapore.

<sup>8</sup> The JTC Corporation, formerly known as the Jurong Town Corporation, is a government unit responsible for the planning, promotion and development of Singapore's industrial infrastructure

Hygiene) Regulations, and the Sale of Food Act. To ensure food hygiene, the National Environment Agency conducts surprise spot checks on a regular basis. Part of the checks includes taking food samples for further analysis.

49. All food handlers in hawker centres must attend and pass a basic food hygiene course held by the Singapore Workforce Development Agency. Further, every three years, they are required to attend and pass a refresher hygiene course held by an approved training organization to sustain the awareness on food hygiene practices.
50. In 1997, the Singaporean government introduced a grading system – the Grading System for Eating Establishments and Food Stalls – to motivate licensees to improve their personal and food hygiene and upkeep their premises. All food establishments, including cooked food stalls in hawker centres, are awarded a grade by the Singapore Food Agency based on the overall hygiene, cleanliness and housekeeping standards of the premises. Grading assessment is conducted on a yearly basis using an approved checklist. Points of demerits are issued for serious and major public health offences like selling unclean food or failure to protect food in covered receptacle. If a licensee accumulates 12 demerit points within 12 months it would lead to license suspension or revoked depending on the past suspension records.
51. Stallholders are required to display the certificate indicating their grade at their stalls to help the public make a more informed choice when purchasing from the food stalls

#### **Eligibility for once to be registered as a Hawker in Singapore**

52. Individuals who are Singapore citizens or permanent residents aged 21 or above are eligible to apply for a hawker license. Applications by sole-proprietors, partnerships or companies are not accepted and the business owners must apply as individuals.
53. In 2021, there were 13,570 licensed hawker stalls in Singapore.

## **2.2 South Africa**

54. During the apartheid era, the South African government tried to stop trading activity. Traders resorted to trading portable goods and conducting business from unobtrusive spaces to avoid conflict with the law. Although many campaigns were launched between the 1950's and 1980's to rid cities of street vendors, informal trading persisted<sup>11</sup>.

55. Street vending is provided for in the Businesses Act, No 71 of 1991 (the Act). The Act formally recognizes street vendors as business people and allows them to trade freely, without licenses. Prior to these, street vendors were only permitted to trade if they had a license. Thus the enactment of the legislation led to a rapid increase in the number of street vendors in the country. The lifting of restrictions on hawking through the act also coincided with retrenchment of many workers in the formal economy, thus leading to a massive growth in street trade activity.
56. In 1993 further amendments were made which gave local authorities greater powers to regulate and restrict street vending. This would be done by way of by-laws and regulations about where and how informal trading would occur. They could not, however, prevent street vending. Municipal by-laws must be in accordance with the provisions of Section 6A of the Act.
57. The Zoning Scheme Regulations, stipulate that informal trading is permitted on land which has been set aside as a road reserve, or identified by Council as a future road reserve, provided that no permanent structures are erected on the land; that there is no interference with pedestrian or vehicular movement, or with any municipal utility services; and that there is no threat to public health or safety

#### **The City of Johannesburg**

58. The City has adopted what it terms “a developmental approach”. Its by-laws are intended to enable access to job and entrepreneurial opportunities within the informal trading sector; to harmonize the relationship between the informal trading sector and the formal trading sector; and to facilitate the migration of informal trading into the formal trading sector. The By-Laws for the City broadly —
- (i) entrench the right to engage in informal trading;
  - (ii) provide for the creation and closing down of areas where informal trading may occur and the granting of trading permits;
  - (iii) regulate the conduct of street vendors and health and safety measures; and
  - (iv) stipulate the penalties for violations of the by-laws.
59. Like Kenya, the sector faces a number of challenges. These include limitations to accessing funds to start-up business, inability of street vendors to work

collaboratively, lack of product differentiation and competition between traders. Other challenges include exclusion from the labour market, resources, decision-making, social services and networks. The absence of vital infrastructure such as access roads, efficient public transport, accommodation, schools, health facilities, postal services, electricity, water, telephones and ablution facilities all serve to constrain street vending also limits their opportunities for business.<sup>9</sup>

60. In Johannesburg, any member of the community is permitted to engage in informal trading, subject to compliance with the by-law and other applicable laws. However, these other laws are not packaged in a single regulation, which has affected the ability of street traders to freely and easily decide the location of their business and requires them to be conversant with all the rules and regulations which govern informal trading.
61. Unlike other cities in South Africa, the main approach through which informal trading is regulated in Johannesburg is the designation of trading areas and the allocation and leasing of designated stands to traders. The arrangement is formalized through an agreement between the trader and the City which the trader must present to an authorized official if requested to do so. Persons unable to produce an agreement or a token would be deemed to be guilty of an offence.<sup>10</sup>
62. Further, in Johannesburg, the local authority closes some streets and designates them as zones for street vendors. The Local Authority also allocates certain days when street vendors can operate in certain parts of central business districts, especially weekends and public holidays, when the streets are not busy. Examples include —
  - a. The Rosebank Sunday Market (at Rooftop Parking of the mall) – it is used to market the country’s diversity by offering a large selection of craft stalls, live music, kids’ entertainment and gourmet food traders.
  - b. Sunday Markets at Maboneng Precinct- On this day food vendors from nearby sell their foodstuff in one place

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<sup>9</sup> WIEGO (2014), Street vendors’ law and regulations

<sup>10</sup> WIEGO (2014), Street vendors’ law and regulations

- c. Neighbourhoods Market, Johannesburg which is semi-outdoor market on Juta Street in Johannesburg's Braamfontein neighborhood operates on Saturdays. The Market offers culinary experience.
63. **Location-** the City of Johannesburg may extend, reduce or disestablish, by way of a Council Resolution, any demarcated area. Clause 8 of the City of Johannesburg Metropolitan Municipality, Informal Trading By-Laws also permits it to restrict trading in areas where stands have been let or allocated by way of a Council Resolution. When passing the resolution, the council is required to consider the impact the decision will have on existing traders. Once the resolution has been adopted, it becomes effective by simply putting up a notice at the sight. This notice is deemed sufficient notice to the affected trader.
64. **Environmental Health and Safety-** informal traders have an obligation to keep their areas/sited clean and in sanitary conditions. Disposal of litter/wastes is also stipulated under the by-laws. In addition, traders must ensure that no smoke or fumes or liquid escape from their trading activity and pollutes the surrounding area.
65. **Impounding/confiscation of goods-** Municipalities are granted extensive powers in terms of the by-laws to impound and confiscate the goods of traders if, in the opinion of the municipalities' law enforcement officers, a trader has contravened the by-laws and/or any other applicable law. A trader must be given a receipt for any property confiscated, giving details of what has been taken away and setting out where and how they can claim their goods back. This regulation has proven problematic over the years as it places inordinate powers on law enforcement. This is especially so because the trader is not given an opportunity to formally oppose or defend themselves against allegations of being in breach of law. Penalties for contravening the by-law, effective after failing to heed a notice to desist from committing the alleged offence or after the trader has been convicted of an offence, include a fine up to a maximum of R5,000 and/or imprisonment up to a year.
66. The other weaknesses noted with the City's regulatory framework include that the by-laws do not spell out the obligations and duties of the Municipality in relation to the regulation of informal trading. Emphasis is placed on the rights and obligations of the traders, thus making the by-laws particularly one sided. The by-laws are also

faulted as not being aligned to the constitutional rights and freedoms of the citizens and immigrants.

67. Currently, for a person to trade as a hawker in Johannesburg, selling food and meals (which they take from place to place or sell from a vehicle), one needs to have a license the City's Trade License Department. In addition, one needs to pay once-off application fee.
68. Once the documentation is completed, the application will be forwarded to five departments to check that the City requirements have been met:
  - (a) Environmental health
  - (b) Noise and air pollution control
  - (c) Public safety
  - (d) Urban planning
  - (e) Building control
69. The Departments then carry out inspection of the vendor's premises. Only when all departments have returned favorable reports and recommend approval can the trade license be issued.

## **2.3 United States of America- California State**

### **A. Safe Sidewalk Vending Act, 2018 (Senate Bill 946)**

70. Safe sidewalk vending Act of 2018 (Senate Bill No. 946) is a California law that aim to decriminalize and legalize street vending throughout the state. SB946 allows local law enforcement not to fine or regulate street vendors where sidewalk traffic is light and is not infringing upon activity within the area.
71. Sidewalk vending is defined by SB 946 as *a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path.*
72. Specifically, SB 946 prohibits California cities and counties from banning sidewalk vendors from operating on public sidewalks. SB 946 also prohibits cities from regulating sidewalk vendors unless cities establish a permitting system that is consistent with the provisions of SB 946.

73. SB 946 also requires that any restrictions placed on sidewalk vendors be directly related to objective health, safety, or welfare concerns. Local jurisdictions that wish to regulate sidewalk vending are required to first adopt a program with regulations consistent with SB 946.
74. SB 946 requires counties and local authorities to adopt non-criminal laws to protect public health, safety and welfare. They are also required to adopt regulations specifying time, place and manner of restrictions on sidewalk vending. The Act also allows but does not require a permitting program for local sidewalk vendors and stipulates that these programs must accept specific identification documents in lieu of social security number. The collected number is confidential.
75. Despite the provisions of the SB946, street vendors still have to comply with State laws. For instance, food vendors must comply with the California Retail Food Code which requires food vendors to obtain permits from the Department of Public Health.
76. Additionally, there are other measures to promote the safety and quality of foods. For instance, Los Angeles County Environmental Health runs a Mobile Food Program, which is responsible for the inspection of various types of Mobile Food Facilities (MFF) including but not limited to, Mobile Food Trucks, Mobile Support Units, Limited Food Preparation Units, and Low-risk Fruit Carts. It conducts annual certification inspections; routine graded inspections and complaint investigations of MFF as well as routine and complaint investigations at the commissaries (food supplies) that service these MFF.
77. The above inspections are performed to ensure compliance with the applicable guidelines outlined in the California Retail Food Code and the Los Angeles County, California - Code of Ordinances before issuing permits.<sup>11</sup>

### **Challenges in the implementation of the Act**

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<sup>11</sup> <http://publichealth.lacounty.gov/eh/about/mobile-food-program.htm>

78. It was anticipated that the Act would provide relief to underground food vendors across the state, who are mostly immigrants. However, these may not be feasible, due to the State and County public health regulations for selling food from a street cart that has made a vast majority of vendors not to get permitted. Some of the stringent requirements include specifications for a vending cart with four sink compartments, a number of water tanks for washing cookware and hygiene and mechanical exhaust ventilation which makes it expensive for a number of the vendors whose incomes are already low.
79. Additionally, California's state food code "bars slicing fruit or reheating previously prepared food at the vending cart, making it impossible for a section of vendors to be licensed, e.g. fruits vendors and tacos stands. Thus, most sidewalk food vendors remain exposed to the daily threat of ticketing, harassment, and fines, which maintain an unending cycle of criminalization of street vending.

**B. MICROENTERPRISE HOME KITCHEN ORDINANCE (MEHKO)  
LAW, A.B. 626**

80. The Microenterprise Home Kitchen ordinance (MEHKO) law, A.B. 626, was also enacted in 2018. The objective of the law is to allow people to sell home-cooked meals to willing customers—either to take away from the cook's home or as part of a sit-down supper club experience.
81. The implementation of this legislation has not been embraced due to the requirement that local governments opt in to the law. There have therefore not been sufficient regulations by counties and local authorities to operationalize the act.

**2.4 City of London Various Powers Act 1987**

82. Street trading in the City of London is regulated by the City Corporation under the City of London Various Powers Act, 1987. Street trading is not permitted on any public street or place in the city of London geographical areas unless a temporary license has been granted under Section 11A of the Act.
83. The City of London Policy and Procedure for Street Trading (2014) states that, *as a global financial and business centre with a small resident population and a very large daily workforce, the City requires an environment which meets its special*

*needs. This was recognised at the beginning of the 20th century with the enactment of the City of London (Various Powers) Act of 1911. This brought to an end the problems of maintaining order, safety and hygiene created by large numbers of street traders being crowded into the City's many narrow and winding streets. This general restriction has been maintained to date, save for Middlesex Street which is within the City.*

84. Middlesex Street (Petticoat Lane Market) consists of the only market stalls in the city of London that is open on Sundays between 9am and 2pm. On weekdays, the market is confined to Wentworth Street Market. The market is known renown for clothing, perishable goods, and electronics among other items. Middlesex street market license expires at the end of each calendar year.
85. There are a number of conditions for trading on this street stipulated under the Act and Street Trading Policy. These include the position or place in Middlesex Street where the licensee may trade, the articles which may be traded and the nature of any receptacle<sup>12</sup> or equipment which may be used. Further, a street trading license is granted to an individual and may not be transferred, sold or sublet to another individual. A completed indemnity certificate is required before a license is issued.
86. The City of London (Various Power) Act 2013 Act enables prohibition to be lifted so as to permit street trading during festivals or charity events such as Christmas and 800th anniversary celebration of London Bridge.
87. Temporary license are only granted if they comply with certain terms and conditions and including it should be connected to a particular event, in a designated area set out in the license and for a for a maximum of twenty one (21) days as stated in the City Corporation's Street Trading Policy.<sup>13</sup> Separate provision is made for ice cream trading outside food premises.
88. To protect the attractiveness of the City's streets, due consideration is taken to ensure that granting of a temporary license does not result in detriment to the street scene. Street trading activity should not cause environmental problems or detract

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<sup>12</sup> Receptacle Includes a vehicle, trailer or stall and any basket, bag, box, vessel, stand, easel, board, tray or other structure or thing which is used as a container for, or for the display of, any article or thing.

<sup>13</sup> <https://www.cityoflondon.gov.uk/services/licensing/street-trading>

from the amenities of adjacent retailers/occupiers. Regard is also given to any potential problems associated with crime and disorder or anti-social behaviour. Street trading activity should not represent, or be likely to represent, a substantial risk of nuisance to the public or business from noise, particularly in residential areas and close to sensitive premises/areas e.g. schools, banks, listed buildings, conservation areas etc.

89. A register (online) of all traders is maintained by the City of Westminster. Further, markets and street trading services such as registration, payment, application/renewing of permits and licenses and other relevant services are available online.<sup>14</sup>

## **2.5 India**

90. Lack of gainful employment coupled with poverty in rural areas has pushed people out of their villages in search of a better existence in the cities. Most of these people end up in informal jobs in the cities such as hawking. India Constitution guarantees the right to livelihood. Article 14 of the Constitutions provides for right to equality, and freedom to trade, profession, and business. Hawkes are common scenes in the cities of Mumbai, Delhi, Kolkata, Chennai, Ahmedabad, Bangalore among others.
91. In view of this, India enacted the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 to regulate street vendors in the public areas and protect their rights as stipulated in the Constitution. The Act envisages a responsibility on the state to recognise the rights of the vendors and provide them with social security from any kind of infringement.
92. The Act defines a “street vendor” as *a person engaged in vending of articles of everyday use or offering services to the general public, in any public place or private area, from a temporary built-up structure or by moving from place to place.*

### **Salient provisions of the Act**

93. State governments have an obligation to protect the rights of the street vendors.
94. The Act establishes a Town Vending Committee which is a regulatory body under Section 22 of the Act constituted by the appropriate government of the state

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<sup>14</sup> <https://www.westminster.gov.uk/licensing/markets-and-street-trading>

including representation from traffic police, medical officer, planning authority, association of street traders, and community interest organizations. In Delhi for instance, there are 28 Town Vending Committees, each comprising of 30 members. Twelve (12) members of the Committee are street vendors elected by all the registered vendors of the concerned zone. Other members of the Committee are representatives of market associations, resident welfare associations, NGOs and local bodies.

95. The Committee is in charge of recognizing and protecting the rights of street vendors by identifying hawkers and demarcating hawking zones/vending areas (and non-vending areas) and issuing vending licenses to the vendors. The Committee also determines the holding capacity of that particular area after every five years.
96. The holding capacity of the street vendors is determined by the Town Vending Committee and it shall be two and a half percent of the total population of that ward or locality in the town or city.
97. Vending licenses can be issued to a person aged 14 and above as prescribed by the appropriate government. It further provided that no vendor shall be evicted in case he/she is left out of survey done by the Committee.
98. On the basis of vending work, the vendors have been classified into three types- mobile vendor, stationery vendor, and other types as provided by the scheme.
99. Every vendor has to pay a definite certificate fee to the town vending committee for the purpose of issuance of the vending certificate.
100. Such a certificate is issued for a definite period and shall be subject to renewal after the expiry of such period.
101. Where the street vendor is found to indulge in the fraud, misrepresentation or carrying any kind of illegal practices under the guise of vending, the vending certificate of such vendor shall be cancelled for a period of suspension with a fine by the Town Vending Committee as it deems suitable. The Act also provides for appeals mechanism where an aggrieved party can seek redress from local authority for issue of certificate.
102. Rights and obligations of street vendors are recognized- the act provides that every vendor has the right to carry his/her business following the manner and the

conditions mentioned in the certificate of vending, including right to relocate to new areas upon consultation with the Vending Committee. Where the vendor has been provided with the space on time basis the vendor will occupy the space within that time frame and vacate such space as the provided time frame ends. The street vendor is liable to maintain public hygiene and cleanliness and civic amenities near the vending area provided to him and ensure the protection of public property from any kind of damages. For the enjoyment of such services, he may have to pay certain maintenance charges as provided by the local authority.

103. Provisions of eviction and seizure - The local authority has the power to declare any zone a non-vending zone on the recommendations of the town hall committee. The Authority can also evict any vendor who does not possess a vending certificate or vends after the expiry of the same. Such vendors shall be provided with a time of 30 days by notice to evict such a place. The local authority can physically evict or relocate such vendors, in case the vendor is found vending after the notice period he/she shall be liable to pay a fine which may extend up to two hundred and fifty rupees (INR250\* 1.67= 417.5), but not exceeding to the total value of his goods as determined by the local authority.
104. When a vendor violated the rules and regulations of vending, the vendor's goods shall be seized on the order of the local authority. The Authority will make a list of such goods and provide a copy of such list to the vendor. In case of non-perishable goods the authority shall release the goods after two days of making claim while perishable goods shall be released on the same date of the claim. The reclaim of the goods shall be made after paying prescribed fees.
105. The Act also empowers the local authorities to make bye-laws in respect of following matters:
- a) The rules and regulations of vending in vending free zones or restricted zones and designated zones.
  - b) Determination of the amenities and the maintenance charges to be given by the vendors.
  - c) Determination of the penalties and the collection of taxes and fees in the vending zones.

d) Regulation of the traffic in the vending areas, regulation of the quality of goods provided to the public and maintenance of the hygiene and cleanliness in the vending zones.

e) Regulations of the civic services and the other matters that deems suitable in the vending areas.

106. Local governments of India have allocated certain days when street vendors can operate in certain parts of central business districts, especially weekends and public holidays, when the streets are not busy.

107. Over the years the street vendors in India have organized themselves into trade unions and associations and numerous NGOs have started working for them. The National Hawker Federation is based all over India.

### **Challenges in the Implementation of the Act**

108. The objectives of the Act have not been fully realized as traders are still victimized. Cases of eviction from allotted vending sites and seizure of goods are still common.

109. Further, instead of regulating vendors, local authorities treat hawkers as a nuisance and an irritant. Their policies and actions are aimed more at evicting and harassing them rather than at regulation.

110. Irregularities in smart cards distribution and the issuance of vending certificates have also been recorded.<sup>15</sup>

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<sup>15</sup> <https://blog.ipleaders.in/detailed-study-street-vendors-protection-livelihood-regulation-street-vending-act-2014/>

## CHAPTER THREE: OVERVIEW OF PUBLIC PARTICIPATION AND THEMATIC SYNTHESIS OF THE BILL

### 3.1. Public Participation

111. The Committee pursuant to the provisions of Article 118 of the Constitution and Standing order 140 (5) of the Senate Standing Orders, proceeded to undertake public participation on the Bill. In this regard, the Committee published an advertisement in the Daily Nation of Friday 20<sup>th</sup> October, 2023 inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website.
112. In response to the advertisement and invitations, the following institutions and individuals submitted memoranda —
- (a) The Central Organization of Street Hawkers of Kenya
  - (b) The National Gender and Equality Commission
  - (c) The Council of Governors
  - (d) Persons with Disabilities Street Vendors
  - (e) Sen. Crystal Asige, M.P
113. The detailed copies of the stakeholder submissions on the Bill are attached.

### 3.2. Consideration of Submissions from Stakeholders

114. The following are some of the key issues arising from the stakeholder submissions

#### Clause 2 – Definitions

115. The **Council of Governors (COG)** proposed the bill be amended by including the following definitions -

*“informal trader” means a small-scale unregistered business*

*“Harassment” means conduct or action which is usually repeated or persistent that being directed at a street vendor, alarms, causes substantial emotional distress in that person, damages foods or property and serves no legitimate purpose.*

116. COG noted that the proposed definition of the word informal trading conformed to the definition provided by the United Nations and the World Bank. Further, they averred that there was need to define the term harassment to provide clarity on the kind of protection against harassment outlined in section 26 of the Bill.

117. The committee **rejected** the proposals noting that the term harassment was already defined under section 26 of the Bill. Further, the Committee noted that the definition of Vendor adequately captured what an informal trader is. The term used throughout the Bill was “Vendor” and the term informal trader was also not used anywhere in the act and there is therefore no need to define the term.

**Clause 4 – Street Vending Unit**

118. The **Council of Governors** proposed that clause 4(1)(a) be deleted. They noted that the function of keeping and maintaining a database was a role of the County Governments and not the Cabinet Secretary.

119. The **Council of Governors** proposed that clause 4(1)(b) be amended to read *“provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya”* to conform to the functions of the National Government as outlined in the Fourth Schedule of the Constitution.

120. COG proposed deletion of clause 4(1)(c) justifying that planning and management of vending and trade are all devolved functions under the constitution of Kenya and should therefore be left to counties to carry out.

121. COG also proposed deletion of clause 4(1) (d). It was their submission that County Governments have County Finance Bills that determine the imposition of fees and other charges. Additionally, there was the County Uniform Procedures Licensing Bill, 2023 under consideration in Parliament which will provide for this.

122. Further, COG proposed deletion of clause 4(1) (e) stating that it was a repetition of subsection (b).

123. The committee **accepted** the proposals. The Committee noted that these proposals by COG are aimed at ensuring adherence to Schedule Four on distribution of functions between the national and county government. The Committee also observed that although the Register will be maintained at the county level, if the National Government requires this information they can obtain it from the County Government. Further, county governments have autonomy in the imposition of fees.

