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Rt. Hon. Speaker
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Clerk of the senate/secretary, PSC
Date: *11/04/23*

THIRTEENTH PARLIAMENT|SECOND SESSION

STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND
TOURISM

REPORT ON COUNTY LICENSING (UNIFORM PROCEDURES), 2022
(SENATE BILLS NO. 9 OF 2022)

PAPERS LAID	
DATE	<i>12/4/2023</i>
TABLED BY	<i>Sen- Esther Okeng'o</i>
COMMITTEE	<i>Trade, Industrialization and Tourism</i>
CLERK AT THE TABLE	<i>D. Chacha</i>

Clerk's Chambers
Parliament Buildings
NAIROBI.

April, 2023

THE SENATE
RECEIVED
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DIRECTOR LEGAL SERVICES

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ABBREVIATIONS AND ACRONYMS

KAM	- Kenya Association of Manufacturers
KEPSA	- Kenya Private Sector Alliance
KNCCI	- Kenya National Chamber of Commerce and Industry
MSME	- Micro, Small and Medium Enterprises

PRELIMINARIES

The Senate Standing Committee on Trade, Industrialization and Tourism is established pursuant to Standing Order 228(3) of the Senate Standing Orders. As set out in Fourth Schedule of the Senate Standing Orders, 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 & Heritage. Specifically, the Committee oversees the following state departments-

- 1) State Department for Investment Promotion
- 2) State Department for Trade;
- 3) State Department for Industry;
- 4) State department for Cooperatives;
- 5) State Department for Micro, Small and Medium Enterprise (MSME) Development; and
- 6) The State Department for Tourism

The Committee also works closely with the Council of Governors, the county Assemblies Forum and non-state actors including Kenya Association of Manufacturers, Kenya Private Sector Alliance (KEPSA), Kenya National Chamber of Commerce and Industry (KNCCI), among others.

Committee Membership

The Standing Committee on Trade, Industrialization and Tourism comprises of the following Members: -

- | | | |
|---|---|-------------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | - | Chairperson |
| 2. Sen. Esther Okenyuri, MP | - | Vice Chairperson |
| 3. Sen. (Dr.) Lelegwe Ltumbesi, 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 FOREWORD

Mr. Speaker Sir,

The County Licensing (Uniform Procedures) Bill, 2022 (Senate Bills No. 9 of 2022) is a Bill for an Act of Parliament to establish standard uniform procedures for licensing by county governments and for connected purposes.

The Bill seeks to establish standard uniform procedures for licensing by County Governments. As such, the Bill mandates its implementers to mainly adhere to the following-

- (a) ensure applicants are accorded an opportunity to be heard; and
- (b) prevention of multiple licensing process.

Mr. Speaker, Sir,

The County Licensing (Uniform Procedure Bill) (Senate Bills No. 9 of 2022) was published vide Kenya Gazette Supplement No.196 of 29th November, 2022 and was introduced in the Senate by way of First Reading on Thursday 16th February, 2023 and was thereafter referred to the Standing Committee on Trade, Industrialization and Tourism to facilitate public participation. The Bill is Sponsored by Sen. Mariam Omar, MP.

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. On 28th February, 2023, the Committee placed advertisements in the local dailies (The Daily Nation and the Standard newspapers) calling for views and submissions from the general public by 14th March, 2023. The Committee only received submissions from the Kenya Association of Manufacturers.

The Committee reviewed the submissions received and has taken into account the views of the stakeholders in proposing the amendments to the Bill and preparation of this report.

Mr. Speaker, Sir,

The Committee held four (4) sittings to consider the submissions through memoranda from Kenya Association of Manufacturers (KAM).

Summary Observations by the Committee

From the submissions that were received, the Committee made the following key observations –

- 1) **THAT**, the license contemplated under Clause 24 of the Bill is a function of county governments as provided under paragraph 7 of Part 2 of the Fourth Schedule to the Constitution. Enacting specific provisions on avoidance of multiplicity for county licenses in National legislation would be infringing on functions that are wholly devolved;
- 2) **THAT**, pursuant to Article 6(2) of the Constitution, counties are distinct and interdependent governments. Different county governments cannot therefore not be compared to different agencies of the same government. Further, the sharing of information by different counties has to ensure the protection of the data of the licensees in accordance with the Data Protection Act;
- 3) **THAT**, there is need for counties to adopt a coding system for identification of the different categories of licences issued by respective licensing authorities in county governments; and
- 4) **THAT**, the Bill does not provide consequences for breach of its provisions.

Recommendations by the Committee

From the foregoing observations, the Committee proposes the following key amendments. **THAT**-

1. Clause 6 (a) of the Bill be amended to provide for the protection of the rights of consumers and the manufacturers/producers of goods and services in the respective counties;
2. Clause 24 of the Bill be amended to stipulate the involvement of the Council of Governors in ensuring the harmonization of licensing regimes and fees in counties to avoid multiplicity of licenses by respective counties;
3. The Bill be amended to stipulate that each county posts in an online platform, a list of all licenses issued, their categories and fees paid or owed; and
4. The Bill be amended to stipulate consequences of breaching its provisions with a penalty of 6 months or 1 Million Shillings or both.

Acknowledgement

Mr. Speaker Sir,

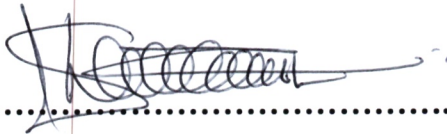
The Committee wishes to acknowledge the time and considerable effort made by the institutions and organizations that prepared and submitted the memoranda to the Committee. I also wish to commend the Members of the committee for their devotion and commitment to duty during the consideration of the Bill.

Further, the Committee is indebted to the Office of the Speaker and the Clerk of the Senate for facilitating all the actions and interactions that led to the production of this report.

Mr. Speaker, Sir

It is now my pleasant duty, pursuant to standing order 148 of the Senate Standing Orders, to present the Report of the Standing Committee on Trade, Industrialization and Tourism on the County Licensing (Uniform Procedures) Bill, 2022 (Senate Bill No. 9 of 2022).

I thank you.



Signed.....

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

Date..... 11th APRIL, 2023

CHAPTER ONE

OVERVIEW OF THE BILL

1.1. Background

1. The purpose of the (Uniform Procedures) Bill, 2022 (Senate Bills No. 9 of 2022) is to provide a national legislative framework for uniform procedures for the licensing of various activities by county governments. This will ensure certainty in the licensing processes in all counties and encourage private sector players to do business in the counties.
2. Paragraphs 2(d), 4(c), 6(a) and 7(b) of Part 2 of the Fourth Schedule to the Constitution assigns the following functions to county governments-
 - a) county health services, including, in particular, licensing and control of undertakings that sell food to the public;
 - b) cultural activities, public entertainment and public amenities, including liquor licensing;
 - c) animal control and welfare, including licensing of dogs; and
 - d) trade development and regulation, including trade licenses (excluding regulation of professions).
3. Apart from the above specific licensing functions, Part 2 of the Fourth Schedule to the Constitution assigns various functions to county governments. Most of these functions require licensing of various activities and sectors by county governments.
4. In operationalizing these various licensing functions, it has become apparent that there are varied procedures in applying for licenses in different counties which have had a negative impact on the ease of doing business in the counties. This Bill therefore aims to establish uniform procedures for licensing in counties to ensure certainty in the process and ultimately encourage private sector investment in all counties.
5. There has also been hue and cry by county licensees of being required to procure licenses in each relevant county for undertaking a single business activity. This has discouraged private sector players from engaging in activities within some counties due to the requirement for multiple licenses, one for each relevant county, when undertaking a single activity across more than one county. This Bill also aims to arrest this issue to

this issue to ensure that private sector players carry out their business activities seamlessly without unnecessary impediment

1.2. Overview of the Bill

Principles and Obligations

6. The Bill mandates its implementers to adhere to, among others, the following -
 - (a) need to protect consumers, ensure public safety and promote environmental protection;
 - (b) access to information on conditions for issuance of licenses and the procedures;
 - (c) cost effectiveness in the licensing process;
 - (d) fairness and transparency in the licensing process;
 - (e) provision of a mechanism for simultaneous application for more than one license;
 - (f) prevention of multiple licensing procedures;
 - (g) ensuring applicants are accorded an opportunity to be heard; and
 - (h) adherence to timelines for the processing of license applications.

7. The Bill further mandates county governments, in establishing and administering a license regime, to -
 - (a) protect the rights of consumers;
 - (b) promote the regulation of developing markets;
 - (c) ensure that the quality of goods and services are of high standard;
 - (d) effectively administer control over activities that are risky i.e. activities that threaten the life or health of people, property or the State, public interest or nature and cultural heritage; and
 - (e) ensure that the licensing fees are not prohibitive and do not hinder the conduct of business.

Licensing Procedures

8. The Bill provides a standard process for application, renewal, variation and transfer of licenses. It further mandates county licensing authorities to design and administer an electronic system for the application, renewal, variation or transfer of licenses. It also makes provision for county licensing authorities to inquire for more information on licenses from applicants.

9. The Bill requires county governments, when enacting legislation and for the effective administration of the licensing processes, to prescribe procedures for a single application process for more than one license. It further mandates county licensing authorities to conduct public participation and undertake a regulatory impact assessment before varying the conditions of a license. It also makes provision for the advertisement of applications that are required by law to be advertised.
10. The Bill makes provision for withdrawal of applications. It imposes an obligation on county licensing authorities to process license applications within the required timelines, and in any case within 28 days. An application will be deemed to have been allowed after the expiry of the set timeline(s). It further makes provision for the issuance of licenses, with or without conditions, and mandates county licensing authorities to notify applicants of their decisions within 7 days of making the decisions.
11. The Bill also makes provision for the starting and expiry dates for licenses. It further makes provision for conditions for licenses and the procedure for their variation and imposes various conditions on all county licensees.
12. The Bill further makes provision for the cancellation of licences and for the application process for the review of decisions of county licensing authorities on licence applications.

Administration of licensing schemes

13. The Bill requires licensees (not being natural persons) to notify the respective county licensing authorities within 14 days of a change in the licensees' name, directorship, shareholding, address or registered particulars. It also mandates county licensing authorities to maintain a licensing register and provides details to be contained in the register. It further provides that the licensing register be accessible for inspection by member of the public.
14. The Bill also makes provision for the payment of fees for licenses. It mandates county governments, guided by the principles set out in the Bill, to formulate a licensing fees policy for the imposition of fees and issuance of licenses by the respective county. It also mandates county licensing authorities to be guided by the following principles in setting out fees for issuance of licenses-
 - (a) setting of fees be done within the scope of the county licensing authority;
 - (b) need to ensure efficiency in the delivery of goods and services;

- (c) accountability;
- (d) public participation;
- (e) avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties;
- (f) cross-subsidization where fees collected for providing a category of goods or services covers the costs incurred in providing goods and services in another category in accordance with existing legislation;
- (g) adherence to existing policy on the charging and collection of fees;
- (h) avoidance of multiple licensing in a specific sector;
- (i) fixing different fees with respect to the different types of licenses;
- (j) waiver of requirement for fees and prescribe conditions for such waivers;
- (k) the taking into account of the costs incurred in administering the licensing scheme; and
- (l) ensuring that the fees set do not adversely affect competition and investment.

15. The Bill makes detailed provision for service of notices required under the Bill and allows county licensing authorities to recover license fees owed as a debt in court. It further empowers the Cabinet Secretary responsible for matters relating to licensing to make regulations specifically to bring to effect the provisions of the Bill once enacted. The Bill finally empowers county assemblies to enact county specific legislation to give further effect to the provisions of the Bill once enacted.

Consequences of the Bill

16. The Bill seeks to establish uniform framework which will form the basis of licensing processes in counties. A uniform framework for licensing will guarantee certainty and predictability for business owners trading within counties and is vital to the ease of doing business in counties. A business environment underpinned by certainty and predictability will boost entrepreneurship, create employment opportunities, reduce the cost of doing business and promote regular and reliable revenue streams for county governments

CHAPTER TWO

PUBLIC PARTICIPATION AND THEMATIC SYNTHESIS OF THE SUBMISSIONS

2.1. Public participation

17. The Committee, pursuant to the provisions of Article 118 of the Constitution and standing order 145 (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 and Standard Newspaper on Tuesday, 28th February, 2023 inviting members of the public to submit written memoranda on the Bill. The advertisement was also posted on the Parliament website.
18. In response to the advertisement and invitations, the committee received written submission from one stakeholder, the Kenya Association of Manufacturers and made determinations as follows:

Obligations of County Government

19. The Kenya Association of Manufacturers proposed an amendment to clause 6 (a) of the Bill to include manufacturers and producers of goods and services among the entities whose right are to be protected by county governments when administering a licence regime. The rationale is that the County governments should also be obligated to protect the rights of manufacturers as manufacturers are the main job creators in counties and their welfare is therefore just as important as that of consumers.
20. **The Committee adopted the Proposal** *to amend clause 6 (a), noting that it is only fair that all parties are protected by county licensing regimes. The Bill should therefore be amended to include producers of goods and services among the entities whose rights are to be protected by county governments when administering a license regime.*
21. The Kenya Association of Manufacturers proposed an amendment to clause 6 (c) of the Bill to delete the term ‘quality of goods produced’. The rationale is that ensuring that goods produced are of high standard is vested in the Kenya Bureau of Standards which has the capacity, resources and know how to effectively undertake the task and

granting county governments the mandate will be a duplication of roles and will add on to the regulatory burden already faced by manufacturers.

22. **The Committee rejected the proposal** to amend clause 6 (c), noting that the provision does not empower Counties to perform functions of the Kenya Bureau of Standards but rather perform their Constitutional functions under paragraph 7 of Part 2 of the Fourth Schedule to the Constitution. The Committee further noted that the provision doesn't disenfranchise manufacturers by adding regulatory burdens as the regulation by counties is already provided for in the Constitution as stated above.