124. Further, Sen. Crystal Asige , MP, proposed that Clause 4(1) be amended to prescribe, in consultation with the relevant entities responsible for planning and

infrastructure, standards and guidelines for the proper planning and design of street vending zones; by inserting *adherence to universal design, principles, and standards for street vending zones* to read, *in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and adherence to universal design, principles, and standards for street vending zones*

125. The Committee **accepted** this proposal as it would ensure the rights of persons with disabilities are taken into consideration.
126. The **Council of Governors** proposed that clause 4(12) be deleted since the corresponding roles of the Unit have been deleted under sub-section (1).
127. The Committee **partially accepted** the proposal with the deletion of section 4 (2) (c) as the registration role has been fully devolved.

#### **Clause 5 – Designation of Vending Zones**

128. The **National Gender and Equality Commission (NGEC)** noted that vendors with disabilities may require special zones that are accessible and therefore proposed that clause 5 be amended by inserting an additional sub-clause(d) as follows—

*“reserved vending zones for person with disabilities”*

129. The Committee noted that the proposal was important and therefore the bill should make provision for persons with disabilities though they should not be separated from the other traders.
130. The **Council of Governors** proposed that clause 5(1) (a), (b) and (c) be amended to read *“The County Executive Committee member shall demarcate and designate the County into”*
131. COG proposal aimed to remove any reference to County Gazette as it was not operational but instead make reference to the National Gazette.
132. The committee **accepted** the proposal as reference to County Gazette would hinder implementation of this section since it was not operational.

#### **Clause 6- Restriction Free Vending Zones**

133. **NGEC** proposed that Clause 6 (2) be amended by inserting new a sub-clause ( e) as follows—

(6)(e) “Interferes or infringes on business of other traders”

134. It was their view that the new clause would protect other existing traders within the vicinity whom the authorities have a duty to protect their businesses and interests.

#### **Clause 7- Restricted Vending Zone**

135. The **Council of Governors** proposed that clause 7(1) be amended to read “*The respective county executive committee member may impose restrictions on nature of vending business that may be carried out in a restriction free vending zone*”. They explained that trade development and regulation was a county function as per the Constitution.

136. The committee **declined** the proposal. Committee noted that the amendment aimed at deleting the words “through county legislation”. However, the only way the CEC can effect such conditions on restrictions in restriction fee vending zone was through county legislation.

137. The **Council of Governors** also proposed that clause 7(2) be amended to read “*The County Executive Member shall publish the conditions imposed under subsection (1) through such platforms as the Committee Member may consider appropriate.*”

138. COG stated publishing is sufficient and the Bill need not provide for publicizing. Further, County Gazette are not operational and as such, the publishing of the conditions should be done through the other available platforms.

139. The committee **partially accepted** the proposal as reference to County Gazette would hinder implementation of this section since it was not operational. Committee recommended that publication shall be made in the National Gazette as opposed to the County Gazette that is not yet operational.

#### **Clause 8 - No Vending Zone**

140. The **Council of Governors** proposed insertion of sub-clause 8(3) as follows-

*“The county executive committee member shall not designate a vending zone next to a formal trading space”*

141. They noted that this will ensure that the existing businesses are not adversely affected as proposed in clause 11 (2)(c)

142. The committee **declined** the amendment and recommended that the Clause to instead be amended to reference the provisions of clause 11 (2)(c).

#### **Clause 9- Offence of Unauthorised**

143. NGEC stated that the sub-title was incomplete and should thus be amended by inserting the phrase “vending in” following “of” and after the phrase “unauthorized” the phrase “zones” to read as follows—“Offence of Vending in unauthorized Zones”

144. The Committee **accepted** the proposal as it would give more clarity to this provision.

145. NGEC further proposed that Clause 9 be amended by substituting the penalty of six months and or a fine of not less than ten thousand shillings with the following—  
*“with a fine of one thousand five hundred as first offender and revocation of the license on the second time”*

146. It was their submission that in most cases, the turnover of street traders was not substantive and imposing such a fine would only serve to destroy the business/livelihood and bring suffering to the dependants who include children and the elderly parents. Further, that the sanctions imposed contradicted the spirit of the law. They noted that one of the objectives of the Bill in Clause 3 was to entrench the right to informal trading; but offenders must face reasonable sanctions and so the proposed penalty by the Commission was well within the means of the beneficiaries of the law and it will also act as a deterrence for those who do not want to obey the law.

147. The Committee **accepted** the proposal. Committee noted that a fine imposed should not place undue stress on the offender.

#### **Clause 10 - Vending Zones Plan**

148. The **COG** proposed that clause 10 (2) (a) be amended to read *“Maintain a database of all street vendors and vending zones within the County”*.

149. The Committee **rejected** the proposal. It was their observation that instead of amending section 2(a), the proposed amendment be included as an additional sub-section requiring the CEC to maintain a register of street vendors in the county.

150. COG also proposed that clause 10 (2) (b) be amended to read “*develop a county vending zone plan in the manner prescribed in the Schedule*”.
151. The Council noted that the provisions in the bill were limiting and narrow and as such, it should be a sub-activity of a broader function under maintaining a database.
152. The Committee **Partially accepted** the proposal. The Committee noted that the clause can be amended to provide that the existing national and county planning laws to be considered in the formulation of the county vending zone plan.
153. The COG also proposed the deletion of clause 10(3) in its entirety. It was their submission that the provision as is, was limiting and narrow and as such, it should be a sub-activity of a broader function to “maintain a database of all street vendors and vending zones within the County”.
154. Further, COG proposed clauses 10 (4) (5) (6) be deleted. They noted that the process of approvals of plans had already been provided in Law through the County Governments Act and the Constitution.
155. The Committee **rejected** this proposal noting that it was important that periodic surveys are done in order to keep up with the growth and changes in the number of street vendors in a county.
156. COG also proposed that clauses 10 (4)(5)(6) on Vending Zones Plan be deleted. They justified that the process of approvals of plans had already been provided in Law through the County Governments Act and the Constitution.
157. The Committee **rejected** the proposal. The procedure proposed in the bill was very specific to data collection of street vendors, formulation of a vending plan and public participation.

#### **Clause 11 - Vending Centers**

158. NGEC proposed that Clause 11 be amended by inserting an additional sub clause (3) as follows—
- The planning of the center shall take into consideration the universal accessibility of the roads amenities and build environment*
159. The Committee **accepted** the proposal as this aimed at addressing inclusivity, especially of PWDs.

**Clause 12(2) –Periodic markets**

160. The **COG** proposed that clause 12(2) be deleted. It was their view that some of the roles prescribed were not exclusively assigned to the County Executive Committee Member.
161. The Committee **rejected** the proposal but agreed to remove security from the clause as it was not a county government function.

**Clause 13 - Relocation or eviction of street vendors**

162. The **COG** proposed that clause 13(2) be amended by inserting the following new subsection (C)
- Declare a zone a “No Vending Zone” which have in the past been considered a “Vending Zone”*
163. This inclusion according to COG sought to address the historical conflicts between the brick and mortar business and the street vendors as well as protecting the existing businesses.
164. The Committee **rejected** this proposal as it was already provided for in the demarcation of street vending zones under section 4.
165. The **COG** also proposed that clause 13(5) be amended by deleting the entire provision. They explained that this provision will cause conflict with the county. Further, that the relocation would require enormous resources and would bring conflict with vendors.
166. The Committee **partially accepted** the proposal by deleting the listed essential facilities.

**Clause 14 (a) - Obligations of county executive committee member**

167. The **COG** proposed that clause 14 (a) be amended to read the County Executive Committee Member shall;
- a) Make such county regulations as may be necessary for the implementation of this Act and the effective regulation of Street Vendors in the County*
168. The Committee **accepted** the proposal as this would operationalize the Act.

### **Clause 15- Register of Street vendors**

169. **Sen. Crystal Asige M.P** proposed that Clause 15(1)(2) be amended to specify that the register of street vendors within the respective locality shall also capture the numbers of streets and the number of PWDS within the designated area.
170. The Committee **accepted** this proposal.
171. The **Council of Governors** proposed that clause 15 (2) (C) be deleted.
172. The Committee **rejected** this amendment noting that it was important to ensure transparency in the maintain the register.
173. The **COG** proposed that clause 15 (3) be deleted as the term “director” was not defined in the bill and thus it was not clear if the bill made reference to director at the national or county government level.
174. The Committee **accepted** the proposal as it would remove ambiguity.
175. The **COG** proposed that clause 15 (4) be deleted. They stated that this provision will create room for foreigners to hawk in Kenya and thus will defeat the purpose of promoting microbusinesses in Kenya.
176. The Committee noted that although the COG raised pertinent concerns, Article 2(6) of the Constitution provides that any treaty or convention ratified by Kenya shall form part of the laws of Kenya. This also include EAC protocols. Committee agreed that the CEC shall make regulations on foreign vendors and the inter county and National Level trade to be split in the section.

### **Clause 16 (1) - Registration of Street Vendors**

177. The **COG** proposed that clause 16(1) be amended to read “*A person shall not conduct the business of a street vendor unless such person is registered as a street vendor*”. They observed that the definition a county executive committee member had been provided in the bill.
178. The Committee **rejected** this proposal. The Committee noted that this proposed aimed at specifying that registration will be done by the respective County Executive Committee Member.

### **Clause 17 (5) – Licencing of Street Vendors**

179. **Sen. Crystal Asige, MP** proposed that Clause 17 (5) be amended to include that a vending license issued under this section shall include the following particulars to

include 17(5) (j) *The PWD Council number* to ensure only the duly registered PWDS are allotted the reserved slots for PWDs.

180. The Committee **accepted** this proposal. It would ensure that only registered PWD are taken into consideration.

**Clause 18- Refusal to Grant a Licence**

181. **Sen. Crystal Asige , MP** proposed that Clause 18 (1) be amended to state that the county executive member may refuse to grant a license where the applicant does not comply with the requirements imposed under this Act or prescribed under the specific county legislation to have an appeal mechanism for those denied vendor slot.

182. The Committee **accepted** the proposal.

**Clause 20 (1) - Renewal of a License**

183. The **COG** proposed that clause 20 (1) be deleted. They stated that the provision made an assumption that a vendor must have graduated to formal trading within that period. However, that might not always be the case, especially for fish vendors.

184. The Committee **rejected** this proposal. It noted that the provision did not limit the number of times a vendor's licence can be renewed.

**Clause 21 - Revocation of License**

185. **NGEC** proposed that Clause 21(4) be amended to either establish a Tribunal under this Act or to expand mandate of an already existing tribunal with similar mandate. The alternative would be to appeal to a Magistrate Court in the respective counties. They noted that whereas Clause 21(4) refers to a County Tribunal, the proposed law has not established a tribunal nor is there a county tribunal because Tribunals (subordinate courts) are a function of the National Government.

186. The **COG** proposed that clause 21(4) be amended to read

*A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the relevant county tribunal against the decision within thirty days of the receipt of the decision.*

187. The **COG also** proposed that clause 21(5) be amended by inserting a new subsection —

*If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the county legislation within thirty days of the receipt of the decision*

188. COG stated that all persons are entitled to the right of appeal pursuant to the principles of natural justice under Article 50 of the Constitution. As such, the Bill should make provisions for appeals.

189. The Committee having taken note of the proposals by NGEC and COG resolved to propose amendments to establish a Dispute Resolution Committee appointed by the Governor. Further, parties should still have the right to apply for judicial review if they are not satisfied with the outcomes of the Committee.

**Clause 22 (2) - Handling of food. Act No. 12 of 2011 and CAP 254**

190. The COG proposed that clause 22(2) be amended to read —

*“The County Executive Committee member or the County executive committee member responsible for food safety may from time to time prescribe regulations relating to the proper handling of food by hawkers and street vendors.”*

191. They explained that matters related to food safety do not fall under the purview of the county executive committee member for matters relating to trade as prescribed under this bill.

192. The Committee **accepted** the proposal so as to ensure that the food handling is regulated by the responsible department.

**Clause 24 - Right to Adequate Facilities**

193. NGEC proposed that Clause 24(1) be amended by inserting before the phrase “*and parking*” the following “*accessible infrastructure, build and environment*”. The justification was that accessibility of the infrastructure including of the amenities was crucial for both the vendors and the customers who had limited mobility including persons with disabilities.

194. **Further, Sen. Crystal Asige, MP** proposed that the clause be amended to insert Accessible to sanitation services to read,

*“Every street vendor has the right, within a vending zone and adjacent areas as may be determined by the county executive member, to access essential facilities of reasonable quality including but not limited to security, lighting, accessible*

*washrooms, water, lighting and accessible parking facilities when necessary to ensure inclusivity and parking facilities where necessary*

195. The Committee **accepted** the proposal as it would enhance accessibility, especially for PWD.

**Clause 25 - Right to Quiet Possession of Goods**

196. NGEC proposed that sub-clause 25 (2) be deleted in its entirety without replacement. They averred that confiscation of goods of the vendor would serve only to impoverish the vendor as they maybe of a perishable nature or be damaged during the confiscation and or storage. The spirit of the law must be kept alive which is protection of livelihood.

197. NGEC also proposed that Clause 25(3) be amended by substituting the phrase *“may confiscate goods where”* with the following *“shall take an inventory of the goods for purposes of taking legal action”*.

198. Further, NGEC proposed that Clause 25(5) be amended by substituting the penalty of the fine of two hundred thousand with two thousand and the conviction term from one year to one month. They averred that the penalty proposed in the bill was not proportional to the breach committed by the vendor and that penalty should not serve to bring extreme punishment and destruction to the vendor and their family.

199. The Committee **rejected** the proposals.

**Clause 30 - County Legislation**

200. The COG proposed that clause 30 (2) be amended to read —

*The legislation enacted by a county assembly under subsection (1) may set out-*

201. Additionally, COG proposed that clause 30 (3) be deleted.

202. COG averred that the bill cannot purport to prescribe in mandatory terms for County Assemblies to enact the envisaged legislation as implied by the word *“shall”*

203. The Committee **rejected** the proposals by COG.

**Clause 31 - General Penalty**

204. NGEC further proposed the Clause be amended by substituting the fine of *“one hundred thousand”* with *“Five thousand”* and the imprisonment term of *“one year”* with *“one month”*. It was their submission that contravention of any of the

provisions in the proposed Bill was a misdemeanour that did not warrant such severe penalties.

205. The Committee **rejected** the proposals.

206. **Central Organization of Hawkers Association of Kenya** proposed that Parts I,II,III and IV be amended to entrench the role and function of the hawker's association, role of registrar of societies and role of independent tribunal court for the organization to undertake a number of functions as follows:

- a) Keep and maintain the register of all units of street vendors in Kenya to be submitted to the Ministry of Trade and County Executive through National Secretary General at national level and branch secretaries at county level.
- b) Keep and maintain membership in the form set out by the registrar of Societies and submit the same to the Ministry of Trade for national registry for purpose of maintaining correct data and record for planning and licensing.
- c) Give register of Societies and the Ministry all required information under this Act including a copy of the constitution, minute of the meetings held names of officials and their address etc to promote full representation and protection.
- d) To establish dispute resolution office to be housed in the office of labour in every county for refer of dispute between County Governments and Hawkers which will recommend review of resolution/authorization and by laws enacted before enactment of this Act considered as having been enacted under this Act and advice tribunal court on the way forward.
- e) The tribal court to have sitting in every county according to the dispute raised by the dispute resolution office to be chaired by two high court judges one to serve as chairman and another vice chairman.
- f) The director of trade to serve as a secretary of the tribunal court, secretary general as a friend and one High Court advocate to be nominated by the Law Society of Kenya to be a member of the tribunal court.
- g) To establish and entrench a tribunal court as was proposed earlier to receive complains of violation of agreement, term of engagement and resolution in demarcated areas

- h) 10% of the revenue raised from licensing street vendors under this Act to be returned to the organization for running secretariat and administration

207. The Committee **rejected** the proposals noting that the roles have been assigned to the Trade CEC in each county charged with implementation of the provisions of the Bill. Thus assigning the role Central Organization of Hawkers Association of Kenya would lead to duplication. However, the Committee noted that there was nothing hindering the Association from keeping its own register of hawkers or raising revenue for funding its operations.

#### **General Comments**

208. The Council of Governors observed the following:

- a) The Bill in its entirety does not mention Persons with Disabilities. They proposed that a clause should be specifically added addressing PWDs.
- b) That instead of having the CEC, there should be a board in which PWDs, youth, women and marginalized persons will be represented.

209. **Persons with Disabilities** also informed the Committee that the Bill in its entirety did not mention Persons with Disabilities. A clause should be specifically added addressing PWDs. Further, that instead of having the CEC handle all matters relating to street vendors, there should be a board in which PWDs, youth, women and marginalized persons will be represented.

## **CHAPTER FOUR:**

### **COMMITTEE OBSERVATIONS AND RECOMMENDATIONS**

#### **4.1 Committee Observations**

210. From the submissions made by stakeholder and its deliberations on the Bill, the Committee observed that —

- a) In Kenya, street vending is a key source of livelihood for many Kenyans in the informal sector and is a key contributor to the Micro and Small Enterprises Sector. Street Vending has however historically been characterized by hostile relationships with the previous municipal councils and now the county governments due to salient issues of licensing and trading in unauthorized areas. There is therefore a regulatory gap existing in the need to balance the protection of livelihood and the necessity to regulate trade and ensure orderliness, and payment of required licences for trading activities.
- b) Various jurisdictions faced with the same situation have successfully enacted legislation governing street vending activities and brought a semblance of orderliness, livelihood protection and governance. It is therefore timely, that Kenya enacts a similar legislation to protect the livelihoods of Kenyans and also bring about a structure of accountable governance through registration and licensing of street vendors.
- c) It is imperative for systems of administration of street vendors to be digitized for purposes of efficiency and accountability. Keeping an online register of Vendors together with enabling online registration will bring about efficiency in supervision, licensing and decision making. Counties should therefore be facilitated to provide services to citizens through online platforms including but not limited to application for licenses, monitoring of applications and issuance of licences.
- d) A segment of Street Vendors comprises of persons living with disabilities and it is important for various intersectional issues regarding access to

infrastructure through the reservation of allocated vending zones for such persons. Inclusion and universal access are important aspects of county physical planning. It therefore follows that in the formulation of County Vending Zone Plans, the interests and unique needs of persons with disabilities be considered and duly integrated. This will ensure that constitutional provisions on equality and non-discrimination are attained in the Bill.

- e) Fines and Penalties are an important aspect of implementation of statutory provisions and serve the purpose of supplementing and reinforcing compliance. Similarly, it is important to ensure that prescribed penalties are reasonable and match the imposed subject's ability to pay such fines and penalties. In this regard, the fines imposed for failure to comply with the provisions of this Bill should be cognizant and commensurate to the ability of Street Vendors to pay such fines. This is a key aspect of administrative justice as set out in Article 47 of the Constitution.
- f) Dispute Resolution under this regulatory framework is critical to the attainment of its objectives. Additionally, it is important to utilise existing forums for dispute resolution institutionally within the county and within the existing structures of the Judiciary. This is more specifically because the creation of multiple forums for dispute resolution has attendant financial consequences which will place an extra burden on the already heavily constrained national exchequer. The structure and provisions of the Bill, if properly enforced should result in minimal litigation.
- g) The role of labour relations has been recognised in the Bill and encouraged by providing that Street Vendors may constitute themselves into labour relations organisations and undertake various labour relations activities for their benefit.
- h) Counties have historically confiscated goods of Street Vendors found to be unlawfully undertaking their vending activities. There has however been a lack of transparency in this process and many street vendors have lost their wares to unscrupulous police and workers of the county. The

Bill seeks to bring transparency to this process by providing specific grounds for confiscation of goods and further providing for ticketing and proper storage of perishable goods that have been confiscated. The Bill further ensures that a county official informs a street vendor of the procedure with which they should use to reclaim confiscated goods. This is an additional measure of fair administrative action that is curing the decades long menace of unfair confiscation and subsequent disappearance of goods confiscated from Street Vendors.

- i) That existing societies and organizations representing the interest of street vendors play an important role in activism, labour relations and stakeholder engagements on critical issues affecting street vendors. Additionally, public participation is an important part of the legislative process through which the insights of the public are taken into account in the formulation of laws. The Committee notes that these societies have been instrumental in the protection of the rights of street vendors and while it will not be legislatively possible to entrench them as regulators under the Act as they have proposed, there is an opportunity for synergy, through which they will assist in the implementation of this Bill by sensitizing their members on its provisions.

#### **4.2 Committee Recommendations**

211. Having considered the Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023) and the submissions received thereon, the Standing Committee on Trade, Tourism and Industrialization recommends that the Senate passes the Bill with the following amendments as proposed by the Committee —

THAT:

- a) Clause 4 (1)(a) be deleted
- b) Amend 4(1)(b) be amended to read— “provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya”
- c) Clause 4(1) (c) be deleted

- d) Clause 4(1)(d) be deleted
- e) Clause 4(1) (e) be amended by inserting *adherence to universal design, principles, and standards for street vending zones* to read *in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and adherence to universal design, principles, and standards for street vending zones; and*
- f) Clause Section 4 (2) be deleted
- g) Clause 5 (1) be amended to read “*Each county executive committee member shall, by notice in the Kenya Gazette, demarcate and designate the county into—*”
- h) Clause 7(2) be amended to read “*The County Executive Member shall publish the conditions imposed under subsection (1) through such platforms as the Committee Member may consider appropriate.*”
- i) Clause 10 2 (1) (b) be amended to read “*develop a county vending zone plan in the manner prescribed in the Schedule*”
- j) Clause 13 (5) be amended by deleting *including water, lighting, security and waste disposal facilities*”
- k) Clause 14 (a) be amended by deleting *enact* and replacing thereof with *make* to read—*The County Executive Committee Member shall; Make such county regulations as may be necessary for the implementation of this Act and the effective regulation of Street Vendors in the County.*
- l) Clause 15(1) be amended to state that in addition to the number of street vendors within the respective locality the county executive committee member shall also keep records of the numbers of streets and the number of PWDS within the designated area.
- m) Clause Delete 15 (3) be deleted
- n) Clause 15(4) be deleted
- o) Clause 16 (1) be amended by deleting *with the respective county executive committee member* to read—*A person shall not conduct the business of a street vendor unless such person is registered as a street vendor.*
- p) Clause 17(5) be amended by inserting 17(5)(i) as follows *The PWD Council number.*

- q) Clause 18 (1) be amended to provide for an appeal mechanism for those denied vendor licence.
- r) Clause 21(4) be amended to establish a Dispute Resolution Committee appointed by the Governor to replace the Tribunal provided under the bill.
- s) Clause 21 be amended by inserting a new sub-clause 21(5) as follows —*If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the county legislation within thirty days of the receipt of the decision.*
- t) Clause 22 (2) be amended to read that *the County Executive Committee Member or the County Executive Committee Member responsible for food safety may from time to time prescribe regulations relating to the proper handling of food by hawkers and street vendors.*

## LIST OF ANNEXURES

Annex 1	Committee Stage Amendments to the Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023)
Annex 2	Minutes of the Standing Committee on Trade, Industrialization and Tourism
Annex 3	The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023)
Annex 4	Advertisement published in the <i>Daily Nation</i> newspapers on 20 <sup>th</sup> October, 2023
Annex 5	Public Participation /Memoranda received on the Street Vendors (Protection of Livelihood) Bill, 2023(Senate Bills No. 41 of 2023) I. CoG II. NGEC III. Nairobi County Government IV. COHA V. PWD Street Vendors & Sen. Crystal Asige, MP

**16<sup>th</sup> April , 2024**

The Clerk of the Senate,  
Parliament Buildings,  
**NAIROBI.**

**RE: COMMITTEE STAGE AMENDMENTS TO THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL, SENATE BILLS NO. 41 OF 2023**

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**NOTICE** is given that Sen. Seki Lenku Ole Kanar, the Chairperson to the Standing Committee on Trade, Tourism and Industrialization intends to move the following amendments to the Street Vendors Bill (Protection of Livelihood) , Senate Bills No. 41 of 2023, at the Committee Stage—

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended—

- (a) in subclause 1 by Deleting paragraphs (a), (c) and (d);
- (b) in subclause 1 by deleting paragraph (b) and substituting therefor the following new paragraph —
  - (b) prescribe, in consultation with county governments and relevant stakeholders, national guidelines for the conduct of street vending and regulation of street vendors in Kenya.; and
- (c) in subclause 1 by amending paragraph (e) by inserting the words “and taking into consideration universal design principles” immediately after the words “street vending zones”.