Application of granting amendment, renewal, restoration and replacement of licenses

23. The Kenya Association of Manufacturers proposed an amendment to clause 7(2) of the Bill to reduce the number of years from three to one on compliance by counties to put in place and operationalize the electronic application for licenses. The rationale is that three years is a long time for counties to comply and will go against governments' digitization policy and that storage of information in the database within one year will make it easier to retrieve for renewal and replacement instead of providing the document again.
24. **The Committee rejected the proposal** to amend clause 7(2), noting that the three years stipulated is sufficient time as one year is too short for all counties to adopt an electronic system of processing licenses.
25. The Kenya Association of Manufacturers proposed an amendment to clause 24 of the Bill to insert a new implementation provision on how avoidance of multiplicity will be achieved. The rationale is that the multiple fees and levies across different counties inhibit cross-county trade and increase the cost of doing business in the country and the provision will ensure seamless operationalisation of the principle of avoidance of multiplicity in the issuance of licenses under clause 24(1)(e). The provision will also avoid any confusion or ambiguity in the counties on how the proposed principle will be implemented.
26. **The Committee rejected the proposal** to amend clause 24, noting that the licensing contemplated under the Bill is a County function as provided under Part 2 of the Fourth Schedule to the Constitution. Enacting specific provisions on avoidance of multiplicity for county licenses in National legislation would be infringing on functions that are wholly devolved. Only county governments can enact legislation

with specific provisions on avoidance of multiplicity of licences. *The Committee however proposes that the Bill be amended to stipulate the involvement of the Council of Governors in ensuring the harmonization of licensing regimes and fees in counties to avoid multiplicity of licences by respective counties.*

New clause

27. The Kenya Association of Manufacturers proposed an insertion of a new clause to the Bill to introduce exchange of information by government agencies for ease of issuance of permits. The rationale is to borrow from the ONLY ONCE PRINCIPLE, a concept that aims to ensure that citizens, institutions and companies only have to provide certain standard information to authorities and administrations once. Therefore, by incorporating data protection regulation and the explicit consent of users, public administration is allowed to re-use and exchange data with each other. The principle will boost the plans by the government to digitize all its services by reducing the administrative burden on citizens and businesses.
28. **The Committee rejected the proposal** *for insertion of the new clause, noting that pursuant to Article 6(2) of the Constitution, counties are distinct and interdependent governments. Different county governments cannot therefore be compared to different agencies of the same government. The Committee further noted that the sharing of information by different counties has to ensure the protection of the data of the licensees in accordance with the Data Protection Act. The Committee however proposes that clause 23 of the Bill be amended to stipulate that counties ensure that the license register is posted and accessible online/via the internet.*

CHAPTER THREE:

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.1. COMMITTEE OBSERVATIONS

From the submissions that were made the Committee makes the following observations-

- 1) **THAT**, it is only fair that all parties are protected by county licensing regimes. Clause 6 (a) of the Bill should therefore be amended to include producers of goods and services among the entities whose rights are to be protected by county governments when administering a license regime;
- 2) **THAT**, Clause 6 (c) of the Bill does not empower Counties to perform functions of the Kenya Bureau of Standards but rather perform their Constitutional functions under paragraph 7 of Part 2 of the Fourth Schedule to the Constitution. The provision also doesn't disenfranchise manufacturers by adding regulatory burdens as the regulation by counties is already provided for in the Constitution as stated above;
- 3) **THAT**, three years is sufficient time for all counties to adopt an electronic system of processing licenses as provided for in clause 7(2) of the Bill and that one year as proposed by KAM is too short;
- 4) **THAT**, the licensing contemplated under Clause 24 of the Bill is a function of county governments as provided under paragraph 7 of Part 2 of the Fourth Schedule to the Constitution. Enacting specific provisions on avoidance of multiplicity for county licenses in National legislation would be infringing on functions that are wholly devolved. Only county governments can enact legislation with specific provisions on avoidance of multiplicity of licences. The matter may however be addressed by counties through the Council of County Governors;
- 5) **THAT**, pursuant to Article 6(2) of the Constitution, counties are distinct and interdependent governments. Different county governments cannot therefore be compared to different agencies of the same government. Further, the sharing of information by different counties has to ensure the protection of the data of the licensees in accordance with the Data Protection Act;
- 6) **THAT**, there is need for counties to adopt a coding system for identification and of the different categories of licences issued by respective licensing authorities in county governments; and
- 7) **THAT**, the Bill does not provide consequences for breach of its provisions.

3.2. COMMITTEE RECOMMENDATIONS

From the foregoing observations, the Committee recommends the following amendments- **THAT-**

1. Clause 6 (a) of the Bill be amended to provide for the protection of the rights of consumers and the manufacturers/producers of goods and services in the respective counties;
2. Clause 23 of the Bill be amended to stipulate that counties ensure that the license register is posted and accessible online/via the internet;
3. Clause 24 of the Bill be amended to stipulate the involvement of the Council of Governors in ensuring the harmonization of licensing regimes and fees in counties to avoid multiplicity of licenses by respective counties;
4. Clause 4, 16(3)(a) and 28(2) be amended to mandate counties to formulate and apply a coding system for the all categories of licences issued by the respective county governments;
5. The Bill be amended to stipulate that each county posts in an online platform, a list of all licenses issued, their categories and fess paid or owed; and
6. The Bill be amended to stipulate consequences of breaching its provisions with a penalty of six (6) months or 1 Million Shillings or both.

3.3 COMMITTEE STAGE AMENDMENTS

Following deliberations, the Standing Committee on Trade, Industrialization and Tourism, intends to move the following amendments to the County Licensing (Uniform Procedures) Bill, Senate Bills No. 9 of 2022, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d)—

(e) establishing and implementing a system that designates different codes for the different categories of licences issued by that authority.

CLAUSE 6

THAT clause 6 of the Bill be amended by—

(a) inserting the words “producers, suppliers and service providers” immediately after the words “rights of consumers” appearing in paragraph (a); and

(b) inserting the following new paragraph immediately after paragraph (e)—

(f) ensure that each category of the licences offered by the county government is designated a unique code.

CLAUSE 16

THAT clause 16 of the Bill be amended in sub clause (3) by inserting the following new paragraph immediately after paragraph (a)—

(aa) the code of the category of the licence.

CLAUSE 23

THAT clause 23 of the Bill be amended in sub clause (3) by inserting the following new paragraph immediately after paragraph (b)—

(c) make the register accessible to the public online.

CLAUSE 24

THAT clause 24 of the Bill be amended by inserting the following new sub clause immediately after sub clause (5)—

(6) Pursuant to section 20(1)(a) and (c) of the Intergovernmental Relations Act, the Council of County Governors shall provide a platform for consultation and collaboration by county governments in –

(a) establishing a system to facilitate the effective implementation of this Act; and

(b) establishing and implementing harmonised processes for issuance of licences and imposition of fees where goods are transported across different counties.

CLAUSE 28

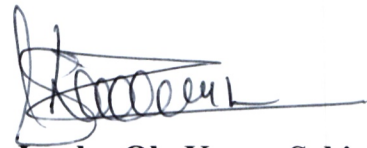
THAT clause 28 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (c)—

(ca) a coding system for all categories of licences issued by the county government.

THAT the Bill be amended by inserting the following new clause immediately after clause 26—

Breach of **26A.** A person who contravenes a provision of this Act commits the Act. an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding six months or to both.

Dated 11th APRIL, 2023....., 2023.



Sen. Lenku Ole Kanar Seki, MP

Chairperson,

Standing Committee on Trade, Industrialization and Tourism.

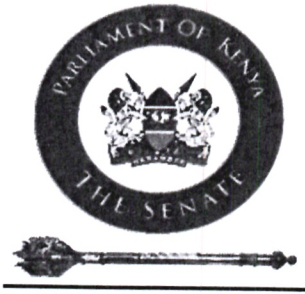
APPENDICES

Appendix 1: Minutes of the sittings of the Committee in considering the Bill

Appendix 2: The County Licensing (Uniform Procedures) Bill, 2022 (Senate Bills No. 9 of 2022)

Appendix 3: Advertisement published in the *Daily Nation* and *Standard* Newspapers on Tuesday, 28th February, 2023

Appendix 4: Copies of submissions



MINUTES OF THE ELEVENTH MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM, HELD ON TUESDAY, 28TH MARCH, 2023, AT KICC CAUCUS 110 AT 8.00 AM

PRESENT

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

ABSENT WITH APOLOGIES

- | | |
|---|---------|
| 1. Sen. Jackson Kiplagat Mandago, EGH. MP | -Member |
| 2. Sen. Hezena M. Lemaletian, MP | -Member |
| 3. Sen. Paul Karungo Thangwa, MP | -Member |

SECRETARIAT

- | | |
|-------------------------|--------------------------|
| 1) Mr. Peter Mulesi | - Clerk Assistant |
| 2) Mr. David Ngamate | - Clerk Assistant |
| 3) Mr. Mitchell Otoro | - Legal Counsel |
| 4) Ms. Annette Kwamboka | - Legal Counsel |
| 5) Ms. Sharon Rotino | - Research Officer |
| 6) Ms. Hamud Mohamud | - Research Officer |
| 7) Mr. William Wambiru | - Fiscal Analyst |
| 8) Ms. Felistus Mutune | -Media Relations Officer |
| 9) Mr. Joseph Otieno | -Audio Officer |
| 10)Mr. Abdalah Mbore | - Sergeant-At-Arms |

MIN/SEN/SCTIT/65/2023

PRELIMINARIES

The Chairperson called the meeting to order at 8:09 am followed by a word of prayer. He welcomed the Members and staff present and asked for a round of introductions.

MIN/SEN/SCTIT/66/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Crystal Kegehi Asige, MP, and seconded by Sen. Esther Okenyuri, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Minutes of the previous Sittings –
 - a) Minutes of the ninth Sitting held on 21st March, 2023 at 8.00 am; and
 - b) Minutes of the tenth Sitting held on 23rd March, 2023 at 8 .00 am;
4. Matters Arising from Minutes;
5. Adoption of Committee Reports on -
 - a) The Startup Bill (Senate Bills No. 14 of 2022); and
 - b) The County Licensing (Uniform Procedure) Bill (Senate Bills No. 9 of 2022).
6. Any Other Business; and
7. Date of the Next Meeting/Adjournment.

MIN/SEN/SCTIT/67/2023

CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

- a) Minutes of the Ninth Sitting held on Tuesday, 21st March, 2023 were confirmed as a true record of the proceedings of the Committee having been proposed by Sen. Andrew Omtatah Okoiti, MP and seconded by Sen. Esther Okenyuri, MP.
- b) Minutes of the Tenth Sitting held on Thursday, 23rd March, 2023 were deferred to the subsequent sitting.

MIN/SEN/SCTIT/68/2023

MATTERS ARISING FROM MINUTES OF THE PREVIOUS MEETINGS

There were no matters that arising from the Minutes of the Ninth Sitting held on Tuesday 21st March, 2023.

MIN/SEN/SCTIT/69/2023

ADOPTION OF COMMITTEE REPORTS

The Committee considered the Reports on the Bills before the Committee as follows

- a) The Report on the Startup Bill,2022 (Senate Bills No. 14 of 2022)
The Report on the Startup Bill, 2022 (Senate Bills No. 14 of 2022) was adopted unanimously having been proposed by Sen. Esther Okenyuri, MP and seconded by Sen. Betty Batuli Montet, MP.

b) The County Licensing (Uniform Procedure) Bill (Senate Bills No. 9 of 2022).
The Report on County Licensing (Uniform Procedure) Bill, 2022 (Senate Bills No. 9 of 2022) was adopted unanimously after having been proposed by Sen. Esther Okenyuri and seconded by Sen. Betty Batuli Montet, MP.

It was resolved that the secretariat processes the adopted Committee Reports for Tabling in the Senate.

MIN/SEN/SCTIT/ 70/2023:

ANY OTHER BUSINESS

- a) The Committee was informed that a response to the statement requested Sen Samson Cherarkey, MP, on the status of Kenyatta International Conference Centre had been received and shared with the Senator. It was resolved that the response be presented at the next meeting.
- b) The Committee was informed that Sen. Samson Cherarkey, MP, had requested for a statement from the Committee on the state of Foreign Direct Investment (FDI) in Kenya. The statement was being processed for a response from the relevant respondents.
- c) The Committee was informed that the Cabinet Secretary, Ministry of Cooperatives and MSMEs had been invited to a meeting of the Committee on Thursday, 30th March, 2023. The agenda of the meeting is to respond to supplementary issues arising from the statement sought by Sen. Agnes Muthama, MP, on the liquidation of Drumvale Farmers' Cooperative Society Ltd in Machakos County.

MIN/SEN/SCTIT/71/2023

- ADJOURNMENT

There being no other business for consideration, the meeting adjourned at 10.40 am. The next meeting was scheduled for Thursday, 30th March, 2023 at 8.00 am at KICC, Caucus 110.

SIGNATURE.....

DATE: 30/3/2023

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





MINUTES OF THE TENTH MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM, HELD ON THURSDAY, 23RD MARCH, 2023, AT KICC CAUCUS 110 AT 8.00 AM

PRESENT

- | | |
|---|--------------------------------|
| 1. Sen. Esther Okenyuri, MP | - Vice –Chairperson (Chairing) |
| 2. Sen. Jackson Kiplagat Mandago, EGH. MP | - Member |
| 3. Sen. Paul Karungo Thangwa, MP | - Member |
| 4. Sen. Andrew Omtatah Okoiti, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|----------------------------------|---------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | - Chairperson |
| 2. Sen. (Dr.) Lelegwe Ltumbesi | - Member |
| 3. Sen. Betty Batuli Montet, MP | - Member |
| 4. Sen. Hezena M. Lemaletian, MP | - Member |
| 5. Sen. Crystal Kegehi Asige, MP | - Member |

IN- ATTENDANCE

- | | |
|-------------------------------------|---------------------------|
| 1. Sen. Alexander Munyi Mundigi, MP | - Friend of the Committee |
|-------------------------------------|---------------------------|