**CLAUSE 4**

**THAT** clause 4 of the Bill be amended in subclause 2 by deleting paragraph (c)

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended in subclause 1 by deleting the words “County Gazette” appearing immediately after the words “notice in the” and replace thereof with the word “Gazette”;

**CLAUSE 7**

**THAT** Clause 7 of the Bill be amended in subclause (2) by deleting the word “County *Gazette*” appearing immediactely after the words “ in the” and replace thereof with the word “*Gazette*”;

**CLAUSE 12**

**THAT** Clause 12 (2) be amended by deleting the word “security” appearing immediately after the words “limited to”.

**CLAUSE 13**

**THAT** Clause 13(5) be amended by deleting the words “including water, lighting, security and waste disposal facilities” appearing immediately after the words “essential facilities” and before the words “in the area”.

**CLAUSE 14**

**THAT** Clause 14 of the Bill be amended in subclause (a) by deleting the word enact appearing immediately before the words “such county” and replacing thereof with the word “formulate”.

**CLAUSE 15**

**THAT** Clause 15 of the Bill be amended in subclause 1 under paragraph (b) in subclause 2 by inserting the words “including street vendors with disabilities” immediately after the words “licensed street vendors” and immediately before the words “in the county”.

**CLAUSE 15**

**THAT** Clause 15 of the Bill be amended by deleting subclause 3.

**CLAUSE 15**

**THAT** Clause 15 of the Bill is amended by—

- (a) deleting the words “Cabinet Secretary” in subclause 4 and substituting thereof with the words “county executive committee member” and deleting the words “vendors from the East African Community and registration of foreigners to regulate inter-county mobility trade” appearing immediately after the words

“for the registration of” and replacing thereof with the following words “foreigners and inter-county mobility trade”; and

(b) inserting the following new subclause immediately after subclause 4—

(5) “The county executive committee member, in formulating regulations under subclause 4 , shall observe all the provisions of treaties and conventions ratified by the country pursuant to Article 2(6) of the Constitution”

**CLAUSE 16**

**THAT** Clause 16 of the Bill be amended by deleting the words “with the respective county executive committee member” appearing immediately after the words “as a street vendor”.

**CLAUSE 17**

**THAT** Clause 17 of the Bill be amended by inserting the following new paragraph after paragraph (g) under subclause 5—

(ga) the persons with disabilities council number for street vendors with disabilities

**CLAUSE 21**

**THAT** Clause 21 of the bill be amended by –

(a) deleting the words “relevant county tribunal” appearing immediately after the words “may appeal to the” and substituting thereof with the words “appeals committee duly constituted by the Governor” in subclause (4); and

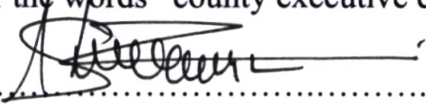
(b) inserting the following new subclauses immediately after subclause 4—

(5) The Governor in constituting the appeals committee under subclause 4 shall appoint a representative of street vendors living with disabilities; and

(6) A vendor who is further aggrieved by the decision of the appeals committee under sub-clause 4 may further seek judicial review of the committee’s decision.

**CLAUSE 22**

**THAT** CLAUSE 22 be amended in subclause 2 by inserting the words “responsible for food safety” immediately after the words “county executive committee member”.

Dated.........., 2024.

17/4/2024

Sen. Seki Lenku Ole Kanar,  
*Chairperson,*  
*Committee on Trade, Industrialization and Tourism.*



**MINUTES OF THE 84<sup>TH</sup> HYBRID MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON TUESDAY, 16<sup>TH</sup> APRIL, 2024 IN IMPALA COMMITTEE ROOM, KICC AT 8:00 A.M**

**PRESENT**

- |   |                                |
|---|--------------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP          | - Chairperson (Virtually)      |
| 2. Sen. Esther Anyieni Okenyuri, MP       | - Vice-Chairperson (Virtually) |
| 3. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP   | - Member                       |
| 4. Sen. Jackson Kiplagat Mandago, EGH, MP | - Member (Virtually)           |
| 5. Sen. Crystal Kegehi Asige, MP          | - Member (Virtually)           |
| 6. Sen. Andrew Omtatah Okoiti, MP         | - Member (Virtually)           |
| 7. Sen. Betty Batuli Montet, MP           | - Member (Virtually)           |

**APOLOGIES**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Paul Karungo Thangwa, MP | - Member |
| 2. Sen. Hezena M. Lemaletian, MP | - Member |

**SECRETARIAT**

- |                        |                           |
|------------------------|---------------------------|
| 1. Mr. Peter Mulesi    | - Clerk Assistant I       |
| 2. Mr. David Ngamate   | - Clerk Assistant III     |
| 3. Ms. Sharon Rotino   | - Research officer 1      |
| 4. Ms. Annete Kwamboka | - Legal Counsel           |
| 5. Mr. James Ngusya    | - Searjant-At-Arm         |
| 6. Mr. Joseph Otieno   | - Audio Officer           |
| 7. Mr. William Wambiru | - Fiscal Analyst          |
| 8. Mr. Stanley Gekore  | - Media Relations Officer |

**MIN/SEN/SCTIT/468/2024**

**PRELIMINARIES**

The Chairperson called the meeting to order at 8.19 am. This was followed by a word of prayer and around of introduction for the Members and the Secretariat.

**MIN/SEN/SCTIT/469/2024**

**ADPOTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Crystal Kegehi Asige, MP, and seconded by Sen. Betty Montet, MP, as listed below-

1. Preliminaries;
  - i. Prayer*
  - ii. Introduction*
2. Adoption of the Agenda;
3. Consideration and Adoption of the Committee Report on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 41 of 2023);
4. Any Other Business; and
5. Adjournment/ Date of the Next Meeting.

**MIN/SEN/SCTIT/469/2024:            CONSIDERATION OF THE STREET VENDORS**  
**(PROTECTION OF LIVELIHOOD) BILL 2023.**  
**SENATE BILLS NO.41 OF 2023**

The chairperson acknowledged explained that the Committee had considered the Street Vendors (Protection of Livelihood) Bill (Senate Bill No. 41 of 2023) since it was referred to the Committee on 17<sup>th</sup> October, 2023.

The Committee had undertaken participation and received both oral submissions and written submissions from the stakeholders who included the National Gender and Equality Commission (NGEC), the Council of Governors (CoG), Nairobi County government, the Central Organization of Street vendors (COHA) and the Association of Persons Living with Disabilities Street Vendors.

Further, at its Sitting that was held on Thursday, 11<sup>th</sup> April, 2024, the Committee considered the amendments from the stakeholders that arose during a targeted stakeholders retreat in Machakos County and recommended that the secretariat process the draft Report for consideration and adoption by the Committee on Tuesday, 16<sup>th</sup> April, 2024.

The chairperson urged the Committee to consider and adopt the draft Report noting the Bill was already listed for Second Reading in the Senate.

The chairperson then invited the secretariat to take the Committee through the draft Report on the Bill.

Ms. Annete Kwamboka, Legal Counsel presented the draft report on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 41 of 2023) and highlighted the following amendments by the Committee-

THAT;

- a) Clause 4 (1)(a) be deleted

- b) Amend 4(1)(b) be amended to read— “provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya”
- c) Clause 4(1) (c) be deleted
- d) Clause 4(1)(d) be deleted
- e) Clause 4(1) (e) be amended by inserting *adherence to universal design, principles, and standards for street vending zones* to read  
*in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and adherence to universal design, principles, and standards for street vending zones; and*
- f) Clause Section 4 (2) be deleted
- g) Clause 5 (1) be amended by deleting *county gazette* so as to read “*Each county executive committee member shall, by notice in the Kenya Gazette, demarcate and designate the county into—*
- h) Clause 7(2) be amended to read “*The County Executive Member shall publish the conditions imposed under subsection (1) through such platforms as the Committee Member may consider appropriate.*
- i) Clause 10 2 (1) (b) be amended to read “*develop a county vending zone plan in the manner prescribed in the Schedule*”
- j) Clause 13 (5) be amended by deleting *including water, lighting, security and waste disposal facilities*”
- k) Clause 14 (a) be amended by be deleting *enact* and replacing thereof with *make* to read—*The County Executive Committee Member shall; Make such county regulations as may be necessary for the implementation of this Act and the effective regulation of Street Vendors in the County.*
- l) Clause 15(1) be amended to state that in addition to the number of street vendors within the respective locality the county executive committee member shall also keep records of the numbers of streets and the number of PWDS within the designated area.
- m) Clause Delete 15 (3) be deleted
- n) Clause 15(4) be deleted

- o) Clause 16 (1) be amended by deleting *with the respective county executive committee member* to read—*A person shall not conduct the business of a street vendor unless such person is registered as a street vendor.*
- p) Clause 17(5) be amended by inserting 17(5)(i) as follows *The PWD Council number.*
- q) Clause 18 (1) be amended to provide for an appeal mechanism for those denied vendor licence.
- r) Clause 21(4) be amended to establish a Dispute Resolution Committee appointed by the Governor to replace the Tribunal provided under the bill.
- s) Clause 21 be amended by inserting a new sub-clause 21(5) as follows —*If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the county legislation within thirty days of the receipt of the decision.*
- t) Clause 22 (2) be amended to read that *the County Executive Committee Member or the County Executive Committee Member responsible for food safety may from time to time prescribe regulations relating to the proper handling of food by hawkers and street vendors.*

### **Observation by the Committee**

The Committee made the following key observations- **That;**

- 1) In Kenya, street vending is a key source of livelihood for many Kenyans in the informal sector and is a key contributor to the Micro and Small Enterprises Sector;
- 2) Street Vending has however historically been characterized by hostile relationships with the previous municipal councils and now the county governments due to salient issues of licensing and trading in unauthorized areas;
- 3) There is therefore a regulatory gap existing in the need to balance the protection of livelihood and the necessity to regulate trade and ensure orderliness, and payment of required licenses for trading activities.; and
- 4) The draft Report had captured most of the amendments that had been preferred by the stakeholders and the Committee.

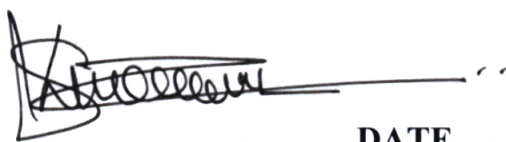
### **Resolution of the Committee**

Following the above observations and further deliberations, the Committee adopted the Report on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No.41 of 2023) and after having been proposed by Sen. (Dr). Lelegwe Ltumbesi, CBS, MP and seconded by Sen. Jackson Mandago, EGH, MP.

It was further resolved that the Report of the Committee on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No.41 of 2023) be processed for Tabling in the Senate noting that it was already listed for Second Reading.

**MIN/SEN/SCTIT/470/2024      ADJOURNMENT AND THE DATE OF THE NEXT MEETING.**

The meeting adjourned at 9.36 am. and the next meeting to be held on Thursday, 18<sup>th</sup> April, 2024 at 8.00 am.



SIGNATURE..... DATE..... 16/4/2024

(CHAIRPERSON)



**MINUTES OF THE 84<sup>TH</sup> HYBRID MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON TUESDAY, 16<sup>TH</sup> APRIL, 2024 IN IMPALA COMMITTEE ROOM, KICC AT 8:00 A.M**

**PRESENT**

- |   |                                |
|---|--------------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP          | - Chairperson (Virtually)      |
| 2. Sen. Esther Anyieni Okenyuri, MP       | - Vice-Chairperson (Virtually) |
| 3. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP   | - Member                       |
| 4. Sen. Jackson Kiplagat Mandago, EGH, MP | - Member (Virtually)           |
| 5. Sen. Crystal Kegehi Asige, MP          | - Member (Virtually)           |
| 6. Sen. Andrew Omtatah Okoiti, MP         | - Member (Virtually)           |
| 7. Sen. Betty Batuli Montet, MP           | - Member (Virtually)           |

**APOLOGIES**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Paul Karungo Thangwa, MP | - Member |
| 2. Sen. Hezena M. Lemaletian, MP | - Member |

**SECRETARIAT**

- |                        |                           |
|------------------------|---------------------------|
| 1. Mr. Peter Mulesi    | - Clerk Assistant I       |
| 2. Mr. David Ngamate   | - Clerk Assistant III     |
| 3. Ms. Sharon Rotino   | -Research officer 1       |
| 4. Ms. Annete Kwamboka | - Legal Counsel           |
| 5. Mr. James Ngusya    | - Searjant-At-Arm         |
| 6. Mr. Joseph Otieno   | -Audio Officer            |
| 7. Mr. William Wambiru | - Fiscal Analyst          |
| 8. Mr. Stanley Gekore  | - Media Relations Officer |

**MIN/SEN/SCTIT/468/2024**

**PRELIMINARIES**

The Chairperson called the meeting to order at 8.19 am. This was followed by a word of prayer and around of introduction for the Members and the Secretariat.

**MIN/SEN/SCTIT/469/2024**

**ADPOTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Crystal Kegehi Asige, MP, and seconded by Sen. Betty Montet, MP, as listed below-

1. Preliminaries;
  - i. Prayer*
  - ii. Introduction*
2. Adoption of the Agenda;
3. Consideration and Adoption of the Committee Report on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 41 of 2023);
4. Any Other Business; and
5. Adjournment/ Date of the Next Meeting.

**MIN/SEN/SCTIT/469/2024:            CONSIDERATION OF THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL 2023. SENATE BILLS NO.41 OF 2023**

The chairperson acknowledged explained that the Committee had considered the Street Vendors (Protection of Livelihood) Bill (Senate Bill No. 41 of 2023) since it was referred to the Committee on 17<sup>th</sup> October, 2023.

The Committee had undertaken participation and received both oral submissions and written submissions from the stakeholders who included the National Gender and Equality Commission (NGEC), the Council of Governors (CoG), Nairobi County government, the Central Organization of Street vendors (COHA) and the Association of Persons Living with Disabilities Street Vendors.

Further, at its Sitting that was held on Thursday, 11<sup>th</sup> April, 2024, the Committee considered the amendments from the stakeholders that arose during a targeted stakeholders retreat in Machakos County and recommended that the secretariat process the draft Report for consideration and adoption by the Committee on Tuesday, 16<sup>th</sup> April, 2024.

The chairperson urged the Committee to consider and adopt the draft Report noting the Bill was already listed for Second Reading in the Senate.

The chairperson then invited the secretariat to take the Committee through the draft Report on the Bill.

Ms. Annete Kwamboka, Legal Counsel presented the draft report on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No. 41 of 2023) and highlighted the following amendments by the Committee-

THAT;

- a) Clause 4 (1)(a) be deleted

- b) Amend 4(1)(b) be amended to read— “provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya”
- c) Clause 4(1) (c) be deleted
- d) Clause 4(1)(d) be deleted
- e) Clause 4(1) (e) be amended by inserting *adherence to universal design, principles, and standards for street vending zones* to read  
*in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and adherence to universal design, principles, and standards for street vending zones; and*
- f) Clause Section 4 (2) be deleted
- g) Clause 5 (1) be amended by deleting *county gazette* so as to read “*Each county executive committee member shall, by notice in the Kenya Gazette, demarcate and designate the county into—*
- h) Clause 7(2) be amended to read “*The County Executive Member shall publish the conditions imposed under subsection (1) through such platforms as the Committee Member may consider appropriate.*
- i) Clause 10 2 (1) (b) be amended to read “*develop a county vending zone plan in the manner prescribed in the Schedule*”
- j) Clause 13 (5) be amended by deleting *including water, lighting, security and waste disposal facilities*”
- k) Clause 14 (a) be amended by be deleting *enact* and replacing thereof with *make* to read—*The County Executive Committee Member shall; Make such county regulations as may be necessary for the implementation of this Act and the effective regulation of Street Vendors in the County.*
- l) Clause 15(1) be amended to state that in addition to the number of street vendors within the respective locality the county executive committee member shall also keep records of the numbers of streets and the number of PWDS within the designated area.
- m) Clause Delete 15 (3) be deleted
- n) Clause 15(4) be deleted

- o) Clause 16 (1) be amended by deleting *with the respective county executive committee member* to read—*A person shall not conduct the business of a street vendor unless such person is registered as a street vendor.*
- p) Clause 17(5) be amended by inserting 17(5)(i) as follows *The PWD Council number.*
- q) Clause 18 (1) be amended to provide for an appeal mechanism for those denied vendor licence.
- r) Clause 21(4) be amended to establish a Dispute Resolution Committee appointed by the Governor to replace the Tribunal provided under the bill.
- s) Clause 21 be amended by inserting a new sub-clause 21(5) as follows —*If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the county legislation within thirty days of the receipt of the decision.*
- t) Clause 22 (2) be amended to read that *the County Executive Committee Member or the County Executive Committee Member responsible for food safety may from time to time prescribe regulations relating to the proper handling of food by hawkers and street vendors.*

### **Observation by the Committee**

The Committee made the following key observations- **That;**

- 1) In Kenya, street vending is a key source of livelihood for many Kenyans in the informal sector and is a key contributor to the Micro and Small Enterprises Sector;
- 2) Street Vending has however historically been characterized by hostile relationships with the previous municipal councils and now the county governments due to salient issues of licensing and trading in unauthorized areas;
- 3) There is therefore a regulatory gap existing in the need to balance the protection of livelihood and the necessity to regulate trade and ensure orderliness, and payment of required licenses for trading activities.; and
- 4) The draft Report had captured most of the amendments that had been preferred by the stakeholders and the Committee.


### **Resolution of the Committee**

Following the above observations and further deliberations, the Committee adopted the Report on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No.41 of 2023) and after having been proposed by Sen. (Dr). Lelegwe Ltumbesi, CBS, MP and seconded by Sen. Jackson Mandago, EGH, MP.

It was further resolved that the Report of the Committee on the Street Vendors (Protection of Livelihood) Bill (Senate Bills No.41 of 2023) be processed for Tabling in the Senate noting that it was already listed for Second Reading.

**MIN/SEN/SCTIT/470/2024**      **ADJOURNMENT AND THE DATE OF THE NEXT MEETING.**

The meeting adjourned at 9.36 am. and the next meeting to be held on Thursday, 18<sup>th</sup> April, 2024 at 8.00 am.

SIGNATURE.......... DATE.....*16/4/2024*.....  
(CHAIRPERSON)



**MINUTES OF THE 79<sup>TH</sup> HYBRID MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON SATURDAY, 23<sup>RD</sup> MARCH, 2024 IN PARVILION MEETING ROOM, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY FROM 9:00 A.M**

**PRESENT.**

- |   |                      |
|---|----------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP          | - Chairperson        |
| 2. Sen. Esther Anyieni Okenyuri, MP       | - Vice-Chairperson   |
| 3. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP   | - Member(Virtually)  |
| 4. Sen. Jackson Kiplagat Mandago, EGH, MP | - Member(Virtually)  |
| 5. Sen. Crystal Kegehi Asige, MP          | - Member (Virtually) |
| 6. Sen. Andrew Omtatah Okoiti, MP         | - Member(Virtually)  |
| 7. Sen. Betty Batuli Montet, MP           | - Member             |

**ABSENT WITH APOLOGY.**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Paul Karungo Thangwa, MP | - Member |
| 2. Sen. Hezena M. Lemaletian, MP | - Member |

**SECRETARIAT.**

- |                         |                                |
|-------------------------|--------------------------------|
| 1. Mr. Stephen Gikonyo  | - Principal Clerk Assistant II |
| 2. Mr. Peter Mulesi     | - Clerk Assistant I            |
| 3. Mr. David Ngamate    | - Clerk Assistant III          |
| 4. Ms. Sharon Rotino    | -Research officer 1            |
| 5. Ms. Annete Kwamboka  | - Legal Counsel                |
| 6. Mr. James Ngusya     | - Searjent-At-Arm              |
| 7. Mr. Joseph Otieno    | -Audio Officer                 |
| 8. Mr. Wycliffe Muwanga | - Accountant                   |
| 9. Mr. Oliver Onyango   | - Intern                       |

**MIN/SEN/SCTIT/439/2024**

**PRELIMINARIES**

The Chairperson called the meeting to order at 9.05 am. This was followed by a word of prayer and around of introduction for the Members and the Secretariat.

The chairperson acknowledged the oral submissions that had been received from the stakeholders who included the Council of Governors (CoG) Committee on Trade, Industry and Co-operatives, the Deputy Governor, Nairobi County, the Chairperson, Central Organization of Street vendors (COHA) and the Association of Persons Living with Disabilities Street Vendors

**MIN/SEN/SCTIT/440/2024**      **ADPOTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Okiya Omtatah, MP, and seconded by Sen. Betty Montet, MP, as listed below-

1. Preliminaries;
  - i. Prayer*
  - ii. Introduction*
2. Adoption of the Agenda;
3. Consideration of the Submissions by Stakeholders on the Street Vendors (Protection of Livelihood) Bill 2023;
4. Any Other Business; and
5. Adjournment/ Date of the Next Meeting.

**MIN/SEN/SCTIT/441/2024:**      **CONSIDERATION OF THE STREET VENDORS**  
**(PROTECTION OF LIVELIHOOD) BILL 2023.**  
**SENATE BILLS NO.41 OF 2023**

The Chairperson invited the Secretariat to present the matrix on the agreed amendments following engagements with stakeholders.