DELEGATION FROM MBEEREMBU MIRAA FARMERS COOPERATIVE UNION

- | | |
|----------------------------------|---------------------------|
| 1. Mr. Jerevasious Nyumba Ekothe | - Chairman |
| 2. Mr. Nelson Kariuki Magara | - Vice-Chairman |
| 3. Mr. Silas N.J Ngerenua | - Secretary General |
| 4. Mr. Ezekiel Njiru | - Treasurer |
| 5. Mr. Benjamin Njeru Joshua | - Chairman, Kuthema Sacco |
| 6. Mr. John Mwaniki Nyaga | - supervisory Member |

SECRETARIAT

- | | |
|-------------------------|--------------------|
| 1. Mr. Peter Mulesi | - Clerk Assistant |
| 2. Mr. Mitchell Otoro | - Legal Counsel |
| 3. Ms. Annette Kwamboka | - Legal Counsel |
| 4. Mr. Eric Ososi | - Research Officer |

- | | |
|------------------------|--------------------------|
| 5. Ms. Hamud Mohamud | - Research Officer |
| 6. Ms. Khadija Jumale | - Protocol Officer |
| 7. Ms. Felistus Mutune | -Media Relations Officer |
| 8. Mr. Joseph Otieno | -Audio Officer |
| 9. Ms. Fariya Ali | - Sergeant-At-Arms |
| 10. Mr. Abdalah Mbore | - Sergeant-At-Arms |

MIN/SEN/SCTIT/59/2023

PRELIMINARIES

The Chairperson called the meeting to order at 8:09 am. This was followed by a word of prayer and thereafter a round of introductions.

The Chairperson welcomed the Members and Secretariat staff present.

MIN/SEN/SCTIT/60/2023

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Andrew Omtatah Okoiti, MP, and seconded by Sen. Paul Karungo Thangwa, MP as follows-

1. Prayer;
2. Adoption of the Agenda;
3. Confirmation of Previous Minutes;
4. Consideration of Draft Reports on-
 - (i) The Start-Up Bill (Senate Bills No. 14 of 2022); and
 - (ii) the County Licensing (Uniform Procedure) Bill (Senate Bills No. 9 of 2022).
5. Consideration of Paper No. 13: Consideration of response to statement sought by Sen. Alexander Munyi Mundigi, MP
6. Any Other Business;
7. Adjournment/Date of the Next Meeting

MIN/SEN/SCTIT/61/2023

CONFIRMATION OF PREVIOUS MINUTES

Confirmation of the Minutes of the ninth Sitting that was held on Tuesday, 21st March, 2023 were deferred.

MIN/SEN/SCTIT/62/2023

CONSIDERATION OF RESPONSE TO STATEMENT SOUGHT BY SEN. ALEXANDER MUNYI MUNDIGI, MP

The Chairperson welcomed Sen. Alexander Mundigi, MP and the delegation from Mbeerembu Miraa Farmers' Cooperative Union in Embu County.

Submissions by Mbeerembu Miraa Farmers Cooperative Union in Embu County

Mr. Jerevasius Nyumba Ekothe thanked the Committee for giving Miraa farmers the opportunity to make their submissions on the statement. He informed the committee as follows -

- a) Muguka is a variety of miraa that is grown in Embu County, predominantly in the lower part of Embu covering Mbeere North and South sub-counties, respectively;
- b) The farmer population is between 128,000- 150,000 and the number is growing every day;
- c) The origin of the Muguka variety in Embu County is Kiang'ombe Hills in Mbeere and has since spread to 21 counties in Kenya; Embu, Nyeri, Kirinyaga, Murang'a, Kiambu, Tharaka Nithi, Meru, Isiolo, Laikipia, Machakos, Kitui, Makueni, Tana River, Kilifi, Taita Taveta, Kajiado, Nakuru, Busia, Kwale Samburu and Nyandarua.
- d) In the year 2010, a number of Muguka Societies came together and formed MBEEREMBU Miraa (Muguka) Farmers' Cooperative Union whose current Chairman is Mr. Jerevasius Nyumbi Ekothe.
- e) The vehicles transporting Muguka from Embu to other destinations on daily basis are as follows-
 - 1) 6 lorries to Mombasa;
 - 2) 464 Proboxes; and
 - 3) 27 Pickups.
- f) The Committee was informed that Muguka farming is a lucrative business and had accrued a number of benefits such as high economic improvement especially in the lower Embu, parents have been able to educate their children; food security; nutrition, family health and revenue for the County.

In spite of the above benefits, levies charged by other counties are as follows-

- a) Mombasa where every lorry is charged Ksh. 60,000 per day for all the 365 days per year
- b) Garissa county charges Ksh.3, 500 per Proboxes per day;
- c) Embu charges Ksh. 300 per Proboxes per day;
- d) Nairobi charges Ksh. 400 per Proboxes per day

The Chairperson requested the Committee to intervene on the following-

- a) the levies could be lowered to Ksh. 10,000 per lorry and Ksh, 2,000 per Pick-up respectively in Mombasa; and Ksh. 200 per Pick-up in Nairobi;
- b) Explore international markets from regions in Europe, Asia and Africa;
- c) Provide pesticides and water to the farmers; and
- d) Provide designated places for vendors of miraa farmers to enhance hygiene.

Deliberations by the Committee

- 1) The Committee sought a number of clarifications on the Muguka variety and its biggest markets to which they were informed Mombasa, Nairobi and Garissa were the biggest markets;

- 2) The products for value addition to which the Committee was informed that initially the Cooperative had begun producing yoghurt, chewing gums and nutrition drinks.
- 3) The speed of the vehicles transporting Muguka cargo in view of the safety of the motorists and if the farmers could invest in aircrafts and further if the county government could develop an airstrip in Embu County ;
- 4) Investments in refrigerated trucks.

Resolutions by the Committee

From the deliberations, the committee made the following resolutions-

- 1) To undertake an inspection visit to Mbeere North and South in Embu County to engage with the affected farmers;
- 2) To organize stakeholder engagement involving County Executive Committee Members (CECMs) for Trade and Finance from Mombasa, Nairobi, Garissa, Embu and other Counties to deliberate on the levies charged on Muguka;
- 3) To encourage farmers to submit a petition to Parliament with prayers for the National Government to secure external markets for Muguka.

MIN/SEN/SCTIT/ 63/2023:

**CONSIDERATION OF PAPER NO. 11:
SUBMISSIONS ON PUBLIC
PARTICIPATION ON BILLS BEFORE
THE COMMITTEE**

The secretariat reported that the draft Reports had been finalized for consideration and adoption by the Committee. However, the reports could not be adopted due to lack of quorum.

Resolution by the Committee

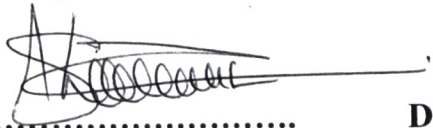
It was resolved that the reports be scheduled for adoption during the subsequent meeting on Tuesday, 28th March, 2023.

MIN/SEN/SCTIT/64/2023

- ADJOURNMENT

There being no other business for consideration, the meeting adjourned at 10.40 am. The date of the next meeting was scheduled for Tuesday, 28th March, 2023 at 8.00 am at KICC, Caucus 110.

SIGNATURE.....



DATE:

30/3/2023

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



MINUTES OF THE NINTH MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM, HELD ON THURSDAY, 21ST MARCH, 2023, AT KICC CAUCUS 110 AT 8.00 AM

PRESENT

- | | |
|---|---------------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | -Chairperson |
| 2. Sen. Esther Okenyuri, MP | - Vice -Chairperson |
| 3. Sen. Jackson Kiplagat Mandago, EGH. MP | -Member |
| 4. Sen. Andrew Omtatah Okoiti, MP | - Member |
| 5. Sen. Crystal Kegehi Asige, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|----------------------------------|----------|
| 1. Sen. (Dr.) Lelegwe Ltumbesi | - Member |
| 2. Sen. Paul Karungo Thangwa, MP | - Member |
| 3. Sen. Betty Batuli Montet, MP | - Member |
| 4. Sen. Hezena M. Lemaletian, MP | - Member |

SECRETARIAT

- | | |
|-------------------------|--------------------------|
| 1) Mr. Peter Mulesi | - Clerk Assistant |
| 2) Mr. Mitchell Otoro | - Legal Counsel |
| 3) Ms. Annette Kwamboka | - Legal Counsel |
| 4) Ms. Khadija Jumale | - Protocol Officer |
| 5) Ms. Felistus Mutune | -Media Relations Officer |
| 6) Mr. Joseph Otieno | -Audio Officer |
| 7) Ms. Fariya Ali | - Sergeant-At-Arms |
| 8) Mr. Abdallah Mbore | - Sergeant-At-Arms |

MIN/SEN/SCTIT/54/2023:

PRELIMINARIES

The Chairperson called the meeting to order at 8:09 am. This was followed by a word of prayer and thereafter a round of introductions.

The Chairperson welcomed the Members and Secretariat staff present.

MIN/SEN/SCTIT/55/2023:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Crystal Kegehi Asige, MP, and seconded by Sen. Jackson Kiplagat Mandago, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Confirmation of Previous Minutes
4. Consideration of Paper No. 11 (b): Resumption of Submissions on the Public Participation on-
 - i) The Start-Up Bill (Senate Bills No. 14 of 2022); and
 - ii) The County Licensing (Uniform Procedure) Bill (Senate Bills No. 9 of 2022)
5. Date of the Next Meeting
6. Adjournment.

MIN/SEN/SCTIT/56/2023

CONFIRMATION OF PREVIOUS MINUTES

Minutes of the Eighth Sitting that was held on Thursday, 16th March, 2023 were adopted after having been proposed by Sen Jackson Kiplagat Mandago, MP and seconded by Sen. Esther Okenyuri, MP.

Matters arising out of the Minutes

On Ex. Min /SEN/SCTIT/ 51/2023 on the submissions to a statement on the liquidation of Drumvale Farmers's Cooperative Society Ltd

- i) The committee had resolved to invite both the current and immediate former Commissioners of Cooperatives. This was noted for inclusion in the invitation letters.
- ii) The name of the Cooperative was misspelled as Dumvale. This was noted for correction

MIN/SEN/SCTIT/ 57/2023:

**CONSIDERATION OF PAPER NO. 11:
SUBMISSIONS ON THE PUBLIC
PARTICIPATION ON BILLS BEFORE
THE COMMITTEE-**

The Chairperson invited the secretariat to the presentation on committee Paper No. 11 on public participation on Bills before the Committee. Members were informed that the Start-Up Bill, 2022 had been considered halfway, the secretariat were to present brief observations on the 2 Bills.

The legal Counsels took the Committee through the observations and findings as had been captured by the secretariat-

1) Consideration of the Start-Up Bill (Senate Bills No.14 of 2022)

Observations by the Committee

From the submissions that considered, the Committee made the following observations-

- (i) **THAT**; the time frame for qualification as a start-up as provided for under Clause 8 (1) (b) is too narrow and constraining as entities that have formally existed for more than three years are no longer eligible to register as start-ups or get into incubation programs. In reality, start-ups may take longer to set up their businesses, obtain needed registrations and licenses and set up effective corporate governance structures. It is therefore reasonable to extend the threshold for registration under the Bill for a period between five to eight years.
- (ii) **THAT**, the limitation of registration to entities wholly owned by Kenyan citizens as provided in Clause 8 (1) (g) is a deterrent to foreign investors with potentially valuable fiscal and non-fiscal contributions to Kenyan startups. The committee further noted that this might discourage foreign direct investment as well as technology transfer in cutting edge sciences.
- (iii) **THAT** the requirement provided in Clause 8(1)(i) may result in the exclusion of entities as most start-ups do not have enough capital to fulfil this condition.
- (iv) **THAT**; Clause 9 (2)(b)(i) sets out that an applicant for admission into an incubation programme shall submit the application together with a letter of recommendation or support which may include a patent or trademark registered in Kenya. The provision is not mandatory and there is therefore no justification for deleting it.
- (v) **THAT**; there is ambiguity in Clause 13(1)(d) of the Bill as to what actions are incompatible with or prejudicial to public interest could engender interference with creative interests and create bias thereby stifling the startups.
- (vi) **THAT**; what is being proposed for amendment in clause 14 (2) can be specified under subsidiary legislation within a year from the date of enactment of the Bill.
- (vii) **THAT**; Clause 27(a) that gives the specification of subsidies and the provision of shorter set up timelines will be beneficial for startups.
- (viii) **THAT**; that Clause 32 that provides for the growth objectives will be best addressed through subsidiary legislation.
- (ix) **THAT**; the Act has set adequate provisions on incentives under section 27; The Public Procurement Act has provided for enabling provisions in respect to procurement by youth, persons with disabilities etc; and stipends have been covered under incentives under section 27. These could be provided for under subsidiary legislation

- (x) **THAT**; clause 27(a) gives the specification of subsidies and the provision of shorter set up timelines will be beneficial for startups.

Recommendations by the Committee

From the above observations, the Committee proposed the following amendments- **THAT**;

- 1) Clause 8 (1) (b) of the Bill be amended to provide that an entity shall be in existence for a maximum period of five years from the date of its incorporation to be eligible for registration as a start-up.
- 2) Clause 8(1)(g) of the Bill be amended to provide that entities seeking registration must have ninety percent (90%) of the company's shares owned by one or more citizens of Kenya.
- 3) That the proposal for deletion of Clause 8(1)(i) be carried
- 4) That clause 13(1)(d) of the Bill be amended to provide that the registrar of startups or the County Executive Committee may reject an application for the admission into an incubation programme if the objects of the entity are likely to contravene the provisions of any written law for the time being effective in the Republic of Kenya.
- 5) That; that clause 27(a) of the Bill to be amended to provide that the Cabinet Secretaries for ICT and Treasury will subsidize the formalization of startups; and
- 6) While the stakeholders proposed for the Bill to be amended under clause 22, the committee resolves that the Bill instead be amended under section 26 as it's the rightful function of incubation programs to provide for online and remote services to startups.

Resolutions by the Committee

Further, the Committee observed there were other additional submissions that had been received from the University of Nairobi Women Economic Empowerment Hub.

It was resolved that consider all the amendments and including those from the additional submissions and consolidates them into the Report to be presented for consideration and adoption.