Ms. Annette Kwamboka, Legal counsel presented the following amendments-

The Committee considered the following amendments from the listed stakeholders-

**Definitions:**

**“informal trader”** means a small-scale unregistered business

**“Harassment”** means conduct or action which is usually repeated or persistent that being directed at a street vendor, alarms, causes substantial emotional distress in that person, damages foods or property and serves no legitimate purpose

Resolution: **The term harassment has already been defined under section 26 of the Bill.**

The definition of **Vendor** adequately captures what an informal trader is. The term used throughout the Bill is “Vendor”. The term informal trader is also not used anywhere in the act and there is therefore no need to define the term.

Delete 4 (1)(a) Street Vending Unit (**accepted**)

Amend 4(1)(b) Street Vending Unit to read— “provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya” **(Accepted)**

Delete 4(1) (c) on the Street Vending Unit **(Accepted)**

Delete 4(1)(d) Street Vending Unit **(Accepted)**

Delete 4 (1) (e) on Street Vending Unit **(accepted)**

Delete Section 4 (2) **(Partially accepted)**

Designation of Vending Zones to read “The County Executive Committee member shall demarcate and designate the County into...(accepted)

Amend7(1) on Restriction Free Vending Zones to read “The respective county executive committee member may impose restrictions on nature of vending business that may be carried out in a restriction free vending zone **(declined)**

Amend 7(2) on Restriction Free Vending Zones to read “The County Executive Member shall publish the conditions imposed under subsection (1) through such platforms as the Committee Member may consider appropriate **(Partially Accepted)**

Insert Subsection 8(3) which reads as follows—The county executive committee member shall not designate a vending zone next to a formal trading space” **(declined)**

Amend 10 (2) (a) Vending Zones Plan to read— Maintain a database of all street vendors and vending zones within the County**(declined)**

Amend 10 2 (1) (b) Vending Zones Plan to read “develop a county vending zone plan in the manner prescribed in the Schedule” **(Partially Accepted)**

Delete10 (3) Vending Zones Plan **(declined)**

Delete 10 (4)(5)(6) Vending Zones Plan; 10(4) 10(5) and 10(6) **(declined)**

Delete 12(2) Periodic Markets **(declined)**

Amend 13(2) on relocation or eviction of street vendors Inserting the following new subsection (C) Declare a zone a “No Vending Zone” which have in the past been considered a “Vending Zone” **(declined)**

Delete 13 (5) Relocation or eviction of street vendors this provision **(Partially Accepted)**

Amend 14 (a) Obligations of county executive committee member to read—The County Executive Committee Member shall; Make such county regulations as may be necessary

for the implementation of this Act and the effective regulation of Street Vendors in the County(**accepted**)

Delete 15(2) (C) Register of Street vendors (declined)

Delete 15 (3) Register of Street vendors (**accepted**)

Delete 15(4) Register of Street vendors (**accepted**)

Amend 16 (1) Registration of Street Vendors to read—A person shall not conduct the business of a street vendor unless such person is registered as a street vendor (**accepted**)

Delete 20 (1) Renewal of a license (**declined**)

Amend 21(4) to read as follows—A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the relevant county tribunal against the decision within thirty days of the receipt of the decision

**Resolution:** Committee Resolved to establish a Dispute Resolution Committee appointed by the Governor

21 (5) Revocation of a license- Insert a new subsection—If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the county legislation within thirty days of the receipt of the decision (**partially accepted**)

22 (2) Handling of food. Act No. 12 of 2011 and CAP 254Amend to read—The County Executive Committee member or the County executive committee member responsible for food safety may from time to time prescribe regulations relating to the proper handling of food by hawkers and street vendors(**accepted**)

Amend 30 (2) County Legislation to read—The legislation enacted by a county assembly under subsection (1) may set out- (**declined**)

Delete30 (3) County Legislation (**declined**)

**Submissions by Persons with Disabilities:**

The Committee was informed that the Bill in its entirety does not mention Persons with Disabilities. A clause should be specifically added addressing PWDs.

Instead of having the CEC, have a board in which PWDs, youth, women and marginalized persons will be represented.

**Further**, Sen. Crystal Asige , MP, proposed the following amendments-

1. Amend Clause 4(1) prescribe, in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and design of street vending zones; by inserting

*adherence to universal design, principles, and standards for street vending zones to read, in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and adherence to universal design, principles, and standards for street vending zones(accepted)*

2. Clause 15(1)(2) the number of street vendors within the respective locality; The numbers of streets and the number of PWDS within the designated area (accepted)
3. amend Clause 17(5) A vending license issued under this section shall include the following particulars to include **17(5) (j)** The PWD Council number to ensure only the duly registered PWDS are allotted the reserved slots for PWDs (Accepted).
4. Amend Clause 18 (1) The county executive member may refuse to grant a license where the applicant does not comply with the requirements imposed under this Act or prescribed under the specific county legislation to have an appeal mechanism for those denied vendor slot (**accepted**)
5. Amend to insert **Accessible to sanitation services** to read,  
“Every street vendor has the right, within a vending zone and adjacent areas as may be determined by the county executive member, to access essential facilities of reasonable quality including but not limited to security, lighting, accessible washrooms, water, lighting and accessible parking facilities when necessary to ensure inclusivity and parking facilities where necessary(accepted).

**Resolution**

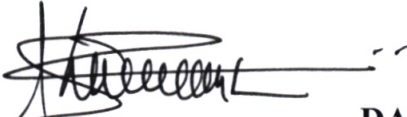
Following the presentation by the secretariat, the Committee resolved to include the amendments during the preparation of the report on the Bill.

Further, the committee deferred the consideration of the draft report in order to allow the secretariat to include all the amendments that had been approved by the Committee from the targeted stakeholders.

**MIN/SEN/SCTIT/442/2024**

**ADJOURNMENT AND THE DATE OF THE NEXT MEETING.**

The meeting adjourned at 2.00 pm. and the next meeting to be held on Notice.

SIGNATURE.......... DATE.....11/4/2024.....

**(CHAIRPERSON)**



**MINUTES OF THE 78<sup>th</sup> HYBRID MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON FRIDAY, 22<sup>ND</sup> MARCH, 2024 IN PARVILION MEETING ROOM, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY FROM 11:00 A.M**

**PRESENT.**

- |   |                           |
|---|---------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP          | - <b>Chairperson</b>      |
| 2. Sen. Esther Anyieni Okenyuri, MP       | - <b>Vice-Chairperson</b> |
| 3. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP   | - Member (Virtually)      |
| 4. Sen. Jackson Kiplagat Mandago, EGH, MP | - Member (Virtually)      |
| 5. Sen. Crystal Kegehi Asige, MP          | - Member (Virtually)      |
| 6. Sen. Andrew Omtatah Okoiti, MP         | - Member (Virtually)      |
| 7. Sen. Betty Batuli Montet, MP           | - Member                  |

**ABSENT WITH APOLOGY.**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Paul Karungo Thangwa, MP | - Member |
| 2. Sen. Hezena M. Lemaletian, MP | - Member |

**STAKEHOLDER**

**Council of Governors**

- |                             |  |
|-----------------------------|--|
| 1. Dr. Paul Nyongesa Otuoma | Vice Chairman, committee on Trade, Industry and Cooperatives |
| 2. Mr. Kizito Wangalwa      | Director Committees  |
| 3. Ms. Muthoni Kibara       | Senior Legal Officer   |
| 4. Ms. Grace Kimani         | Programme Officer  |
| 5. Mr. Haron Ng'eno         | Technical office   |
| 6. Mr. Elijah Mwaro         | Chief Officer Trade Busia County                             |
| 7. Mr. Kizito Wangalwa      | Director Committees  |
| 8. Ms. Muthoni Kibara       | Senior Legal Officer   |

9. Ms. Grace Kimani
10. Mr. Haron Ng'eno

Programme Officer  
Technical Lead

### **NAIROBI COUNTY**

- |                            |                                  |
|----------------------------|----------------------------------|
| 1. Mr. Njoroge Muchiri     | Deputy Governor Nairobi County   |
| 2. Ms. Joyce Kyengo        | Director Markets –Nairobi County |
| 3. Mr. Billysin Githinji   | Principal Administration Officer |
| 4. Mr. Joshua Otieno       | Ass. Director Markets            |
| 5. Ms. Margaret Wanyama    | Nairobi County                   |
| 6. Mr. Solomon Kuria       | Nairobi County                   |
| 7. Ms. Kellen Wangari Muna | Nairobi County                   |

### **STREET VENDORS GROUPS**

- |                       |  |
|-----------------------|--|
| 1. Mr. Gerald Mutakha | Central Organization of Hawkers<br>Association(COHA) |
| 2. Mr. Joel Maingi    | Chairperson - Association of PWD<br>Street Vendors   |
| 3. Ms. Faith Wairimu  | Association of PWD Street<br>Vendors                 |
| 4. Ms, Linet Achieng' | Association of PWD Street<br>Vendors                 |

### **SECRETARIAT.**

- |                         |                                |
|-------------------------|--------------------------------|
| 1. Mr. Stephen Gikonyo  | - Principal Clerk Assistant II |
| 2. Mr. Peter Mulesi     | - Clerk Assistant I            |
| 3. Mr. David Ngamate    | - Clerk Assistant III          |
| 4. Ms. Sharon Rotino    | -Research officer 1            |
| 5. Ms. Annete Kwamboka  | - Legal Counsel                |
| 6. Mr. James Ngusya     | - Searjent-At-Arm              |
| 7. Mr. Joseph Otieno    | -Audio Officer                 |
| 8. Mr. Wycliffe Muwanga | - Accountant                   |
| 9. Mr. Oliver Onyango   | - Intern                       |

### **MIN/SEN/SCTIT/435/2024**

### **PRELIMINARIES**

The Chairperson called the meeting to order at 11.05 am. This was followed by a word of prayer and around of introduction for the Members and the stakeholders.

The chairperson acknowledged the presence of the Governor, Busia County Hon. Dr. Paul Nyongesa Otwoma, Vice Chairperson of the Council of Governors (CoG) Committee on

Trade, Industry and Co-operatives, the Deputy Governor, Nairobi County. The Chairperson, Central Organization of Street vendors (COHA) and the Association of Persons Living with Disabilities Street Vendors

**MIN/SEN/SCTIT/436/2024**      **ADPOTION OF THE AGENDA**

The agenda was adopted after being proposed by Sen. Okiya Omtatah, MP, and seconded by Sen. Betty Montet, MP, as listed below-

1. Preliminaries;
  - i. Prayer
  - ii. Introduction
2. Adoption of the Agenda;
3. Consideration of Committee Paper No. 76;
4. Submission by Stakeholders on the Street Vendors (Protection of Livelihood) Bill 2023;
5. Any Other Business; and
6. Adjournment/ Date of the Next Meeting.

**MIN/SEN/SCTIT/437/2024:**      **CONSIDERATION OF THE STREET VENDORS  
(PROTECTION OF LIVELIHOOD) BILL 2023.  
SENATE BILLS NO.41 OF 2023**

The Chairperson invited the Council of Governors to make their representation on the proposed amendments by the Council of Governors.

Hon. Paul Nyongesa Otwoma, Governor, Busia County and the Vice Chairperson of the Council of Governors (CoG) Committee on Trade, Industry and Co-operatives informed the Committee as follows-

**Proposed amendment on Interpretation:** Amend by including the following definitions:  
*“Informal trader” means a small-scale unregistered business.*

**Justification:** *The definition of the word ‘Informal trading’ conforms to the definitions provided by the UN and World Bank.*

*“harassment” means conduct, or action, which is usually repeated or persistent, that, being directed at a street vendor, alarms, causes substantial emotional distress in that person, damages goods or property and serves no legitimate purpose.*

**Rationale:** *The need to define the term ‘harassment’ to provide clarity on the kind of protection against harassment outlined in section 26 of the Bill.*

**Clause4 (1) The Cabinet Secretary shall;**

**Proposed Amendment (Delete this provision)**

**b). Amend to read:**

**Proposed amendment-**(b)prescribe, in consultation with county governments and relevant stakeholders, the minimum standards for the conduct of street vending and regulation of street vendors in Kenya;

**Justification:** 4(1)(b) provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya.

**Justification:** Keeping and maintaining a database is a role of the County Governments and not the Cabinet secretary. Further, the National Government has the mandate to develop national policies and guidelines pursuant to the fourth schedule of the Constitution.

*Clause 4(1)(c)delete this provision because planning, management of vending and trade are all devolved functions under the Constitution of Kenya and should therefore be left to Counties to carry out.*

Clause 4(1)(d) **Delete this provision** because *The County Governments have County Finance Bills that determines the imposition of fees and other charges. Additionally, currently there is the County Uniform procedures licensing bill that provides for this.*

Clause 4(1)(e) **Delete this Provision because** *this is a repetition of subsection (b) above*

**Justification:** Keeping and maintaining a database is a role of the County Governments and not the Cabinet secretary. The National Government has the mandate to develop national policies and guidelines pursuant to the fourth schedule of the Constitution.

*Clause 5(1): Each county executive committee member shall, by notice in the county Gazette, demarcate and designate the county into—*

*Proposed Amendment: Amend to read: 5(1) The County Executive Committee member shall demarcate and designate the County into-*

**Justification:** *County Gazettes are not operational*

**Clause 5(2): The Cabinet Secretary may, for the effective**

carrying out of the functions under subsection (1) —

(a) designate a unit within the Ministry to perform such functions as the Cabinet Secretary may delegate to the unit;

**Proposed Amendment:** *Delete this provision*

**Justification:** *Trade is a fully devolved function in accordance with the fourth schedule of the constitution of Kenya. Therefore, designation of a unit to perform a devolved functions contradicts the distinctness of the functions of the two levels of Governments as stipulated in the Constitution*

**Clause: 6. (1)** The respective county executive committee member shall not impose restrictions on the nature of vending business that may be carried out in a restriction free vending zone.

**Proposed Amendment:** 6(1) The respective County executive committee member **may** impose restrictions on the nature of vending business that may be carried out in a restriction free vending zone

**Justification:** *Trade development and regulation is a County function as per the fourth schedule of the Constitution and as such, CECMs should have the discretion to impose restriction where they deem fit.*

**Clause 6 (2):** **The county executive committee member shall publish and publicize the conditions imposed under subsection (1) in the county gazette and through such platforms as the committee member may consider appropriate.**

**Proposed amendment:** Amend to read

Clause 6(2) the County Executive member shall publish the conditions imposed under subsection (1) through such platforms as the committee member may consider appropriate.

**Justification:** *Publishing is sufficient and the Bill need not provide for publicizing. Further, County Gazettes are not operational and as such the publishing of the conditions should be done through the other available platforms.*

**Clause 8. (3):** Inclusion of a new sub-sections-

**Proposed amendment:** Amend to Read *“The county executive committee member shall not designate a vending zone next to a formal trading space”*

**Justification:** *This will that the existing businesses are not adversely affected as proposed in Section 11 (2) (c)*

**Clause 10 (2):** For purposes of subsection (1), the county executive committee member shall —

- (a) conduct a survey of all existing street vendors and potential vending zones within the area under its jurisdiction; and
- (b) develop a county vending zone plan in the manner prescribed in the Schedule and taking into account the results of the survey carried out under paragraph (a).

**Proposed Amendment: Amend to read:**

- (a) Maintain a database of all street vendors and vending zones within the County;**
- (b) Develop a county vending zone plan in the manner prescribed in the schedule**

**Justification:** The provision as is, is limiting and narrow and as such, it should be a sub-activity of a broader function.

**Clause 12(2):** A county executive committee member shall not designate an area as a vending zone under subsection (1) unless the committee member has put in place essential facilities including but not limited to security, solid waste disposal, water, lighting and parking facilities where necessary.

**Proposed amendment:** Delete

**Justification:** Some of the roles prescribed are not exclusively assigned to the County Executive Committee Member.

**Clause: 13.(2):** A county executive committee may, in accordance with the County Legislation –

Proposed Amendment: 13(2) A county executive committee member may, in accordance with the County Legislation –

*(c) declare a zone a “No vending zone” which have in the past been considered a “vending zone”*

**Justification:** This inclusion seeks to address the historical conflicts between the brick-and-mortar business and the street vendors as well as protecting existing businesses.

**Clause13(5):** Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal facilities in the area to which the vendor is to be relocated.

Proposed Amendments: **13(5) Delete this provision**

**Cause 15(2)(c):** make available to the public the database of registered street vendors in an accessible manner including online platforms; **(To be deleted)**

**Clause 15. (3):** The Director shall collate the lists received under sub section (1) (b) into a national register of licensed street vendors. **( To be Deleted)**

**Justification:** The name “ *Director*” and the assigned roles have been included in the county section. This brings confusion to the functions of the Director.

**Clause 15. (4) :** The Cabinet Secretary may make regulations to prescribe conditions for the registration of vendors from the East African Community and registration of foreigners to regulate Inter- County mobility trade **(To be deleted)**.

**Justification:** This provision will create room for foreigners to hawk in Kenya. This will defeat the purpose of promoting micro businesses in Kenya.

**Clause 16. (1):** A person shall not conduct the business of a street vendor unless such person is registered as a street vendor with the respective county executive committee member.

Proposed Amendment: **Amend to read;**

**16(1) A person shall not conduct the business of a street vendor unless such person is registered as a street vendor**

**Justification:** The definition a county executive committee member has already been defined.

**Clause20 (1):** Upon expiry, a vending licence may be renewed for such further period not exceeding one year.

Proposed Amendment: **(To be deleted)**

**Justification:** This provision makes an assumption that a vendor must have graduated to formal trading within that period. However, this might not always be the case, especially for fish vendors.

**Clause 21 (4):** A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the relevant county tribunal against the decision within thirty days of the receipt of the decision.

**Proposed Amendment:** 21 (4) A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the county executive committee member.

**Justification:** The County tribunal has been mentioned without a clear definition or the roles in regards to their formation and the mandates.

**Clause 21(5):** Insert a new sub- section: *If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the County legislations* within thirty days of the receipt of the decision

**Justification:** All persons are entitled to the Right of Appeal pursuant to the principles of natural justice under Article 50 of the Constitution. As such, the Bill should make provisions for Appeals.

**Clause 22(2) :** The county executive committee member may from time to time, prescribe regulations relating to the proper handling of food by hawkers and street vendors.

Proposed Amendment: ***Amend to read;***

**Clause 22(2: )** *The county executive committee member or the County executive committee member responsible for food safety may from time to time, prescribe regulations relating to the proper handling of food by hawkers and street vendors*

**Justification:** Matters related to food safety do not fall under the purview of the county executive committee member for matters relating to trade as prescribed under the bill.

**Cause 30(2):** The legislation enacted by a county assembly under subsection (1) shall set out —

Proposed Amendment: ***Amend to read;***

**Clause 30(2)** *the legislation enacted by a county assembly under subsection (1) may set out-*

Clause 30(3) Legislation enacted pursuant to the provisions of subsection (1) shall conform to the provisions of this Act.

Proposed Amendment: ***Delete this provision***

**Justification:** The Bill cannot purport to prescribe in mandatory terms for County Assemblies to enact the envisaged legislation as implied by the word “**shall**”

### **Submission by the County Government of Nairobi**

Mr. Njoroge Muchiri, Deputy Governor Nairobi County made the following representation for amendments to the Bill.

Provided a chronology of the hawking in Nairobi County as follows- That:

- a) The hawkers started trickling into the city before the 1980s but they increased in the early 1990s and different administrations have dealt in different ways with hawkers but none of them have managed to flush them out of the city. In the dawn of multiparty in 1992, different parties gave hawkers branded tables especially KANU and FORD parties though it was short-lived.
- b) After the election of the NARC Government in 2002, back streets were identified, rehabilitated and hawkers were moved there. This proceeded well until the death of the local Government Minister Hon Karisa Maitha, after which the hawkers were moved to tsunami market which they furiously resisted. The resistance was a result of lack of matatu termini in Ngara
- c) The hawkers are drawn from all counties of this nation and they are estimated to be 5,000 to 10,000 in Nairobi CBD, though during campaigns seasons, the number goes up to even 50,000 hawkers a day. Hawking continues to evolve, with traders with shops moving to the streets to hawk in the evening, traders with no shops hawking too and even Students in campuses going to CBD to hawk. It's a means of survival.
- d) This makes the Nairobi City County Government very keen on the proposed street vendors (protection of livelihood) Bill 2023 because management of informal traders is crucial in a bid to bring order in the City. The major challenge is the evolving nature of the trade and the challenges that arise from their presence in the city.

### **Proposed Amendments**

#### **Deletion of Clauses-**

Clause 4 (1) The Cabinet Secretary shall

Clause 4 (1) (a) keep and maintain a data base, in collaboration with county governments, a national registry of street vendors in Kenya;

Clause 4 (1) (c) utilize data collected by county governments relating to street vending and street vendors in Kenya for planning and efficient management of vending and trade in counties;

Clause 4 (1) (d) prescribe standards for the imposition of fees and other charges payable

for the registration and licensing of street vendors;

4 (1)(e) prescribe, in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and design of street vending zones; and

**Justification:** According to Schedule four of the Kenyan Constitution, Trade is devolved function of the County Government.

The collection of fees and charges for the Nairobi City County Government is guided by the Finance Acts which are normally reviewed from time to time after consultation with the members of public

Clause 4(2) to be deleted

The Cabinet Secretary may, for the effective carrying out of the functions under subsection (1) —

- (a) designate a unit within the Ministry to perform such functions as the Cabinet Secretary may delegate to the unit;
- (b) designate or deploy such public officers to serve in the unit; and
- (c) designate a public officer within the Department as the registrar.

**Justification:** This is a devolved Function of the County Governments according to Schedule 4 of the Kenyan Constitution

Clause 7(3) A person shall not carry out the business of a vendor in a restricted vending zone unless such person applied for, and obtained a special permit in accordance with this Act and the respective county legislation.

Proposed Amendment: Amend 7(3) to read

**A person shall not carry out businesses of a vendor in a restricted vending zone.**

Justification: This provision of obtaining a special permit is subject to abuse

Clause 8(1) A no-vending zones shall be a zone in which vending activities are prohibited.

- (2) The county executive committee member shall not designate a market as a no-vending zone.

Proposed Amendment: Amend to include 8(3) to read

***“It is prohibited for allocation of vending zones in front and surrounding existing formal markets”***

Justification: This will protect the traders within the markets

Clause 10(3,4,5&6) to be deleted

- 3 The county executive committee member shall conduct the survey under subsection (2)(a), within twelve months of the commencement of this Act, and subsequent

surveys shall be carried out at least once in every three years.

- 4 The county executive committee member shall, within nine months of the conduct of the survey under subsection (2)(a), submit the results analysis and recommendations and the proposed vending zone plan to the county assembly for approval.
- 5 In considering the vending zone plan under subsection (4), the county assembly shall conduct public participation.
6. Upon approval of the plan the county executive committee member shall publish the details of the county vending zone plan in the county *Gazette* and at least one newspaper of wide circulation within the county.

Justification: This will be too costly and the County

Clause 13(2)A county executive committee member may, in accordance with county legislation —

- a.) evict a street vendor whose vending licence has been revoked or who carries out vending activities contrary to this Act or the respective County legislation; or
- b.) relocate street vendors.

Proposed Amendment: Amend to include c. *“declare a zone a “no vending Zone” which have in the past been considered a “vending zone”*”

**Justification:** There is need for provision of revocation of the vending zone

Clause 13(5) Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal facilities in the area to which the vendor is to be relocated.

**Proposed Amendment: to be deleted**

**Justification:** This will cause conflict with the County due to limited resources, and it can be used against the Government by the vendors in the Courts of Law. It can be abused by vendors

**Delete Clause 13(5):** Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal facilities in the area to which the vendor is to be relocated.

Justification: This will cause conflict with the County due to limited resources, and it can be used against the Government by the vendors in the Courts of Law. It can be abused by vendors

**Delete Clause 15(2) (C):** make available to the public the database of registered street vendors in an accessible manner including online platforms.

Justification: This will cause management challenges

**Delete Clause 15(3):** The Director shall collate the lists received under subsection (1)(b) into a national register of licenced street vendors.

Justification: This is a County Function

**Delete Clause 15(4)** The Cabinet Secretary may make regulations to prescribe conditions for the registration of vendors from the East African Community and registration of foreigners to regulate inter-county mobility trade.

**Justification:** This requires further engagement to deal with the influx of foreigners taking up the hawking businesses

**Clause 16 (1):** A person shall not conduct the business of a street vendor unless such person is registered as a street vendor with the respective county executive committee member.

(2) A certificate of registration signed by the county executive committee member shall be conclusive evidence of registration as a street vendor

**Proposed Amendments:** Amend by adding 16(3) to read *“street vendors shall not be registered or licensed as groups and associations”*

**Justification:** Associations and groups are abused by ‘cartels’

**Delete Clause 3(e):** Until such time as the results of the survey have been derived, and the county vending plan formulated, no zone shall be declared as a no-vending zone.

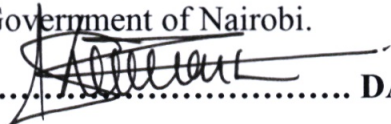
**Justification:** This will make it difficult for the existing vendors to be relocated or reorganized in the planned vending zones.

**Resolution**

Following the presentation by the Council of Governors and the County Government of Nairobi. The Committee noted that indeed some of the proposed amendments were reasonable and would be considered during the preparation of the Report on the Bill.

**MIN/SEN/SCTIT/438/2024      ADJOURNMENT AND THE DATE OF THE NEXT MEETING.**

The meeting adjourned at 2.21 pm. and the next meeting to be held on the same day at 2.00 pm with the County Government of Nairobi.

SIGNATURE.......... DATE..... 11/4/2024.....

(CHAIRPERSON)



**MINUTES OF THE 77<sup>TH</sup> HYBRID MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM HELD ON FRIDAY, 22<sup>ND</sup> MARCH, 2024 IN PARVILION MEETING ROOM, HILTON GARDEN INN HOTEL, MACHAKOS COUNTY FROM 9:00 A.M**

**PRESENT.**

- |   |                      |
|---|----------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP          | - Chairperson        |
| 2. Sen. Esther Anyieni Okenyuri, MP       | - Vice-Chairperson   |
| 3. Sen. (Dr.) Lelegwe Ltumbesi, CBS, MP   | - Member (Virtually) |
| 4. Sen. Jackson Kiplagat Mandago, EGH, MP | - Member (Virtually) |
| 5. Sen. Crystal Kegehi Asige, MP          | - Member (Virtually) |
| 6. Sen. Andrew Omtatah Okoiti, MP         | - Member (Virtually) |
| 7. Sen. Betty Batuli Montet, MP           | - Member             |

**ABSENT WITH APOLOGY.**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Paul Karungo Thangwa, MP | - Member |
| 2. Sen. Hezena M. Lemaletian, MP | - Member |

**SECRETARIAT.**

- |                         |                                |
|-------------------------|--------------------------------|
| 1. Mr. Stephen Gikonyo  | - Principal Clerk Assistant II |
| 2. Mr. Peter Mulesi     | - Clerk Assistant I            |
| 3. Mr. David Ngamate    | - Clerk Assistant III          |
| 4. Ms. Sharon Rotino    | -Research officer 1            |
| 5. Ms. Annete Kwamboka  | - Legal Counsel                |
| 6. Mr. James Ngusya     | - Searjant-At-Arm              |
| 7. Mr. Joseph Otieno    | -Audio Officer                 |
| 8. Mr. Wycliffe Muwanga | - Accountant                   |
| 9. Mr. Oliver Onyango   | - Intern                       |

**MIN/SEN/SCTIT/431/2024**

**PRELIMINARIES**

The Chairperson called the meeting to order at 9.24 am. This was followed by a word of prayer and around of introduction for the Members and the Secretariat.

The Chairperson explained the purpose of the meeting was for housekeeping to enable the Members to interact with the programme and be apprised on the status of the stakeholders that had been invited to the retreat.

The agenda was adopted after being proposed by Sen. Okiya Omtatah, MP, and seconded by Sen. Betty Montet, MP, as listed below-

1. Preliminaries;
  - i. *Prayer*
  - ii. *Introduction*
2. Adoption of the Agenda;
3. Consideration of Committee Paper No. 76;
  - i. Meeting with Stakeholders on the Street Vendors (Protection of Livelihood) Bill 2023;
  - ii. The Co-operatives Societies (Amendment) Bill (Senate Bills No. 53 of 2023); and
  - iii. Pre-publication Scrutiny on the Creative Economy support Bill, 2024.
4. Any Other Business; and
5. Adjournment/ Date of the Next Meeting.

**MIN/SEN/SCTIT/433/2024: CONSIDERATION OF COMMITTEE PAPER NO. 76.**

The Secretariat informed presented Committee Paper No. 76 which provided the background of the agenda and the Report Writing retreat.

At its meeting held on Tuesday, 5<sup>th</sup> March, 2024, the Committee resolved to hold a report writing retreat in Machakos County from Thursday 21<sup>st</sup> – Sunday 24<sup>th</sup> March, 2024 to consider and adopt the Reports on the following legislative business-

**1) Consideration of the Street Vendors (Protection of Livelihood) Bill 2023.**  
**Senate Bills No.41 of 2023**

The Bill was advertised for public Participation and the Committee received submissions from the National Gender and Equality Commission, The Council of Governors, the Central Organization of Hawkers Association and the Central Organization of Hawkers Association.

During a meeting of the Committee that was held Tuesday, 5<sup>th</sup> March, 2024, the Committee resolved to hold engagements with the following stakeholders to appear and provide additional clarifications on the proposed amendments-

- 1) The Council of Governors
- 2) The County Government of Nairobi
- 3) National Secretary General-Central Organization of Hawkers Association (COHA),
- 4) the Associations of PWDs street vendors.

**2) Consideration of the Co-operative Societies(amendment) Bill (Senate Bills No.53 of 2023**

The Bill was read a First Time in the Senate on Thursday, 29<sup>th</sup> February, 2024 and subsequently was advertised for public participation pursuant to standing order 145 (1),

145(5) and 148 of the Senate Standing Orders.

The purpose of this Bill is to amend various sections of the Co-operative Societies Act, in order to align the Act with the provisions of Part two of the Fourth Schedule of the Constitution that provides that cooperative development is a devolved function.

The purpose of the retreat was to consider the matrix on the stakeholder submissions on the Bill and prepare its report for adoption and Tabling in the Senate.

**3) Consideration of the Pre-publication Scrutiny on the Creative Economy Support Bill, 2024.**

The legislative proposal was sponsored by Sen. Eddy Oketch, MP and referred to the Committee on 5<sup>th</sup> March,2024 for pre-publication scrutiny pursuant to standing order 130 (3) (a) of the Senate Standing Orders

The purpose of this Bill is to establish a legal framework for the support of persons in the creative industry and further enhance entry and contribution to the industry.

The Committee was expected to consider the report of the prepublication scrutiny of the Creative Economy support Bill, 2024 for publication in the Senate.

**Resolution**

The Committee noted the contents of the Committee Paper No. 76 and made the following resolutions-

- 1) That the Committee first considers the Street Vendors (Protection of Livelihood) Bill 2023. Senate Bills No.41 of 2023 since all the stakeholders were already present;
- 2) The Chairperson urged Members who were online to ensure maximum concentration during the submissions by the stakeholders and raise interventions where necessary; and
- 3) The secretariat reported that all the invited stakeholder had arrived at the venue and the committee directed that the stakeholders to the meeting room to make their representations.

**MIN/SEN/SCTIT/434/2024                      ADJOURNMENT AND THE DATE OF THE NEXT MEETING.**

The meeting adjourned at 10.25 am. and the next meeting to be held on the same day at 11.00 am.

SIGNATURE.......... DATE..... 11/4/2024 .....

**(CHAIRPERSON)**



**MINUTES OF THE FIFTY FIFTH (55<sup>TH</sup>) MEETING OF THE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM, HELD ON TUESDAY, 14<sup>TH</sup> NOVEMBER, 2023 AT 8.00 AM IN REDCROSS BOARDROOM AND ON THE ZOOM ONLINE PLATFORM**

**PRESENT**

- |   |                                |
|---|--------------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP          | - Chairperson (Virtually)      |
| 2. Sen. Esther Okenyuri, MP               | - Vice –Chairperson (Chairing) |
| 3. Sen. (Dr.) Lelegwe Ltumbesi, MP        | - Member virtually             |
| 4. Sen. Jackson Kiplagat Mandago, EGH. MP | - Member virtually             |
| 5. Sen. Crystal Kegehi Asige, MP          | - Member virtually             |
| 6. Sen. Betty Batuli Montet, MP           | - Member virtually             |
| 7. Sen. Andrew Omtatah Okoiti, MP         | - Member virtually             |

**ABSENT WITH APOLOGIES**

- |                                  |          |
|----------------------------------|----------|
| 1. Sen. Paul Karungo Thangwa, MP | - Member |
| 2. Sen. Hezena M. Lemaletian, MP | - Member |

**SECRETARIAT**

- |                         |                    |
|-------------------------|--------------------|
| 1. Mr. Peter Mulesi     | - Clerk Assistant  |
| 2. Mr. David Ngamate    | - Clerk Assistant  |
| 3. Ms. Annette Kwamboka | - Legal Counsel    |
| 4. Mr. William Wambiru  | - Fiscal Analyst   |
| 5. Ms. Hamun Mohamud    | - Research Officer |
| 6. Ms. Felistus Mutune  | - Media Officer    |
| 7. Mr. Joseph Otieno    | - Audio Officer    |
| 8. Ms. Lucy Mwaniki     | - SAA              |

**MIN/SEN/SCTIT/329/2023**

**PRELIMINARIES**

The Chairperson called the meeting to order at 8:25 am followed by a word of prayer.

**MIN/SEN/SCTIT/330/2023**

**ADOPTION OF THE AGENDA**

The agenda of the meeting was adopted after it was proposed by Sen. (Dr.) Lelegwe Ltumbesi, MP and seconded by Sen. Andrew Omtatah Okoiti, MP, MP as follows –

1. Preliminaries
  - i. Prayer

- ii. Introduction
2. Adoption of the Agenda;
2. Adoption of the Agenda;
3. Confirmation of the Minutes of previous Meetings-
  - a) Minutes of the Fifty-First Meeting held on 17th October, 2023; and
  - b) Minutes of the Fifty-Second Meeting held on 19th October, 2023
4. Matters Arising;
5. Consideration of the Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023) (Committee Paper No. 60);
6. Any Other Business; and
7. Adjournment/ Date of the Next Meeting.

**MIN/SEN/SCTIT/331/2023**

**CONFIRMATION OF THE MINUTES OF PREVIOUS SITTINGS**

Confirmation of the Minutes deferred.

**MIN/SEN/SCTIT/332/2023**

**CONSIDERATION OF THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL, 2023 (SENATE BILLS NO. 41 OF 2023) (COMMITTEE PAPER NO. 60);**

The Committee was taken through the Committee paper no 60 highlighting on the Street Vendors (Protection of Livelihood) Bill 2023. The Committee was apprised as follows:-

1. The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023) sponsored by Sen. Esther Okenyuri, MP was introduced in the Senate by way of First Reading on 17<sup>th</sup> October, 2023, and thereafter stood committed to the Committee on Trade, Industrialization and Tourism for consideration;
2. An advertisement was put out on 20<sup>th</sup> October, 2023, inviting to members of the public to submit memoranda to the Office of the Clerk of the Senate on or before Friday, 3<sup>rd</sup> November, 2023 at 5.00 p.m.;
3. The Bill is for an Act of Parliament to provide a legal framework for the recognition, protection and regulation of street vending in Kenya, the identification of minimum standards for street vending; and for connected purposes.

The Bill seeks to achieve these objectives by providing a standard framework for —

- (a) entrenching the right to informal trading;
- (b) regulation of informal trading including areas for the conduct of such trade and licensing by counties;
- (c) for the designation and use of public space for the informal trade; and
- (d) public participation in the designation of vending zones and regulations of informal traders.

### **Observations**

1. The Committee observed the changes effected by the Committee during Pre-Publication Scrutiny. The Committee had equally expanded the definition of harassment by setting out the specific acts that amount to harassment; and that
2. The Committee had also directed that each county have regulations on the handling of confiscated perishable goods

### **Committee Resolution:**

From the deliberations that ensued, the Committee resolved that the following key stakeholders be contacted for more input on the Bill:

- i. Kenya National Chamber of Commerce and Industry;
- ii. Council of Governors \_Committee on Trade;
- iii. Association of Jua Kali Traders

### **MIN/SEN/SCTIT/334/2023:**

### **ANY OTHER BUSINESS**

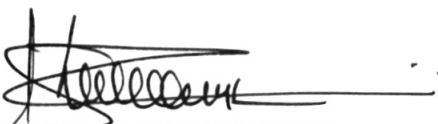
The Committee noted the following;

1. The secretariat to reschedule the Meeting with the Directors of Watu Credit Limited to consider a Statement sought by Sen. Samson Cherarkey, MP, regarding the alleged malpractices and exploitation by Watu Credit Ltd on 16th November, 2023
2. The Secretariat to facilitate County visits to Kisumu, Busia, and Bungoma Counties, respectively on Thursday 23<sup>rd</sup> November 2023;
3. The Secretariat to invite the Commissioner General, Kenya Revenue Authority on Thursday 23<sup>rd</sup> November, 2023 to consider the Petition on the fraudulent acquisition of EABL shares.

### **MIN/SEN/SCTIT/335/2023**

### **ADJOURNMENT**

The meeting was adjourned at 9.46 am and the next meeting would be on Thursday 16<sup>th</sup> November at 8.00 am in Committee Room 5, Main Parliament Buildings.

SIGNATURE.......... DATE: ..... 16/11/2023 .....

(CHAIRPERSON: SEN. LENKU OLE KANAR SEKI, MP)

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 161 (Senate Bills No. 41)*



REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2023**

**NAIROBI, 1st September, 2023**

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**THE STREET VENDORS (PROTECTION OF LIVELIHOOD)  
BILL, 2023**

**ARRANGEMENT OF CLAUSES**

**PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Objects.

**PART II— REGULATION OF STREET VENDORS**

- 4—Street Vending Unit.

**PART III— VENDING ZONES**

- 5—Designation of vending zones.
- 6—Restriction-free vending zone.
- 7—Restricted vending zone.
- 8—No vending zone.
- 9—Offence of unauthorised.
- 10—Vending Zones Plan.
- 11—Vending Centres.
- 12—Periodic Markets.
- 13—Relocation or eviction of street vendors.
- 14—Obligations of county executive committee member.

**PART IV—REGISTRATION AND LICENSING OF STREET  
VENDORS**

- 15—Register of street vendors.
- 16—Registration of street vendors.
- 17—Licensing of street vendors.
- 18—Refusal to grant a licence.
- 19—Terms and conditions of licence.
- 20—Renewal of a licence.
- 21—Revocation of a licence.
- 22—Handling of food.

**PART V—RIGHTS AND OBLIGATIONS OF STREET VENDORS**

23—Right to carry on business of street vending.

24—Right to adequate facilities.

25—Right to quiet possession of goods.

26—Protection from harassment.

27—Right to association.

28—Public hygiene.

29—Access to public utilities.

**PART V—MISCELLANEOUS PROVISIONS**

30—County legislation.

31—General penalty.

32—Regulations.

**SCHEDULE — CRITERIA FOR THE FORMULATION OF  
THE COUNTY VENDING PLAN**

**THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL, 2023**

**A Bill for**

**AN ACT of Parliament to provide a legal framework for the recognition, protection and regulation of street vending in Kenya, the identification of minimum standards for street vending; and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Street Vendors (Protection of Livelihood) Bill, 2023.

Short title.

2. In this Act —

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters related to trade;

“committee” means a committee of the County Assembly mandated to consider matters related to trade within the County;

“county executive committee member” means the county executive committee member responsible for matters relating to trade in the respective county;

“essential facilities” includes clean water, lighting, security, waste disposal, shades, warehousing and storage, awnings, paved roads and vehicle parking spaces where necessary;

“market” means an area designated by the county government under the respective county legislation for the sale and purchase of goods and services;

“Ministry” means the Ministry responsible for matters related to trade;

“mobile vendor” means a street vendor who carries out vending activities in a vending area by moving from one place to another place vending their goods, services or a combination thereof;

“register of street vendors” means the register established under section 15;

“stationary vendor” means a street vendor who carries out street vending activities on a regular basis at a specific location;

“vendor” means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public in a street, lane, sidewalk, footpath, pavement, public park or any other public place or private area, from a temporary built-up structure, and includes a hawker, peddler and all synonymous terms of the word;

“vending zone” means an area, place or location designated as such by the relevant county government on the recommendation of the committee for the specific use by street vendors for street vending and includes a footpath, sidewalk, pavement, embankment, portions of a street, or any such place considered suitable for vending activities and providing services to the general public.

3. The objects of this Act are to provide a standard framework—

Object.

- (a) to entrench the right to informal trading;
- (b) for the designation and use of public space for informal trading; and
- (c) for the effective organization and regulation of informal trading.

## **PART II – REGULATION OF STREET VENDORS**

4. (1) The Cabinet Secretary shall —

Street Vending  
Unit.

- (a) keep and maintain a data base, in collaboration with county governments, a national registry of street vendors in Kenya;
- (b) prescribe, in consultation with county governments and relevant stakeholders, the minimum standards for the conduct of street vending and regulation of street vendors in Kenya;
- (c) utilize data collected by county governments relating to street vending and street vendors in Kenya for planning and efficient management of vending and trade in counties;

- (d) prescribe standards for the imposition of fees and other charges payable for the registration and licensing of street vendors;
- (e) prescribe, in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and design of street vending zones; and
- (f) carry out any other activity incidental or conducive to the carrying out of its functions under the Act or regulations made under the Act.

(2) The Cabinet Secretary may, for the effective carrying out of the functions under subsection (1) —

- (a) designate a unit within the Ministry to perform such functions as the Cabinet Secretary may delegate to the unit;
- (b) designate or deploy such public officers to serve in the unit; and
- (c) designate a public officer within the Department as the registrar.

### PART III – VENDING ZONES

5. (1) Each county executive committee member shall, by notice in the county *Gazette*, demarcate and designate the county into—

Designation of vending zones.

- (a) restriction-free vending zones;
- (b) restricted vending zones; or
- (c) no-vending zones.

(2) For purposes of subsection (1), the county executive committee member shall take into consideration the commercial viability of an area proposed to be designated as a street vending zone.

6. (1) The respective county executive committee member shall not impose restrictions on the nature of vending business that may be carried out in a restriction-free vending zone.

Restriction-free vending zone.

(2) Notwithstanding subsection (1), a licensed vendor shall not carry out the business of a vendor where such business—

- (a) consists of acts that are unlawful;
- (b) is contrary to public interest;
- (c) is contrary to national security; and
- (d) inhibits the implementation of national or county policies with respect to the regulation of vending business.

**7.** (1) The respective county executive committee member may impose, through county legislation, such conditions as may be necessary, restricting the vending business that may be conducted in a restricted vending zone.

Restricted vending zone.

(2) The county executive committee member shall publish and publicise the conditions imposed under subsection (1) in the county gazette and through such platforms as the committee member may consider appropriate.

(3) A person shall not carry out the business of a vendor in a restricted vending zone unless such person applied for, and obtained a special permit in accordance with this Act and the respective county legislation.

**8.** (1) A no-vending zones shall be a zone in which vending activities are prohibited.

No vending zone.

(2) The county executive committee member shall not designate a market as a no-vending zone.

**9.** A person who conducts vending activities in a restricted vending zone without a special permit or in a no-vending zone commits an offence and is be liable, on conviction, to a term of imprisonment not exceeding six months and a fine not exceeding ten thousand shillings, or to such fine and imprisonment.

Offence of unauthorised.

**10.** (1) The county executive committee member shall be responsible for the effective management of vending activities within the respective county.

Vending zones plan.

(2) For purposes of subsection (1), the county executive committee member shall —

- (a) conduct a survey of all existing street vendors and potential vending zones within the area under its jurisdiction; and

(b) develop a county vending zone plan in the manner prescribed in the Schedule and taking into account the results of the survey carried out under paragraph (a).

(3) The county executive committee member shall conduct the survey under subsection (2)(a), within twelve months of the commencement of this Act, and subsequent surveys shall be carried out at least once in every three years.

(4) The county executive committee member shall, within nine months of the conduct of the survey under subsection (2)(a), submit the results analysis and recommendations and the proposed vending zone plan to the county assembly for approval.

(5) In considering the vending zone plan under subsection (4), the county assembly shall conduct public participation.

(6) Upon approval of the plan the county executive committee member shall publish the details of the county vending zone plan in the county *Gazette* and at least one newspaper of wide circulation within the county.

**11.** (1) Each county government shall progressively provide for the construction and maintenance of vending centres to enable the efficient carrying out of street vending activities in a fair, transparent and safe manner.

Vending centres.

(2) In constructing and maintaining a vending centre, the county executive committee member shall take into account —

- (a) the recommended location in the county vending plan;
- (b) the number of street vendors within the respective locality;
- (c) the need to ensure that the existing businesses are not adversely affected by the construction and maintenance; and
- (d) the existing county physical plans with respect to that county.

**12.** (1) A county executive committee member may designate a specific street, building or zone as a vending zone for a specified period not exceeding five days.

Periodic markets.