- 2) Consideration of the County Licensing (Uniform Procedure) (Senate Bills No. 9 of 2022)

Observations by the Committee

From the submissions that were received, the Committee made the following observations-

- (i) **THAT**; it is only fair that all parties are protected by county licensing regimes. The Clause 6 (a), of the Bill should be amended to include producers of goods and services among the entities whose rights are to be protected by county governments when administering a license regime.

- (ii) **THAT;** the provision of clause 6 (c) does not empower Counties to perform functions of the Kenya Bureau of Standards but rather perform their Constitutional functions under paragraph 7 of Part 2 of the Fourth Schedule to the Constitution. The provision also doesn't disenfranchise manufacturers by adding regulatory burdens as the regulation by counties is already provided for in the Constitution as stated above.
- (iii) **THAT;** the three years is sufficient time as provided for in clause 7(2) because one year is too short for all counties to adopt an electronic system of processing licenses.
- (iv) **THAT;** the licensing Contemplated under Clause 24 in the Bill is a County function as provided under Part 2 of the Fourth Schedule to the Constitution. Enacting specific provisions on avoidance of multiplicity for county licenses in National legislation would be infringing on functions that are wholly devolved. Only county governments can enact legislation with specific provisions on avoidance of multiplicity of licences. The Bill could however amended to ensure the involvement of the Council of Governors in ensuring the harmonization of licensing regimes and fees in counties to avoid multiplicity of licences by respective counties.
- (v) **THAT;** further, the sharing of information by different counties has to ensure the protection of the data of the licensees in accordance with the Data Protection Act. Clause 23 of the Bill be amended to stipulate that counties ensure that the license register is posted and accessible online/via the internet; and
- (vi) **THAT;** Article 6(2) of the Constitution, counties are distinct and interdependent governments. Different county governments cannot therefore be compared to different agencies of the same government.

Recommendations by the Committee

From the foregoing observations, the Committee proposed the following amendments-
THAT-

- 1) Clause 6 (a) be amended to provide for the protection of the rights of consumers and the manufacturers/producers of goods and services in the respective counties;
- 2) Clause 24 of the Bill be amended to ensure the involvement of the Council of Governor in ensuring the harmonization of licensing regimes and fees in counties to avoid multiplicity of licenses by respective counties;
- 3) Clause 23 of the Bill be amended to stipulate that counties ensure that the license register is posted and accessible online/via the internet;
- 4) Clause 4, 16(3)(a), 23(2) and 28(2) be amended to mandate counties to formulate and apply a coding system for the all categories of licences issued in the respective county governments; and
- 5) The Bill be further amended to stipulate that each county posts in an online platform a list of all licenses issued, their categories and fess paid or owed.

Resolution by the Committee

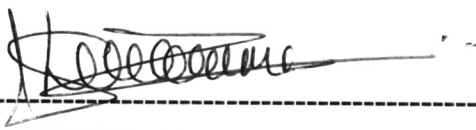
The Committee observed that all the submissions from the stakeholders had been considered and resolved that the secretariat finalize the Report for adoption by the Committee during the subsequent sitting.

MIN/SEN/SCTIT/58/2023

- ADJOURNMENT

There being no other business for consideration, the meeting adjourned at 09.43 am. The date of the next meeting was scheduled for Thursday, 23rd March, 2023 at 8.00 am at KICC, Caucus 110.

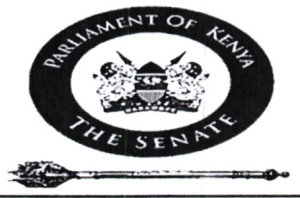
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(CHAIRPERSON: SEN. LENKU OLE KANAR SEKI, MP)

DATE:

28/3/2023



MINUTES OF THE SIXTH MEETING OF THE SENATE STANDING COMMITTEE ON TRADE, INDUSTRIALIZATION AND TOURISM, HELD ON THURSDAY, 23RD FEBRUARY, 2023, AT 11.00 AM COMMITTEE ROOM 4, MAIN PARLIAMENT.

PRESENT

- | | |
|---|--------------------------------|
| 1. Sen. Esther Okenyuri, MP | - Vice –Chairperson (Chairing) |
| 2. Sen. Jackson Kiplagat Mandago, EGH. MP | -Member |
| 3. Sen. Paul Karungo Thangwa, MP | - Member |
| 4. Sen. Andrew Omtatah Okoiti, MP | - Member |

ABSENT WITH APOLOGIES

- | | |
|----------------------------------|--------------|
| 1. Sen. Lenku Ole Kanar Seki, MP | -Chairperson |
| 2. Sen. (Dr.) Lelegwe Ltumbesi | - Member |
| 3. Sen. Crystal Kegehi Asige, MP | - Member |
| 4. Sen. Betty Batuli Montet, MP | - Member |
| 5. Sen. Hezena M. Lemaletian, MP | - Member |

SECRETARIAT

- | | |
|-------------------------|--------------------------|
| 1) Mr. Peter Mulesi | - Clerk Assistant |
| 2) Mr. Mitchell Otoro | -Legal Counsel |
| 3) Ms. Annette Kwamboka | - Legal Counsel |
| 4) Mr. Eric Ososi | - Research Officer |
| 5) Mr. William Wambiri | - Fiscal Analyst |
| 6) Ms. Khadija Jumale | - Protocol Officer |
| 7) Ms. Felistus Mutune | -Media Relations Officer |
| 8) Mr. Joseph Otieno | -Audio Officer |
| 9) Mr. Alex Mutuku | -Snr. Sergeant-At- Arms |

MIN/SEN/SCTIT/34/2023:

PRELIMINARIES

The Chairperson, Sen. Esther Okenyuri, MP, called the meeting to order at 11:29am. This was followed by a word of prayer and thereafter a round of introductions.

The Chairperson welcomed Members present and called for introduction.

MIN/SEN/SCTIT/35/2023:

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Jackson Kiplagat Mandago, EGH. MP, and seconded by Sen. Karungo Thangwa, MP as follows-

1. Prayer;

2. Adoption of the Agenda;
3. Confirmation of Previous Minutes
4. Consideration of Committee Paper No. 8: A Report on the Induction Retreat for the Committee.
5. Consideration of Committee Paper No. 9-
 - a) Legal brief on the Start- Up Bill (Senate Bills No. 14 of 2022) ;and
 - b) Legal brief on the County Licensing (Uniform Procedure) Bill, (Senate Bills No. 9 of 2022)
6. Date of the Next Meeting and Adjournment.

MIN/SEN/SCTIT/036/2023:

CONFIRMATION OF PREVIOUS MINUTES

- (i) The minutes of the fourth sitting of the Committee that was held on Thursday, 24th November, 2022 were deferred to the next meeting as there was no seconder.
- (ii) The minutes of the fifth sitting of the Committee that was held on Thursday, 23rd February, 2023 were confirmed as a true record of the deliberations after having been proposed by Sen. Karungo Thangwa, MP and seconded by Sen. Jackson Kiplagat Mandago, MP.

There were no matters arising.

MIN/SEN/SCTIT/037/2023:

CONSIDERATION OF COMMITTEE PAPER NO. 8: A REPORT ON THE INDUCTION RETREAT FOR THE COMMITTEE

The Paper No. 8 was deferred to the next meeting to allow the committee to consider the Bills before the Committee.