(2) A county executive committee member shall not designate an area as a vending zone under subsection (1) unless the committee member has put in place essential facilities including but not limited to security, solid waste disposal, water, lighting and parking facilities where necessary.

**13.** (1) A county executive committee member may declare a zone or part of a zone to be a no-vending zone for any public purpose and relocate any street vendors vending in that area.

Relocation or  
eviction of street  
vendors.

(2) A county executive committee member may, in accordance with county legislation —

- (a) evict a street vendor whose vending licence has been revoked or who carries out vending activities contrary to this Act or the respective county legislation; or
- (b) relocate street vendors.

(3) A county executive committee member shall not evict or relocate a licensed street vendor unless a notice has been issued and the vendor is heard on the proposed eviction or relocation in accordance with the respective county legislation.

(4) A street vendor shall be relocated or evicted by the county executive committee member in such manner as may be prescribed by county legislation.

(5) Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal facilities in the area to which the vendor is to be relocated.

(6) A street vendor who, after the expiry of the specified notice period, fails to relocate or vacate the place specified in the vending licence, shall be liable to pay for every day of default, a fine not exceeding ten thousand shillings, as may be determined by the county government,

but shall not be more than the value of the goods seized from the street vendor provided that such confiscation is conducted in accordance with this Act.

**14.** The county executive committee member shall within twelve months of the commencement of this Act —

Obligations of county executive committee member.

- (a) enact such county legislation as may be necessary for the implementation of this Act and the effective regulation of street vendors in the county;
- (b) monitor the implementation of this Act and any relevant county legislation on county vending;
- (c) periodically survey and assess the street vending activities in the county for policy-making purposes;
- (d) formulate and implement the county vending plan; and
- (e) designate vending zones and periodic markets within the county, subject to the provisions of this Act, the regulations hereunder and any applicable county legislation.

#### **PART IV – REGISTRATION AND LICENSING OF STREET VENDORS**

**15.** (1) The county executive committee member shall be responsible for the registration of vendors within the respective county.

Register of street vendors.

(2) For purposes of subsection (1) the county executive committee member shall-

- (a) provide for physical and online submission of applications for registration by street vendors;
- (b) maintain an up to date online register of all validly licenced street vendors in the county;
- (c) make available to the public the database of registered street vendors in an accessible manner including online platforms; and
- (d) enable street vendors to receive notifications on registration and matters of compliance under this Act through their mobile phones.

(3) The Director shall collate the lists received under subsection (1)(b) into a national register of licenced street vendors.

(4) The Cabinet Secretary may make regulations to prescribe conditions for the registration of vendors from the East African Community and registration of foreigners to regulate inter-county mobility trade.

**16.** (1) A person shall not conduct the business of a street vendor unless such person is registered as a street vendor with the respective county executive committee member.

Registration of street vendors.

(2) A certificate of registration signed by the county executive committee member shall be conclusive evidence of registration as a street vendor.

**17.** (1) A person shall not conduct the business of a street vendor unless such person has applied for, and obtained a street vending licence from the respective county by submitting to the county executive committee member —

Licencing of street vendors.

- (a) an application for a licence in the prescribed form;
- (b) such information as may be prescribed; and
- (c) the prescribed fees.

(2) A county executive committee member shall consider an application within such period as may be prescribed in the respective county legislation and may grant the application subject to conditions specified in the respective county licensing legislation.

(3) A county executive committee member shall inform the applicant of its decision under subsection (2) within fourteen days of the decision.

(4) A vending licence under this Act shall classify a street vendor as —

- (a) a stationary vendor;
- (b) a mobile vendor; or
- (c) any other category as may be specified by the county executive committee member.

(5) A vending licence issued under this section shall include the following particulars —

- (a) name of applicant;
- (b) type of licence;
- (c) vending location;
- (d) contact details of the applicant;
- (e) type of goods or services to be sold;
- (f) time and date of vending activities, where applicable;
- (g) type and registration number of vehicle, where applicable; and
- (h) any other details as prescribed by the county government.

**18.** (1) The county executive member may refuse to grant a licence where the applicant does not comply with the requirements imposed under this Act or prescribed under the specific county legislation.

Refusal to grant a licence.

(2) Where the county executive committee member refuses to grant an application, the county executive committee member shall inform the applicant of its decision under subsection (1) within fourteen days of the decision.

(3) The county executive committee member in its notification under subsection (2) shall specify the reasons for the refusal.

**19.** (1) A stationary street vendor shall not sub-let, transfer, assign or otherwise alienate any vending space, stall or property allocated to them for the purpose of carrying out vending activities under this Act.

Terms and conditions of licence.

(2) A county government may levy an annual vending licence fee in processing the licence.

(3) A vending licence issued under this Act shall be valid from the date it is issued and shall expire on such a date as may be specified in the licence.

(4) A licenced street vendor shall not transfer or assign any rights accruing to them in a valid licence issued

under this Act unless the vendor has applied for, and obtained the approval of the county executive committee member.

(5) A street vendor may, when applying for a vending licence under this Act, designate such number of persons as the county legislation may specify to enjoy rights enjoyed by the licensed street vendor under the issued licence.

**20.** (1) Upon expiry, a vending licence may be renewed for such further period not exceeding one year.

Renewal of a licence.

(2) A registered street vendor issued with a vending licence may apply for renewal of the licence in the prescribed manner at least thirty days before the date of expiry of the licence.

(3) The county government may extend the period within which an application for the renewal of a licence may be made, whether or not the period has ended or the licence has expired.

**21.** (1) The county government shall have the power to renew any vending licence and may decline to renew, revoke or suspend a licence for a period not exceeding twelve months if it is satisfied that the street vendor is in breach of any provisions of this Act or any other written law.

Revocation of a licence.

(2) Before declining to renew, revoke or suspend a licence under subsection (1), the county government shall notify the holder of the licence to show cause, within fourteen days, why such licence should not be revoked, suspended or denied renewal.

(3) The county government shall consider the application under subsection (2) within seven days and inform the holder of the licence of the county government's decision in writing and shall give reasons for the revocation or suspension.

(4) A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the relevant county tribunal against the decision within thirty days of receipt of the decision.

**22.** (1) All food sold by a street vendor shall be handled in accordance with the provisions of the Public Health Act and the Food Drugs and Chemical Substances Act and any other applicable law on the handling of food.

Handling of food.  
Act No. 12 of  
2011 and CAP  
254

(2) The county executive committee member may from time to time, prescribe regulations relating to the proper handling of food by hawkers and street vendors.

**PART V – RIGHTS AND OBLIGATIONS OF  
STREET VENDORS**

**23.** (1) Every registered and licenced street vendor has the right to carry on the business of street vending in accordance with the terms and conditions specified in their vending licence.

Right to carry on  
business of street  
vending.

(2) Despite the provisions of subsection (1), a street vendor shall not carry on any vending activities in an area designated as a no-vending zone.

**24.** (1) Every street vendor has the right, within a vending zone and adjacent areas as may be determined by the county executive member, to access essential facilities of reasonable quality including but not limited to security, lighting, sanitation services and parking facilities where necessary.

Right to adequate  
facilities.

(2) Each county government shall provide essential facilities for the carrying out of vending activities taking into consideration —

- (a) the vending activity being conducted in a specific vending zone;
- (b) applicable health and safety standards;
- (c) the public interest; and
- (d) any applicable county legislation.

**25.** (1) Every registered and licensed street vendor has the right to quiet possession of their goods, subject to the provisions of this Act and the terms and conditions of their vending licence.

Right to quiet  
possession of  
goods.

(2) Where a street vendor's goods or assets utilised for their street vending activities are confiscated under this Act, the officer confiscating the goods shall issue the street vendor with a receipt detailing —

- (a) the specific goods confiscated;
- (b) the approximate value of the goods;
- (c) the reasons for confiscation;
- (d) the location from which the goods may be recovered;
- (e) the time within which the confiscated goods must be recovered; and
- (f) such other information as may be prescribed by county legislation.

(3) Notwithstanding the provisions of subsection (1), an authorized officer may confiscate goods where —

- (a) one carries out street vending without a licence;
- (b) breaches a condition of a licence issued under this Act or county legislation;
- (c) carries out vending activities in a no-vending zone; or
- (d) carries out vending activities in a manner contrary to any conditions imposed for vending in a restricted vending zone.

(4) A county shall prescribe regulations under this section on the handling of confiscated perishable goods.

(5) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a term of imprisonment not exceeding one year and a fine not exceeding two hundred thousand shillings, or to such fine and imprisonment.

**26.** (1) An officer of the national or respective county government shall not conduct themselves in a manner or take action directed at a street vendor in the course of conducting their vending activities, causing alarm, substantial emotional distress, results in physical injury and damages goods or property without a legitimate purpose under this Act.

Protection from harassment.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction, to a term of imprisonment not exceeding one

year and a fine not exceeding two hundred thousand shillings, or to such fine and imprisonment.

27. (1) Every street vendor has the right to be a member of an association of street vendors in the respective county in which the street vendor is licensed to conduct the business of street vending business.

Right to association.

(2) It shall not be mandatory for a street vendor to be a member of any vendors association under this Act.

28. (1) Every street vendor shall maintain the cleanliness and public hygiene of vending zones and adjoining areas.

Public hygiene.

(2) An individual stationary street vendor shall continue to maintain their allocated space in a clean and hygienic condition as a condition of their vending licence.

(3) All mobile street vendors shall be required to dispose of their waste responsibly.

(4) Each street vendors' association shall, in collaboration with the county authorities be responsible for the maintenance of the general cleanliness and public hygiene of their respective vending zones.

(5) A person who contravenes the provisions of this section, shall be liable, upon conviction, to such fine as shall be prescribed by the county government.

29. (1) A street vendor shall conduct vending activities in a manner that does not unreasonably impede the public's right of way.

Access to public utilities.

(2) Notwithstanding the generality of subsection (1), a street vendor shall not conduct street vending activities in a manner that is likely to impede access to fire hydrants, building entrances, bus stops, roads or other public amenities is prohibited.

**PART VI — MISCELLANEOUS PROVISIONS**

30. (1) A county government may enact county specific legislation generally for the better carrying out of the purposes and provisions of this Act.

County legislation.

(2) The legislation enacted by a county assembly under subsection (1) shall set out —

- (a) the terms and conditions for the issuance of vending licences;
- (b) the conditions for the maintenance of the register of street vendors in the county;
- (c) process of determination of an application for a street vending licence;
- (d) the conditions for the issuance or renewal of a licence under this Act;
- (e) process of application for the renewal of licences, de-registration and revocation of a licence issued to an applicant under this Act; and
- (f) such other matters that may be necessary for the effective management of street vending activities in the county.

(3) Legislation enacted pursuant to the provisions of subsection (1) shall conform to the provisions of this Act.

**31.** A person who contravenes the provisions of this Act for which no specific penalty is provided shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding one year or to such fine and imprisonment.

General penalty

**32.** The Cabinet Secretary may make regulations for the better carrying out of the provisions of this Act.

Regulations.

**SCHEDULE**

**(s.10(2))**

**CRITERIA FOR THE FORMULATION OF THE COUNTY  
VENDING PLAN**

1. The vending zones plan shall —
  - (a) ensure that any public right of way is not impeded;
  - (b) ensure that the provisions of space or area for street vending is reasonable and consistent with existing natural markets;
  - (c) take into account the civic facilities for the appropriate use of identified spaces or areas as vending zones;
  - (d) promote convenient, efficient and cost-effective distribution of goods and provision of services;
  - (e) ensure a balance between the interests of formal retailers and other stakeholders in the private sector to promote coexistence of hawkers and street vendors; and
  - (f) such other matters as may be specified in county legislation to give effect to the street vending plan.
2. The vending plan shall contain —
  - (a) determination of spatial planning norms for street vending;
  - (b) designation of space or areas as vending zones;
  - (c) classification of vending zones as non-vending, restricted and restriction-free vending zones;
  - (d) making of spatial plans adequately conducive for the number of hawkers and street vendors in the county and accounting for future population growth or other norms as may be necessary;
  - (e) consequential changes needed in the physical planning of the urban area or city to accommodate hawkers and street vendors in the designated vending zones.
3. Declaration of a no-vending zone shall be designated in the vending plan, subject to the following principles —
  - (a) any existing market or a natural market as identified in the survey shall not be declared as a no-vending zone;
  - (b) declaration of a no-vending zone shall be done in a manner which displaces the minimum percentage of hawkers and street vendors;

- (c) overcrowding of any place shall not be a basis for declaring any area as a no-vending zone provided that restrictions may be placed on the issuance of vending licences in such areas;
- (d) sanitary concerns shall not be the basis for declaring any area as a no-vending zone unless such concerns can solely be attributed to street vendors and cannot be resolved through appropriate action by the county government;
- (e) until such time as the results of the survey have been derived, and the county vending plan formulated, no zone shall be declared as a no-vending zone.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The principal object of this Bill is to provide a framework to regulate the business of street vending in the country. Small scale trade contributes significantly to the growth of trade in the country. Currently, there is no legal framework governing the business of street vending thus the challenges being experience by the both the street vendors and the county governments in the undertaking of the business.

The regulation of the trade will therefore ensure that street vendors are able to transact business in favourable conditions.

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

Clause 29 of the Bill delegates legislative powers to the Cabinet Secretary for the purpose of giving effect to the provisions of the Act. The Bill does not limit fundamental rights and freedoms.

### **Statement on how the Bill concerns county governments**

Part 2 of the Fourth Schedule to the Constitution designates trade development and regulation as one of the functional areas of the county government. The Bill affects the powers and functions of the county government and it is therefore a Bill that concerns counties in terms of Article 110(1)(a) of the Constitution.

### **Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution**

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

Dated the 30th august, 2023.

ESTHER ANYIENI OKENYURI,  
*Vice Chairperson, Standing Committee  
on Tourism, Trade and Industrialization.*

# National News

## Advice Court dismisses application by Aimi ma Lukenya Society to stop the demolitions on EAPCC land in Mavoko

# Vacate public land now, Wahome warns

Cabinet secretary says having a share certificate is not enough for anyone to claim ownership of any parcel of land

BY NYABOGA KIAGE  
AND PIUS MAUNDU

Anyone who is currently occupying public land should vacate with immediate effect, Lands Cabinet Secretary Alice Wahome has said.

In what looks like a move to play catch up in order to avert more Kenyans from losing their property as it happened in the Mavoko land case, the CS said the eviction processes will be implemented by the Ethics and Anti-Corruption Commission (EACC), Anti-Recovery Agency (ARA) and the National Police Service.

Ms Wahome, who was recently transferred to the ministry, also warned Kenyans that having a share certificate is not enough for anyone to claim ownership of any piece of land.

"The ministry wishes to send out a strong message that any person on public land should vacate with immediate effect. I wish

to advise the public that there are people out there conning members of the public to buy land using share certificates. Share certificates are not legal documents to confirm ownership," Ms Wahome said.

The CS, who was accompanied by the ministry's principal secretary Nixon Korir, asked Kenyans to carry out due diligence by checking the status of the parcels they want to purchase from the Lands ministry, where they will be given maps from the survey department.

In relation to Mavoko land which has hit the headlines, Ms Wahome and Mr Korir said records at the ministry clearly show that it belongs to the East African Portland Cement Company (EAPCC).

"Any other documents purported to be held in respect to the said land do not originate from this office. The ministry has already forwarded the relevant documents to the office of the Director



Lands Cabinet Secretary Alice Wahome after officially opening the Regional Conference on Customary Tenure Rights in Eastern Africa in Nairobi on Tuesday. WILFRED NYANGARESI / NATION

The ministry wishes to send out a strong message that any person on public land should vacate with immediate effect

Lands CS Alice Wahome

”

of Criminal Investigations (DCI) to support them in the ongoing investigations," she said.

Until a week ago, some of the people who were occupying the Mavoko land were paying money meant for acquiring title deeds after they were asked to do so by the management of Aimi Ma Lukenya Sacco management.

Asked whether the ministry will compensate the people whose buildings were demolished, Ms Wahome said the only people who will do so are those who fraudulently sold the land to them. "Those who sold the parcel of land knowing very well that they did not own it are the peo-

ple who should do the compensation," she said.

Yesterday, the Environment and Lands Court sitting in Machakos dismissed an application to stop the demolition of houses on the EAPCC land in Mavoko.

Lady Justice Annet Nyukuri said the application by Aimi ma Lukenya Society, which claims the land, did not meet the legal threshold to warrant an injunction. "There is no evidence to support the plaintiff's claim that it purchased the property in question. Therefore, I find that the applicant has failed to establish a prima facie case," Ms Nyukuri said.

Wiper leader Kalonzo Musyoka represented the Aimi ma Lukenya Society in the application, which followed a ruling by the same court in favour of EAPCC.

Mr Musyoka had argued that the demolitions, which started on Friday last week, were a violation of the right to housing and a crime against human rights. But Ms Nyukuri said Mr Musyoka had introduced the human rights issue as an afterthought.

Machakos Governor Wavinya Ndeti had led a team of county officials to attend the hearing.

REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT | SECOND SESSION  
THE SENATE

### INVITATION FOR SUBMISSION OF MEMORANDA

At the sittings of the Senate held on Tuesday, 17<sup>th</sup> October, 2023 and Wednesday, 18<sup>th</sup> October, 2023, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk\\_senate@parliament.go.ke](mailto:clerk_senate@parliament.go.ke) and copied to the email addresses of the respective Committee indicated at the fourth column below, to be received on or before Friday, 3<sup>rd</sup> November, 2023 at 5.00 p.m.

BILL	Committee Referred To	Email Address
a) The Public Holidays (Amendment) Bill, 2023 [Senate Bills No. 31 of 2023]	Standing Committee on National Security, Defence and Foreign Relations	<a href="mailto:senate_nsdfr@parliament.go.ke">senate_nsdfr@parliament.go.ke</a>
b) The Parliamentary Powers and Privileges (Amendment) Bill, 2023 [Senate Bills No. 37 of 2023]	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senate_lahrc@parliament.go.ke">senate_lahrc@parliament.go.ke</a>
c) The Public Transport (Motorcycle Regulation) Bill, 2023 [Senate Bills No. 38 of 2023]	Standing Committee on Roads, Transportation and Housing	<a href="mailto:roadstranahousingcomm_senate@parliament.go.ke">roadstranahousingcomm_senate@parliament.go.ke</a>
d) The Public Finance Management (Amendment) Bill, 2023 [Senate Bills No. 40 of 2023]	Standing Committee on Finance and Budget	<a href="mailto:financebudgetcomm_senate@parliament.go.ke">financebudgetcomm_senate@parliament.go.ke</a>
e) The Street Vendors (Protection of Livelihood) Bill, 2023 [Senate Bills No. 41 of 2023]	Standing Committee on Trade, Industrialization and Tourism	<a href="mailto:tradeindtourismcomm_senate@parliament.go.ke">tradeindtourismcomm_senate@parliament.go.ke</a>
f) The Energy (Amendment) Bill, 2023 [Senate Bills No. 42 of 2023]	Standing Committee on Energy	<a href="mailto:energycommittee_senate@parliament.go.ke">energycommittee_senate@parliament.go.ke</a>
g) The Sugar Bill, 2023 [National Assembly Bills No. 34 of 2023]	Standing Committee on Agriculture, Livestock and Fisheries	<a href="mailto:agriculturecommittee_senate@parliament.go.ke">agriculturecommittee_senate@parliament.go.ke</a>

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

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



SUOMI  
FINLAND



giz  
German Development Cooperation

### INVITATION TO TENDER: TENDER FOR SUPPLY OF ASSORTED BRANDED MERCHANDISE - 91176330

The Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH is implementing technical cooperation measures on behalf of the Government of the Republic of Finland and the Federal Republic of Germany.

The GIZ Office Nairobi invites bidders to submit, **free of charge, and without obligation on part of GIZ**, a bid based on the indicated terms and conditions. Non-conformity to all conditions mentioned will lead to exclusion of the bid. Bids should be submitted in the requested quantity. Partial or incomplete bids will be considered non-responsive.

Send a blank email expressing your interest with tender reference **GIZ/91176330** in the subject line to **[KE\_Inquiry@giz.de]** between **20.10.2023** to **24.10.2023**. **When sending a blank email, please enable email tracking or delivery receipt/confirmation on your email so that you can easily track if the email reached us.**

You will receive tender documents with further information on **25.10.2023**, thereafter **no tender documents will be received**. Clarification requests must be sent through the email **[KE\_Inquiry@giz.de]** by **26.10.2023 at 14:00hrs** to be responded to via email by **26.10.2023**.

If interested, please **submit your stamped and signed technical proposal, requested eligibility documents separately from financial offer (as per price schedule) as attachments in two separate emails via the following email: KE\_Inquiry@giz.de** upon receipt of the tender documents on the stated date above.

**NOTE:** Please enable email tracking when sending your response/s to GIZ. This is to ensure that if an email is not received, we can use the email tracking information to determine exactly what time the email reached our servers.

General Purchase Conditions and Procurement procedures of GIZ apply.

**Deadline for Submission: 31.10.2023 before midnight.**

Bidders **WILL NOT** be allowed to contact or discuss any aspect of the tender with GIZ before closing of the tender as this will lead to automatic disqualification. All clarifications to this tender to be channelled through the official email, **KE\_Inquiry@giz.de**.

"Njambi," Kenya said, "Ni ndona Marua. Uhoro ucio ni nguturia (I have seen the letter I will have the matter investigated.)"

According to Njambi, who worked at State House as a seamstress up to 1999, the matter was never resolved.

One of Karumba's grandson, Tevin Nazario Ndungu has unsuccessfully petitioned State House, Kiambu County, Heroes Council as well National Museums of Kenya in a bid to construct a mausoleum.

**Honouring patriarchy**

The closest the family got in honouring their patriarch was with National Museum of Kenya, which was at some point willing to assist but on condition that Karumba's descendants forked out Sh4 million as consultancy and administrative fees.

In return, NMM was to provide expertise and conduct research and curate the exhibition, procure contractors for showcases and mounts, interactive, lights, audio-visuals, artworks, printing of texts and graphics for the exhibition and pay for them directly.

Since the family does not have the money, it will have to contend with Karumba's name being confined to a dusty town, Gwakung'u, near Ndaragwa, owing to the land he never had an opportunity to farm as they hope that one day, the government will deem it fit to honour all genuine heroes.

akarathi@standardmedia.co.ke

**ARTEFACT**

**Former British armoury and holding cell in ruins**

Nestled within a eucalyptus tree plantation in Ndundu-ini village, Kirinyaga County lies remnants of a two-room house that once stood as a silent witness to the loud struggle for independence.

The structure, now in ruins, carries a legacy that echoes Kenyans' resilience and determination. Built during the dark era of colonialism, one room served as an armoury, clandestinely storing weapons and supplies used by colonialists and home guards during the struggle for independence.

The other room, however, held a much sinister purpose - it served as a makeshift prison where those who dared challenge colonial oppression were confined and subjected to harsh conditions.

To Josiah Ndonga, a survivor of the oppressive regime, the house of exile 'Thamirio ria Ndundu-ini' remains his worst nightmare.

In his twilight years, he bravely recounts the shocking experiences he endured during his incarceration in the two-room prison house.

He suffered physical and psychological hardships. He recalls the daily struggles for survival, constant fear of retribution, and deprivation of fundamental human rights. Yet, even within these walls of despair, his spirit persisted, fueled by a resilient



determination to see justice and liberation of the country from colonial rule.

"Built in 1954 by the British colonial regime, this house served a dual purpose during that time. It functioned as a secure storage facility for weapons, tightly guarded by the home guards. The house also operated as a prison where individuals who resisted colonial rule were detained, often enduring harsh torture, in their quest to extract information about the whereabouts of Mau Mau fighters and their plans," he said.

He faced brutal beatings that left him with a broken limb. A painful reminder of the inhumanity. "I and other inmates refused to surrender the information they sought from us.

The home guards fueled by anger and frustration, unleashed a torrent of violence upon us. Each blow inflicted pain, but we remained resolute. It was during that horrific incident that my limb was forcefully shattered," he said.

He said the weapons stored in the house were those collected from Mau Mau fighters captured by the colonialists. These weapons were part of those utilised by the home guards to suppress any attempts at escape from the colonial villages.

"When a Mau Mau soldier was arrested by either the colonialists or home guards, any weapon, be it a gun, machete, or rungu, was brought to this house to prevent the freedom fighters from accessing them again," he said.

Today, he urges the government to remember the sacrifices made by Mau Mau veterans and honour the heroes who fought against colonial oppression.

"We are hopeful that President William Ruto will expedite the compensation process for the immense suffering and torture inflicted upon us during the colonial period. We urge the government to prioritise this matter and provide restitution for the pain and trauma we endured," he said.

Muchira Rutaga, an ex-freedom fighter in Kirinyaga, said his unwavering determination and quick thinking helped him narrowly escape clutches of imprisonment after being apprehended by home guards.

"I was a dedicated fighter against colonial rule and became a target for the oppressive forces. As the night grew darker, I found myself surrounded. With every passing second, the risk of being imprisoned grew stronger. I made a daring move, running through the dense vegetation surrounding the village. I escaped," he said.

He added that he couldn't allow himself to be arrested, having heard stories of the atrocities that awaited those in captivity.

[Amos Kiarie]

**REPUBLIC OF KENYA**



**THIRTEENTH PARLIAMENT | SECOND SESSION  
THE SENATE**

**INVITATION FOR SUBMISSION OF MEMORANDA**

At the sittings of the Senate held on Tuesday, 17<sup>th</sup> October, 2023 and Wednesday, 18<sup>th</sup> October, 2023, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 116 of the Constitution and standing order 145 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The memoranda may be submitted to the Clerk of the Senate, P. O. Box 41842-00100, Nairobi, hand-delivered to the Office of the Clerk of the Senate, Main Parliament Buildings, Nairobi or emailed to [clerk\\_senate@parliament.go.ke](mailto:clerk_senate@parliament.go.ke) and the email addresses of the respective Committee indicated at the fourth column below, to be received on or before **Friday, 3<sup>rd</sup> November, 2023 at 5.00 p.m.**

Bill	Committee Referred To	Email Address
a) The Public Holidays (Amendment) Bill, 2023 (Senate Bills No. 31 of 2023)	Standing Committee on National Security, Defence and Foreign Relations	<a href="mailto:senate.nsdftr@parliament.go.ke">senate.nsdftr@parliament.go.ke</a>
b) The Parliamentary Powers and Privileges (Amendment) Bill, 2023 (Senate Bills No. 37 of 2023)	Standing Committee on Justice, Legal Affairs and Human Rights	<a href="mailto:senate.jlhr@parliament.go.ke">senate.jlhr@parliament.go.ke</a>
c) The Public Transport (Motorcycle Regulation) Bill, 2023 (Senate Bills No. 38 of 2023)	Standing Committee on Roads, Transportation and Housing	<a href="mailto:roadstranshousingcomm.senate@parliament.go.ke">roadstranshousingcomm.senate@parliament.go.ke</a>
d) The Public Finance Management (Amendment) Bill, 2023 (Senate Bills No. 40 of 2023)	Standing Committee on Finance and Budget	<a href="mailto:financebudgetcomm.senate@parliament.go.ke">financebudgetcomm.senate@parliament.go.ke</a>
e) The Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bills No. 41 of 2023)	Standing Committee on Trade, Industrialization and Tourism	<a href="mailto:tradeindtourismcomm.senate@parliament.go.ke">tradeindtourismcomm.senate@parliament.go.ke</a>
f) The Energy (Amendment) Bill, 2023 (Senate Bills No. 42 of 2023)	Standing Committee on Energy	<a href="mailto:energycommittee.senate@parliament.go.ke">energycommittee.senate@parliament.go.ke</a>
g) The Sugar Bill, 2023 (National Assembly Bills No. 34 of 2023)	Standing Committee on Agriculture, Livestock and Fisheries	<a href="mailto:agriculturellivestockandfisheriescomm.senate@parliament.go.ke">agriculturellivestockandfisheriescomm.senate@parliament.go.ke</a>

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

**J.M. NYEGENYE, C.S.,  
CLERK OF THE SENATE.**

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COUNCIL OF GOVERNORS



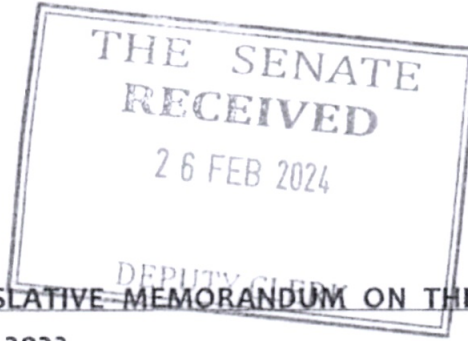
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Our Ref: COG/6/10 Vol. 12 (57)

21<sup>st</sup> February 2024

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



Dear Mr. Nyegenye,

**LETTER FORWARDING THE LEGISLATIVE MEMORANDUM ON THE STREET VENDORS (PROTECTION LIVELIHOOD) BILL, 2023**

The above matter refers.

The Council of Governors appreciates that in realizing the objects of Devolution, the principles of consultation and cooperation under Article 6(2) and 189 of the Constitution are inevitable.

Based on these principles, the Council of Governors has extensively reviewed the aforementioned Bill and therefore, wishes to forward the legislative memorandum for your consideration.

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti  
Chief Executive Officer

① DSEK  
DHS

② PCAI/HOD  
Kindly deal

kindly deal.

27/02/2024

③ C.A. III - Trade Committee  
Please deal.  
26.02.2024

Kindly deal.  
26/02/2024

1



**LEGISLATIVE MEMORANDUM ON THE STREET VENDORS (PROTECTION OF  
LIVELIHOOD) BILL 2023**

**FROM**

**THE COUNCIL OF GOVERNORS**

**MEMORANDUM ON THE STREET VENDORS (PROTECTION OF LIVELIHOOD)  
BILL 2023**

The Council of Governors,

**In recognition** of Article 1(4) of the Constitution of Kenya, that sovereign power of the people is exercised at the national level and the county level;

**In further recognition** of Article 6 (2) that governments at the national and county levels are distinct; and

**Aware** of the need for coordination and consultation between the National Government and County Governments to ensure that legislation responds to the key issues facing devolution, and further reflects the spirit and objects of devolution.

The Council hereby notes as follows on the **The Street Vendors (Protection of Livelihood) Bill, 2023:-**

**A. General Comments**

The Fourth schedule of the Constitution provides that Trade development and regulation including markets and trade license is a devolved function. Further, the Title of the Bill

“An ACT of Parliament to provide a legal framework for the recognition, protection and regulation of street vending in Kenya, the identification of minimum standards for street vending; and for connected purposes.

This can be renamed to read as follows;

***“An ACT of Parliament to provide a legal framework for the recognition, protection and regulation of street vending in Kenya, and for connected purposes.”***

**B. Comments on Specific Provisions:**

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
<p>Part I – Preliminary Interpretation</p>	<p>PART 1 – PRELIMINARY</p> <p>2. <i>In this Act -</i></p> <p>*** <i>Inclusion of the definition of some of the key terms</i></p>	<p>Amend by including the following definitions:</p> <p><b>“Informal trader”</b> means a small-scale unregistered business.</p> <p><b>“harassment”</b> means conduct, or action, which is usually repeated or persistent, that, being directed at a street vendor, alarms, causes substantial emotional distress in that person, damages goods or property and serves no legitimate purpose.</p>	<p>a) The definition of the word <b>‘Informal trading’</b> conforms to the definitions provided by the UN and World Bank.</p> <p>b) The need to define the term <b>‘harassment’</b> to provide clarity on the kind of protection against harassment outlined in section 26 of the Bill.</p>

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
PART II – REGULATION OF STREET VENDORS	<p><b>4 (1) The Cabinet Secretary shall;</b></p> <p>a) keep and maintain a data base, in collaboration with county governments, a national registry of street vendors in Kenya.</p> <p>(b) prescribe, in consultation with county governments and relevant stakeholders, the minimum standards for the conduct of street vending and regulation of street vendors in Kenya;</p> <p>c) utilize data collected by County Governments relating to street vending and street vendors in Kenya for planning and efficient management of vending and trade in counties</p> <p>d) prescribe standards for the imposition of fees and other charges payable for the registration and licensing of street vendors;</p> <p>e) prescribe, in consultation with the relevant entities</p>	<p>a) <i>Delete this provision</i></p> <p><b>Amend to read:</b></p> <p><b>(b) provide national guidelines in consultation with county governments and relevant stakeholders, for the conduct of street vending and regulation of street vendors in Kenya.</b></p> <p><i>(c) delete this provision.</i></p> <p><b>(d) Delete this provision</b></p> <p><b>e) Delete this Provision</b></p>	<p>Keeping and maintaining a database is a role of the County Governments and not the Cabinet secretary.</p> <p>The National Government has the mandate to develop national policies and guidelines pursuant to the fourth schedule of the Constitution.</p> <p>Planning is a function of the County Governments pursuant to the Fourth schedule of the Constitution.</p> <p><i>c) planning, management of vending and trade are all devolved functions under the Constitution of Kenya and should therefore be left to Counties to carry out.</i></p>

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
	responsible for planning and infrastructure, standards and guidelines for the proper planning and design of street vending zones;		d) The County Governments have County Finance Bills that determines the imposition of fees and other charges. Additionally, currently there is the County Uniform procedures licensing bill that provides for this.
	5(1) Each county executive committee member shall, by notice in the county Gazette, demarcate and designate the county into—	Amend to read: 5(1) The County Executive Committee member shall demarcate and designate the County into-	e) this is a repetition of subsection (b) above  County Gazettes are not operational
	2. The Cabinet Secretary may, for the effective carrying out of the functions under subsection (1) — (a) designate a unit within the Ministry to perform such functions as the Cabinet Secretary may delegate to the unit;	Delete this provision	Trade is a fully devolved function in accordance with the fourth schedule of the constitution of Kenya. Therefore, designation of a unit to perform a devolved functions contradicts the distinctness of the functions of the two levels of Governments as stipulated in the Constitution.

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
	(b) designate or deploy such public officers to serve in the unit; and		This will result in the duplication of roles.
	(c) designate a public officer within the Department as the registrar.		
	6. (1) The respective county executive committee member shall not impose restrictions on the nature of vending business that may be carried out in a restriction free vending zone.	<p><b>Amend to read:</b></p> <p>6(1) The respective County executive committee member may impose restrictions on the nature of vending business that may be carried out in a restriction free vending zone</p>	Trade development and regulation is a County function as per the fourth schedule of the Constitution and as such, CECMs should have the discretion to impose restriction where they deem fit.
	(2) The county executive committee member shall publish and publicise the conditions imposed under subsection (1) in the county gazette and through such platforms as the committee member may consider appropriate.	<p><b>Amend to read</b></p> <p>(2) the County Executive member shall publish the conditions imposed under subsection (1) through such platforms as the committee member may consider appropriate.</p>	Publishing is sufficient and the Bill need not provide for publicizing. Further, County Gazettes are not operational and as such, the publishing of the conditions should be done through the other available platforms.
8. No Vending Zone	PART III –VENDING ZONES 8. (3) Inclusion of a new sub-sections	<p><b>Amend to include:</b></p> <p>sub-section 8(3), which reads as follows,</p>	The need to address conflicts arising from the traders operating a brick-and-mortar business and the street vendors.

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
		<i>“The county executive committee member shall not designate a vending zone next to a formal trading space”</i>	<i>This will that the existing businesses are not adversely affected as proposed in Section 11 (2) (c)</i>
	10 (2) For purposes of subsection (1), the county executive committee member shall — (a) conduct a survey of all existing street vendors and potential vending zones within the area under its jurisdiction; and (b) develop a county vending zone plan in the manner prescribed in the Schedule and taking into account the results of the survey carried out under paragraph (a).	<b>Amend to read:</b>  <b>(a) Maintain a database of all street vendors and vending zones within the County;</b>  <b>(b) Develop a county vending zone plan in the manner prescribed in the schedule</b>	(a) The provision as is, is limiting and narrow and as such, it should be a sub-activity of a broader function.
	10(3) The county executive committee member shall conduct the survey under subsection (2)(a), within twelve months of the commencement of this Act, and subsequent surveys shall be	<b>Delete this provision</b>	The provision as is, is limiting and narrow and as such, it should be a sub-activity of a broader function to <b>‘Maintain a database of all street vendors and vending zones within the County’</b>

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
	carried out at least once in every three years.		
	<p>10(4) The county executive committee member shall, within nine months of the conduct of the survey under subsection (2)(a), submit the results analysis and recommendations and the proposed vending zone plan to the county assembly for approval.</p> <p>10(5) In considering the vending zone plan under subsection (4), the county assembly shall conduct public participation.</p> <p>10(6) Upon approval of the plan the county executive committee member shall publish the details of the county vending zone plan in the county Gazette and at least one newspaper of wide circulation within the county.</p>	<b>Delete these provisions; 10(4), 10(5), 10(6)</b>	The process of approvals of plans has already been provided in law 'County Governments Act and the Constitution.

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
	<p>12(2) A county executive committee member shall not designate an area as a vending zone under subsection (1) unless the committee member has put in place essential facilities including but not limited to security, solid waste disposal, water, lighting and parking facilities where necessary.</p>	<p><b>Delete this provision</b></p>	<p>Some of the roles prescribed are not exclusively assigned to the County Executive Committee Member.</p>
<p><b>13. Relocation or eviction of street vendors</b></p>	<p>13. (2) A county executive committee may, in accordance with the County Legislation –  (a)....  (b).....</p> <p>13(5) Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal</p>	<p><b>Amend to read:</b></p> <p>13(2) A county executive committee member may, in accordance with the County Legislation –  (a)....  (b).....  (c) <i>declare a zone a “No vending zone” which have in the past been considered a “vending zone”</i></p> <p><b>13(5) Delete this provision</b></p>	<p>This inclusion seeks to address the historical conflicts between the brick-and-mortar business and the street vendors as well as protecting existing businesses.</p>

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
	facilities in the area to which the vendor is to be relocated.		
	<p>14 The county executive committee member shall within twelve months of the commencement of this Act —</p> <p>(a) enact such county legislation as may be necessary for the implementation of this Act and the effective regulation of street vendors in the county;</p>	<p><b>Amend to read;</b></p> <p>14) <b>The County Executive Committee Member Shall;</b></p> <p>(a) Make such county <b>regulations</b> as may be necessary for the implementation of this Act and the effective regulation of street vendors in the county.</p>	
<p><b>15. Register of street vendors</b></p>	<p>PART IV: REGISTRATION AND LICENSING OF STREET VENDORS</p> <p>15(2)(c) make available to the public the database of registered street vendors in an accessible manner including online platforms; and</p> <p>15. (3) The Director shall collate the lists received under sub section (1) (b) into a national register of licensed street vendors.</p>	<p><i>Delete this provision</i></p> <p><i>Delete this provision</i></p>	<p>The name “ <b>Director</b>” and the assigned roles have been included in the county section. This brings confusion to the functions of the Director.</p>

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
			The term Director has not been defined. Which director is in question, whether National or County?
	15. (4) The Cabinet Secretary may make regulations to prescribe conditions for the registration of vendors from the East African Community and registration of foreigners to regulate Inter-County mobility trade	<b>Delete this provision</b>	This provision will create room for foreigners to hawk in Kenya. This will defeat the purpose of promoting micro businesses in Kenya.
<b>Registration of Street Vendors</b>	16. (1) A person shall not conduct the business of a street vendor unless such person is registered as a street vendor with the respective county executive committee member.	<b>Amend to read;</b> 16(1) <b>A person shall not conduct the business of a street vendor unless such person is registered as a street vendor</b>	The definition a county executive committee member has already been defined.
<b>20. Renewal of a licence</b>	20 (1) Upon expiry, a vending licence may be renewed for such further period not exceeding one year.	<b>Delete this provision</b>	This provision makes an assumption that a vendor must have graduated to formal tradings within that period. However, this might not always be the case, especially for fish vendors.

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
21. Revocation of a licence	21(4) A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the relevant county tribunal against the decision within thirty days of the receipt of the decision	<p><b>Amend to read as follows.</b></p> <p>21(4) A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the county executive committee member.</p>	The County tribunal has been mentioned without a clear definition or the roles in regards to their formation and the mandates.
	21(5) Insert a new sub-section	<p><b>If the appeal is rejected, then a vendor can appeal through the dispute resolutions mechanisms established through the County legislations within thirty days of the receipt of the decision</b></p>	All persons are entitled to the Right of Appeal pursuant to the principles of natural justice under Article 50 of the Constitution. As such, the Bill should make provisions for Appeals.
	22(2) The county executive committee member may from time to time, prescribe regulations relating to the proper handling of food by hawkers and street vendors.	<p><b>Amend to read;</b></p> <p>22(2) The county executive committee member or the County executive committee member responsible for food safety may from time to time, prescribe</p>	Matters related to food safety do not fall under the purview of the county executive committee member for matters relating to trade as prescribed under this bill.

Clause	Provision of Clause in the Bill	Proposed Amendment	Rationale for Amendment and Recommendation
		<i>regulations relating to the proper handling of food by hawkers and street vendors</i>	
<b>PART VI — MISCELLANEOUS PROVISIONS</b>	<p>30(2) The legislation enacted by a county assembly under subsection (1) shall set out —</p> <p>30(3) Legislation enacted pursuant to the provisions of subsection (1) shall conform to the provisions of this Act.</p>	<p><b>Amend to read;</b>  <b>30(2) the legislation enacted by a county assembly under subsection (1) may set out-</b></p> <p><b>Delete this provision</b></p>	<p>The Bill cannot purport to prescribe in mandatory terms for County Assemblies to enact the envisaged legislation as implied by the word “<b>shall</b>”</p>

### Conclusion

In conclusion, the Council perceives the Bill as overly prescriptive rather than facilitating the establishment of a more comprehensive legal framework.



**COUNCIL OF GOVERNORS**



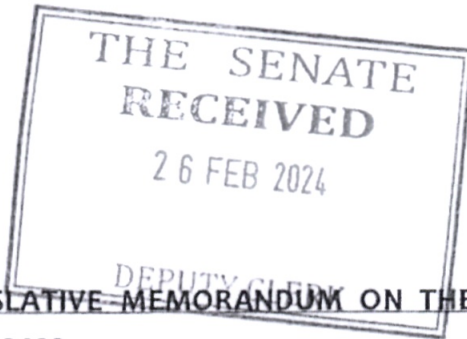
Westlands Delta House 2<sup>nd</sup> Floor, Waiyaki Way.  
P.O. BOX 40401-00100,  
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E-mail: [info@cog.go.ke](mailto:info@cog.go.ke)

Our Ref: COG/6/10 Vol. 12 (57)

21<sup>st</sup> February 2024

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



Dear Mr. Nyegenye,

**LETTER FORWARDING THE LEGISLATIVE MEMORANDUM ON THE STREET VENDORS (PROTECTION LIVELIHOOD) BILL, 2023**

The above matter refers.

The Council of Governors appreciates that in realizing the objects of Devolution, the principles of consultation and cooperation under Article 6(2) and 189 of the Constitution are inevitable.

Based on these principles, the Council of Governors has extensively reviewed the aforementioned Bill and therefore, wishes to forward the legislative memorandum for your consideration.

Please accept the assurance of our highest esteem and consideration.

Yours sincerely,

Mary Mwiti  
Chief Executive Officer

① DSEC  
DLS

② PCAI/HOD  
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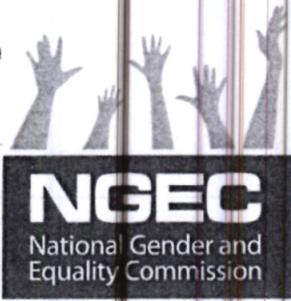
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27/02/2024

③ C.A. III - Trade Committee  
Please deal.  
26.02.2024

Ep  
26/02/2024

2



**National Gender and Equality Commission**

1st Floor, Solution Tech Place, 5 Longonot Road, Upper Hill, Nairobi  
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Ref. No. NGEC/CS/NAS/005/VOL.III (123)

30<sup>th</sup> October 2023

**Jeremiah M. Nyegenye, CBS**

Clerk of the Senate

Clerk's Chambers

Parliament Building

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**NAIROBI**

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Dear

**SUBMISSION OF MEMORANDUM ON THE STREET VENDORS  
(PROTECTION OF LIVELIHOOD) BILL, 2023 (SENATE BILL No. 41 OF  
2023)**

Reference is made to your call for the submission of memoranda on the Street Vendors (Protection of Livelihood) Bill, 2023 (Senate Bill No 41 of 2023).

The National Gender and Equality Commission (NGEC) is a Constitutional Commission with the mandate of promoting gender equality and non-discrimination for all persons in Kenya, with a focus on Special Interest Groups (SIGs) who include women, children, Persons with Disabilities (PWDs), youth, older members of society and minority and marginalized groups.

Section 8 (b) of the National Gender and Equality Commission Act, No. 15 of 2011 mandates the Commission to, *'monitor, facilitate and advise on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and administrative regulations in all public and private institutions;*

In line with its mandate, the Commission presents the attached memorandum analyzing the proposed Bill and making proposals for amendment where necessary.

Yours sincerely,

Betty Sungura, MBS  
**COMMISSION SECRETARY/CEO**

5

**MEMORANDUM ON THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL, 2023 (SENATE BILL No. 41 OF 2023)**

S/No	Clause	Provisions of the clause	Proposed amendment	Rationale /Remarks
<b>PART III VENDING ZONES</b>				
1.	<b>Clause 5</b> Designation of vending zones.	5. (1) Each county executive committee member shall, by notice in the county Gazette, demarcate and designate the county into vending zones as follows — (a) restriction-free vending zones; (b) restricted vending zones; or (c) no-vending zones.  (2) For purposes of subsection (1), the county executive committee member shall take into consideration the commercial viability of an area proposed to be designated as a street vending zone.	Amend by inserting an additional subclause (d) as follows- (d) Reserved vending zones for persons with disabilities.	Vendors with disabilities may require special zones that are accessible due to limited mobility.
2.	<b>Clause 6</b> Restriction-free vending zone.	6. (1) The respective county executive committee member shall not impose restrictions on the nature of vending business that may be carried out in a restriction-free vending zone. (2) Notwithstanding subsection (1), a licensed vendor shall not carry out the business of a vendor where such business—  (a) consists of acts that are unlawful;	Amend clause 6(2) by inserting a new subclause (e) as follows-;  (e) Interferes or infringes on the business of other traders	The other traders within the vicinity also have their interests and businesses which need to be protected.

		(c) is contrary to national security; and (d) inhibits the implementation of national or county policies with respect to the regulation of vending business.	
3.	<b>Clause 9</b> Offence of unauthorized	A person who conducts vending activities in in a restricted vending zone without a special permit or in a no vending zone commits an offence and is be liable, on conviction, to a term of imprisonment not exceeding six months and a fine not exceeding ten thousand shillings, or to such fine and imprisonment	<p>a.) Amend the subtitle by inserting after the phrase “of” the following “vending” and after the phrase “unauthorized” the phrase “zones” to read as follows -; <b>“Offence of vending in unauthorized zones”</b></p> <p>b.) amend clause 9 by substituting the penalty of six months and or a fine of not less than ten thousand shillings with the following-;</p> <p>“With a fine of one thousand five hundred as a first offender and revocation of the license on the second time.”</p> <p>The sub-title is incomplete</p> <p>The Title of the Bill i.e. <b>Protection of Livelihood</b> is self-telling of a group of persons (“Wanjiku”) whose turnover is not substantive and imposing such a fine will only serve to destroy the business/livelihood and bringing suffering to the dependants who include children and the elderly parents. The sanctions imposed contradict the spirit of the law.</p> <p>One of the objectives of the Bill in clause 3 is to entrench the right to informal trading;</p> <p>But offenders must face reasonable sanctions and so the proposed penalty by the Commission is well within the means of the beneficiaries of the law and it will also act as a</p>

				not want to obey the law
4.	<b>Clause 11</b> Vending centres	11. (1) Each county government shall progressively provide for the construction and maintenance of vending centres to enable the carrying out of street vending activities in a fair, transparent and safe manner.  (2) In constructing and maintaining a vending centre, the county executive committee member shall take into account – (a) the recommended location in the county vending plan; (b) the number of street vendors within the respective locality; (c) the need to ensure that the existing businesses are not adversely affected by the construction and maintenance; and (d) the existing county physical plans with respect to that county.	Amend clause 11 by inserting an additional sub clause (3) as follows-;  (3) The planning of the centre shall take into consideration the universal accessibility of the roads, amenities and build environment.	Universal accessibility guarantees all persons (vendors and customers) including those with limited mobility access to the location and the amenities including the toilets.
<b>PART IV—REGISTRATION AND LICENSING OF STREET VENDORS</b>				
5.	<b>Clause 21</b> Revocation of license	21. (1) The county government shall have the power to renew any vending licence and may decline to renew, revoke or suspend a licence for a period not exceeding twelve months if it is satisfied that the street vendor is in breach of any provisions of this Act or any other written law. (2) Before declining to renew, revoke or suspend a licence under subsection (1), the county government shall notify the holder of the licence to show cause,	<b>Proposal on clause 21(4)</b>  To either establish a Tribunal under this Act or expand the mandate of an already existing tribunal with a similar mandate  The alternative is to appeal to a Magistrates Court in the respective counties.	Clause 21(4) refers to a County Tribunal. The proposed law has not established a tribunal nor is there a county Tribunal because Tribunals (subordinate courts) are a function of the National Government.

should not be revoked, suspended or denied renewal.

(3) The county government shall consider the application under subsection (2) within seven days and inform the holder of the licence of the county government's decision in writing and shall give reasons for the revocation or suspension.

(4) A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the relevant county tribunal against the decision within thirty days of receipt of the decision

**PART V—RIGHTS AND OBLIGATIONS OF STREET VENDORS**

**6. Clause 24**  
Right to adequate facilities

24. (1) Every street vendor has the right, within a vending zone and adjacent areas as may be determined by the county executive member, to access essential facilities of reasonable quality including but not limited to security, lighting, sanitation services and parking facilities where necessary.

(2) Each county government shall provide essential facilities for the carrying out of vending activities taking into consideration —

- (a) the vending activity being conducted in a specific vending zone;
- (b) applicable health and safety standards;
- (c) the public interest; and

To amend Clause 24(1) by inserting before the phrase “and parking” the following “accessible infrastructure, build environment.”

Accessibility of the infrastructure including of the amenities is crucial for both the vendors and the customers who have limited mobility including persons with disabilities.

7.	Clause Right to quiet possession of goods	<p>25. (1) Every registered and licensed street vendor has the right to quiet possession of their goods, subject to the provisions of this Act and the terms and conditions of their vending licence.</p> <p>(2) Where a street vendor's goods or assets utilised for their street vending activities are confiscated under this Act, the officer confiscating the goods shall issue the street vendor with a receipt detailing —</p> <p>(a) the specific goods confiscated;  (b) the approximate value of the goods;  (c) the reasons for confiscation;  (d) the location from which the goods may be recovered;  (e) the time within which the confiscated goods must be recovered;  and  (f) such other information as may be prescribed by county legislation.</p> <p>(3) Notwithstanding the provisions of subsection (1), an authorized officer may confiscate goods where —</p> <p>(a) one carries out street vending without a licence;  (b) breaches a condition of a licence issued under this Act or county legislation;  (c) carries out vending activities in a no-vending zone; or  (d) carries out vending activities in a manner contrary</p>	<p>Propose to amend -;</p> <p>a.) By deleting sub clause 25 (2) in its entirety without replacement</p> <p>b.) amend sub clause 25 (3) by substituting the phrase " <b>may confiscate goods where</b>" with the following, " <b>Shall take an inventory of the goods for purposes of taking legal action</b>"</p>	<p>Confiscation of goods of the vendor serves only to impoverish the vendor as they maybe of a perishable nature or be damaged during the confiscation and or storage. The spirit of the law must be kept alive which is protection of livelihood.</p> <p>The inventory taken by an authorized officer will be used as evidence for contravention of the licence requirements. The goods are the stock of the vendor. The use of the word makes it mandatory for inventories to be taken. It helps in</p>
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		<p>in a restricted vending zone.</p> <p>(4) A county shall prescribe regulations under this section on the handling of confiscated perishable goods.</p> <p>(5) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a term of imprisonment not exceeding one year and a fine not exceeding two hundred thousand shillings, or to such fine and imprisonment</p>	<p>Amend 23(5) by substituting the penalty of the fine of two hundred thousand with two thousand and the conviction term from one year to one month.</p>	<p>confiscated.</p> <p>The penalty proposed in the Bill is not proportional to the breach committed by the vendor. Order and compliance must be observed but the penalty to the breach thereto must be proportionate and not serve to bring extreme punishment and destruction to the vendor and their family.</p> <p>The spirit of the Bill is to Regulate and empower street vendors and not to create stiff consequences for non-compliance.</p>
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	General Penalty	provisions of this Act for which no specific penalty is provided shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding one year or to such fine and imprisonment.	One hundred thousand with "Five thousand" and the imprisonment term substitute "one year" with "one month"	provisions in the proposed bill is a misdemeanor which does not warrant such severe penalties.
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**General comment**

The proposed law is welcomed because it will regulate and economically empower street vending by special interest groups. However, the provisions on the penalties should be proportionate to the breaches of the license rules so that they do not betray the spirit of the law which is to protect the livelihood of the ordinary "Wanjiku".

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NAIROBI CITY COUNTY  
[www.nairobi.go.ke](http://www.nairobi.go.ke)

# **BUSINESS AND HUSTLER OPPORTUNITIES**

Office of the County Chief Officer - Markets and Trade

## **LEGISLATIVE MEMORANDUM ON THE STREET VENDORS(PROTECTION OF LIVELIHOOD) BILL 2023**

**TO**

**THE CLERK OF THE SENATE**

**FROM**

**NAIROBI CITY COUNTY GOVERNMENT**

**A HISTORICAL PREVIEW OF HAWKING IN NAIROBI CBD**

The hawkers started trickling into the city before the 1980s but they increased in the early 1990s and different administrations have dealt in different ways with hawkers but none of them have managed to flush them out of the city. In the dawn of multiparty in 1992, different parties gave hawkers branded tables especially KANU and FORD parties though it was short-lived.

After the election of the NARC Government in 2002, back streets were identified, rehabilitated and hawkers were moved there. This proceeded well until the death of the local Government Minister Hon Karisa Maitha, after which the hawkers were moved to tsunami market which they furiously resisted. The resistance was a result of lack of matatu termini in Ngara

In 2008, Muthurwa market was opened and it ran very well because all the Eastlands public service vehicles terminated there. However, a case was taken to court by the matatu operators in 2009 and they obtained orders to allow matatus back into the CBD hence the hawkers returned back to the streets. The hawkers are drawn from all counties of this nation and they are estimated to be 5,000 to 10,000 in Nairobi CBD, though during campaigns seasons, the number goes up to even 50,000 hawkers a day. Hawking continues to evolve, with traders with shops moving to the streets to hawk in the evening, traders with no shops hawking too and even Students in campuses going to CBD to hawk. It's a means of survival.

This makes the Nairobi City County Government very keen on the proposed street vendors (protection of livelihood) Bill 2023 because management of informal traders is crucial in a bid to bring order in the City. The major challenge is the evolving nature of the trade and the challenges that arise from their presence in the city.

Here are the submissions of the Nairobi City County Government

Clause	Provision of clause in the Bill	Proposed amendment	Rationale for Amendment and recommendation
PART II - REGULATION OF STREET VENDORS	4 (1)The Cabinet Secretary shall  (a ) keep and maintain a data base, in collaboration with county governments, a national registry of street vendors in Kenya;  (c ) utilize data collected by county governments relating to street vending and street vendors in Kenya for planning and efficient management of vending and trade in counties;  (d ) prescribe standards for the imposition of fees and other charges payable for the registration and licensing of	Delete 4(1) SECTION A,C,D,E & F  B. Amend to read: <b><i>'Develop National Guidelines in consultation with the County Governments and relevant stakeholders'</i></b>	According to Schedule four of the Kenyan Constitution, Trade is devolved function of the County Government.  The collection of fees and charges for the Nairobi City County Government is guided by the Finance Acts which are normally reviewed from time to time after consultation with the members of public

	(e ) prescribe, in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and design of street vending zones; and		
	<p>4(2)</p> <p>The Cabinet Secretary may, for the effective carrying out of the functions under subsection (1) —</p> <p>(a) designate a unit within the Ministry to perform such functions as the Cabinet Secretary may delegate to the unit;</p> <p>(b) designate or deploy such public officers to serve in the unit; and</p> <p>(c) designate a public officer within the Department as the registrar.</p>	Delete 4(2) SECTION a ,b & c	This is a devolved Function of the County Governments according to Schedule 4 of the Kenyan Constitution
PART III- VENDING ZONES	7(3) A person shall not carry out the business of a vendor in a restricted vending zone unless such person applied for, and obtained a special permit in accordance with this Act and the respective county legislation.	Amend 7(3) to read A person shall not carry out businesses of a vendor in a restricted vending zone.	This provision of obtaining a special permit is subject to abuse
	<p>8(1) A no-vending zones shall be a zone in which vending activities are prohibited.</p> <p>(2) The county executive committee member shall not designate a market as a no-vending zone.</p>	Amend to include 8(3) to read <b><i>"It is prohibited for allocation of vending zones in front and surrounding existing formal markets"</i></b>	This will protect the traders within the markets

	<p>10(3,4,5&amp;6)</p> <p>3 The county executive committee member shall conduct the survey under subsection (2)(a), within twelve months of the commencement of this Act, and subsequent surveys shall be carried out at least once in every three years.</p> <p>4 The county executive committee member shall, within nine months of the conduct of the survey under subsection (2)(a), submit the results analysis and recommendations and the proposed vending zone plan to the county assembly for approval.</p> <p>5 In considering the vending zone plan under subsection (4), the county assembly shall conduct public participation.</p> <p>6. Upon approval of the plan the county executive committee member shall publish the details of the county vending zone plan in the county <i>Gazette</i> and at least one newspaper of wide circulation within the county.</p>	<p>Delete 10(3,4,5 &amp;6)</p>	<p>This will be too costly and the County has put in place plans and Acts/laws to ensure planning is done</p>
	<p>13(2)A county executive committee member may, in accordance with county legislation —</p> <p>a.) evict a street vendor whose vending licence has been revoked or who carries out vending activities</p>	<p>Amend to include c. <b><i>“declare a zone a “no vending Zone” which have in the past been considered a “vending zone””</i></b></p>	<p>There is need for provision of revocation of the vending zone</p>

	Act or the respective County legislation; or b.) relocate street vendors.		
	13(5) Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal facilities in the area to which the vendor is to be relocated.	Delete 13(5)	This will cause conflict with the County due to limited resources, and it can be used against the Government by the vendors in the Courts of Law. It can be abused by vendors
PART IV – REGISTRATION AND LICENSING OF STREET VENDORS	15(2) (C) make available to the public the database of registered street vendors in an accessible manner including online platforms; and	Delete this provision 15(2) (C)	This will cause management challenges
	15(3) The Director shall collate the lists received under subsection (1)(b) into a national register of licenced street vendors.	Delete this provision	This is a County Function
	15(4) The Cabinet Secretary may make regulations to prescribe conditions for the registration of vendors from the East African Community and registration of foreigners to regulate inter-county mobility trade.	Delete this provision	This requires further engagement to deal with the influx of foreigners taking up the hawking businesses
	16 (1) A person shall not conduct the business of a street vendor unless such person is registered as a street vendor with the respective county executive committee member. (2) A certificate of registration signed by the county executive committee member shall	Amend by adding 16(3) to read <b><i>“street vendors shall not be registered or licensed as groups and associations”</i></b>	Associations and groups are abused by ‘cartels’

	of registration as a street vendor		
		Amend by adding 16(4) <i>“Street vendors shall only be registered and licensed in one vending zone “</i>	This will ensure equity in opportunities
Schedule – CRITERIA FOR THE FORMULATION OF THE COUNTY VENDING PLAN	3(e) Until such time as the results of the survey have been derived, and the county vending plan formulated, no zone shall be declared as a no-vending zone.	Delete	This will make ,it difficult for the existing vendors to be relocated or reorganized in the planned vending zones

#### Conclusion

**The Bill is too prescriptive and it shall therefore inhibit other related regulations from being formed by the County Governments. The Bill should have focused more on a general vision from the National Government that allows the Counties to align with as they prepare their own legislations due to the varying dynamics which are diverse and intricate from one County to another.**



# CENTRAL ORGANIZATION OF HAWKERS ASSOCIATION KENYA

Head Office Eldoret

P.O BOX 939 – 30100, Eldoret / TEL: 0723 213 708

KOMOOL HSE RM NO. 9

*Caters for hawkers, Street vendors, Jamii Mobile phones, barbers, Juakali Mechanics, Car Washers, Boda Boda Riders, Shoe Shiners and Curior Shop operators*

OUR REF: (COHA) K/HQS/ELD/2023

Your Ref: SDC (s) GEN – CORR / VOL 111/65

THE CLERK OF THE SENATE

PARLIAMENT BUILDING

P. O. BOX 41842 – 00100.

NAIROBI KENYA

MEMORANDUM OF OBJECTS AND REASONS.

## **Statements of objects and reasons for amendment**

Upon the re gazettelement of street vendors protection of livelihood bill 2023, Central Organization of Hawkers Association distinctively petitioned the Senate Parliament to amend the same on 28<sup>th</sup> day of march 2018 to become abroad representative Act of parliament that was granted on 4<sup>th</sup> day April 2018 ref SDC (S) gen corr / vol 111/65.

## **The purposes and objects**

The purpose and objects was to focus on critical challenges facing hawkers / street vendors in order to entrench the role and function of hawkers association including registrar of Societies , in the street vendors bill 2023 for the same to respond to street vendors challenges to change the interpretation under part 1, 1,2,3, short title , interpretation and objects .

The entrenchment of the aforesaid institution will properly define the role of the stake holders for checks and balances and also provide a frame work for dispute resolution that needs to be addressed.

The inclusion will therefore insure that street vendors are represented in formulation of rules under this Act including demarcation of designated areas of their operation.

## **Statement on the current legal frame work.**

The existing recognition of street vendors in Kenya is emanating from defunct local authorities by-laws which were transferred to County Governments in accordance with part viii of the urban area and cities Act 2011 , with impotent procedures and weak enforcement mechanism that has led to manipulation , ethnicity, corruption , political interference in a location of business space that has led to harassment and intimidation of hawkers that is a result of street battles between hawkers and County Enforcement Officers .

## MEMORUNDUM OF OBJECTS AND REASONS

### **Statement on how the bill affects the interest of the Central Organization of Hawkers Association if enacted without amendment**

The organization is duly registered society under the Societies Act cap 108 laws of Kenya as an umbrella organization of informal sector in Kenya whose overall objectives is to facilitate members in the formulation of policy both at local and national level to assert them in the management through legal frame work and this is an opportunity.

The role and function of maintenance of register and data has been placed to Trade Ministry at national level and County Trade C E C who are not members of fraternity to be able to understand genuine informal sector units which the Act intent to address the challenges they encounter from County Governments

The role of the stake holders participating in demarcation of designated areas is referred to as stake holders yet it's not been defined who that stake holder is giving an opportunity to County Governments to involve none legal entities who are not authorized to represent street vendors by the registrar of Societies that has been main cause of urban conflict

### **Statement that the bill affects the interest of the central Organization Association Kenya.**

The organization is engaging 47 counties on a program of decentralization of informal sector for implementation of part viii of the urban area and cities Act no.13 of 2011 which will be transferred to the Act once enacted as overall legislation of street vendors.

No act of parliament can be enacted without specific stake holders who are the custodian of the same to be able to pursue the objective and principle which the organization stands for.

The delivery of a good legislation is not only the mandate of the Government but also the mandate of the stake holders.

### **Therefore we propose the following parts of the proposed street vendor's protection of live-hood bill 2023 Kenya gazette supplement no. 161 (senate bill no. 4) amended**

Part I preliminaries , part ii regulation of street vendors , part iii vending zones , part iv registration and licensing of vendors and part v , to entrance the role and function of organization of hawkers Association, role of registrar of Societies, and role of independent tribunal court for the organization to undertake the following function;

(A) Keep and maintain the register of all units of street vendors in Kenya to be submitted to the Ministry of Trade and County Executive through National Secretary General at national level and branch secretaries at county level.

(B) Keep and maintain membership in the form set out by the registrar of Societies and submit the same to the Ministry of Trade for national registry for purpose of maintaining correct data and record for planning and licensing.

(C) Give Register of Societies and the Ministry all required information under this Act, including a copy of the constitution, minute of the meetings held names of officials and their

## MEMORANDUM OF OBJECTS AND REASONS

(D) To establish dispute resolution office to be housed in the office of labour in every county for refer of dispute between County Governments and hawkers, which will recommend review of resolution / authorization and by laws enacted before enactment of this Act considered as having been enacted under this Act and advice tribunal court on the way forward.

(E) The tribal court to have setting in every county according to the dispute raised by the dispute resolution office to be chaired by two high court judges one to serve as chairman and another vice chairman.

The director of trade to serve as a secretary of the tribunal court secretary general as a friend .one high court advocate to be nominated by the law society of Kenya to be a member of the tribunal court.

To establish and entrench a tribunal court as was proposed earlier to receive complains of violation of agreement, term of engagement resolution in demarcated areas.

10% of the revenue raised from licensing street vendors under this Act to be returned to the organization for running secretariat and administration.

Dated this 12<sup>th</sup> day of NOV 2023

Gerald Mutakha Habuti

  
National secretary general/ chief executive officer (COHA) K

Sen. Crystal Asige, MP PROPOSED AMENDMENTS

<p>PART II - REGULATION OF STREET VENDROS</p>	<p>4( 1) prescribe, in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and design of street vending zones; and</p>	<p>Amend by  inserting adherence to universal design, principles, and standards for street vending zones  to read  , in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and adherence to universal design, principles, and standards for street vending zones; and</p>	<p>Proposed Amendment Accepted</p>
	<p>5(11-2) he number of street vendors within the respective locality;</p>	<p>The numbers of streets and the number of PWDS within the designated area</p>	<p>Proposed Amendment Accepted.</p>
	<p>5(12-2) A county executive committee member shall not designate an area as a vending zone under subsection (1) unless the committee member has put in place essential facilities including but not limited to security, solid waste disposal, water, lighting and parking facilities where necessary.</p>	<p>Amend to insert toilets/washrooms accessible to PWDS  To ready A county executive committee member shall not designate an area as a vending zone under subsection (1) unless the committee member has put in place essential facilities including but not limited to security, solid</p>	<p>Refer to committee resolution with COG</p>

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		waste disposal, accessible washrooms, water, lighting and parking facilities where necessary.	
PART IV REGISTRATION AND LICENSING OF STREET VENDORS	17(5) A vending licence issued under this section shall include the following particulars —	AMEND TO INCLUDE 17(5) J THE PWDS ALLOCATED NUMBER(PWD COULCIL NUMBER	Proposed Amendment Accepted to ensure only the duly registered PWDS are allotted the reserved slots for pwds
	18. (1) The county executive member may refuse to grant a licence where the applicant does not comply with the requirements imposed under this Act or prescribed under the specific county legislation.	Amend to have an appeal mechanism for those denied vendor slot	Proposed Amendment Accepted
PART V RIGHTS AND OBLIGATIONS	24. (1) Every street vendor has the right, within a vending zone and adjacent areas as may be determined by the county executive member, to access essential facilities of reasonable quality including but not limited to security, lighting, sanitation services and parking facilities where necessary.	Amend to insert Word Accessible to sanitation services to read  Every street vendor has the right, within a vending zone and adjacent areas as may be determined by the county executive member, to access essential facilities of reasonable quality including but not limited to security, lighting accessible washrooms, water, lighting and accessible parking facilities when necessary to ensure inclusivity and parking facilities where necessary.	Proposed Amendment Accepted