MIN/SEN/SCTIT/038/2023:

CONSIDERATION OF COMMITTEE PAPER NO. 8: THE LEGAL BRIEFS ON BILLS BEFORE THE COMMITTEE

- A) Legal brief on the County Licensing (Uniform Procedure) Bill, (Senate Bills No. 9 of 2022)

The Chairperson invited the secretariat to make a presentation on the legal brief on the County Licensing (Uniform Procedure) Bill, (Senate Bills No. 9 of 2022). Mr. Mitchell Otoro, legal Counsel informed the Committee as follows- **That;**

- i. The County Licensing (Uniform Procedure) Bill, (Senate Bills No. 9 of 2022 Bill is an ordinary Members' Bill, sponsored by Sen. Mariam Omar, MP. The Bill was published on 29th November, 2022 and Read a first time on 16th February, 2023. It was thereafter referred to the Standing Committee on Tourism, Trade and Industrialization for consideration;

- ii. The purpose of the Bill is to provide a national legislative framework for uniform procedures for the licensing of various activities by county governments. This will ensure certainty in the licensing processes in all counties and encourage private sector players to do business in the counties;
- iii. The Bill seeks to establish uniform framework which will form the basis of licensing processes in counties. A uniform framework for licensing will guarantee certainty and predictability for business owners trading within counties and is vital to the ease of doing business in counties;
- iv. The legislative mandate regarding the objectives of the Bill is drawn from the Fourth Schedule (Part 2) Paragraphs 2(d), 4(c), 6(a) and 7(b) of the Constitution that sets out trade development as a devolved function of County Governments.
- v. In operationalizing these various licensing functions, it has become apparent that there are varied procedures in applying for licenses in different counties which have had a negative impact on the ease of doing business in the counties.
- vi. This Bill therefore aims to establish uniform procedures for licensing in counties to ensure certainty in the process and ultimately encourage private sector investment in all counties.
- vii. The lack of uniform licensing procedures has discouraged private sector players from engaging in activities within some counties due to the requirement for multiple licences, one for each relevant county, when undertaking a single activity across more than one county.
- viii. The Bill also aims to arrest this issue to ensure that private sector players carry out their business activities seamlessly without unnecessary impediments.
- ix. The Committee was taken through the overview of the Bill with respect to the following
 - a) mandates County Governments;
 - b) the Licensing Procedures, the Role of County Governments,
 - c) administration of licensing schemes; and
 - d) the Role of the Cabinet Secretary

x. On the status of the Bill, the Committee was informed that pursuant to standing order 145 (1) and (5) of the Senate Standing Orders, the Bill was undergoing public participation in order to take into account the views and recommendations of the public when the Committee submits its report to the Senate.

Reactions by the Committee

Members sought clarifications on a number of Clauses of the Bill as follows-

Reasons why the Bill was not concluded in the 12th Parliament and if there were any challenges that could affect the processing of the Bill;

Harmonization or setting of uniform standards for licensing in the various counties;

It was recommended that the Bill was timely in as far as it provides a uniformity dashboard on county licensing;

The revenue raising measures by counties and if the targets by various counties would impede the operationalization of the Act;

B) Legal brief on the Start- Up Bill (Senate Bills No. 14 of 2022)

The Chairperson invited the secretariat to make a presentation on the legal brief on the County Licensing (Uniform Procedure) Bill, (Senate Bills No. 9 of 2022). Ms. Annete Kwamboka, legal Counsel informed the Committee as follows- **That;**

- 1) The Start-Up Bill, (Senate Bills No. 14 of 2022 Bill is an ordinary Members' Bill, sponsored by Sen. Crystall Asige, MP. The Bill was published on 30th December, 2022 and Read a first time on 14th February, 2023. It was thereafter referred to the Standing Committee on Tourism, Trade and Industrialization for consideration;
- 2) the Bill was drafted to provide a legislative framework to among others- foster a culture of innovative thinking and entrepreneurship, to facilitate investments in and the provision of fiscal and non-fiscal support to start-ups in Kenya, promote an enabling environment for the establishment, development, conduct of business and regulation of start-ups and for the establishment of incubation facilities at the National and county levels of government and environment that promotes the establishment of start-ups;
- 3) **Part II** of the Bill provides for the establishment of incubation programmes for purposes of setting up and maintaining enabling conditions for the purpose of facilitating the growth or development of infant technologies ideas or industries;
- 4) **Part III** of the Bill provides that the Agency shall be responsible for the registration of start-ups and, in consultation with the Public Service Commission, appoint a Registrar of start-ups. The Bill further provides for the appointment of a Deputy Registrar and the deployment of county registrars in counties as is necessary for the performance of the functions of the registrar;
- 5) **Part IV** of the Bill provides a framework for admission into incubation programmes, certification of incubators and outlines the obligation of incubators. In particular, an entity may be certified as an incubator if it's a registered entity with objectives of supporting the establishment of start-ups and has the facilities, equipment, human resource, networks and experience to achieve these objectives;
- 6) **Part V** of the Bill sets out that the Agency and the respective county executive committee members shall put in place measures to incentivise start-ups such as facilitating the protection of Intellectual Property and providing fiscal and non-fiscal support. The Bill also seeks to establish a Credit Guarantee Scheme for the provision of accessible financial support, credit information and capacity building on financial and risk management to start ups;
- 7) Miscellaneous provisions- The Bill confers on the Cabinet Secretary, the power to make regulations on the exemption of start-ups from registration fees, protection of intellectual property rights, relationship between founders and employees and reporting and accountability of start-ups.

The Bill further amends the Science and Technology Act to provide for financial support of technological innovations, representation of start-ups in the National Research Fund and allocation of monies to provide financial support to technological innovations

8) Status of the Bill

The Committee was informed that pursuant to standing order 145 (1) and (5) of the Senate Standing Orders, the Bill was undergoing public participation in order to take into account the views and recommendations of the public when the Committee submits its report to the Senate.

Reactions and Resolution of the Committee

- 1) Members sought clarifications on a number of Clauses of the Bill specifically-
- 2) Noting that the Bill was tech-based, what was the role of the Ministry of ICT in the processing of the Bill;
- 3) Whether the roles assigned to the CECM could be realized in the context of County Executive headed by the Governor;
- 4) There was no clear understanding of what a start-up was and if it was just any business idea;
- 5) The clear role of the Kenya Innovation agency in the Bill; and
- 6) Why the Bill was not concluded in the 12th Parliament.

It was recommended that the Bill proceeds for public participation.

MIN/SEN/SCTIT/039/2023: ANY OTHER BUSINESS

The following draft Reports were due for consideration by the Committee-

- (i) The Committee's participation to the 22nd EAC Trade Fair, 2022 held in Kampala, Uganda;
- (ii) The Committee's participation to the Committee's participation to the Integrated Agro- Processing Industrial Parks study in Ethiopia, in February, 2023; and
- (iii) Committee's Induction Retreat held from 5th to 8th February, 2023 in Mombasa County.

It was resolved that the draft reports be included in the subsequent agenda for the Committee

MIN/SEN/SCTIT/040/2023: ADJOURNMENT

There being no other business for consideration, the meeting adjourned at 12.58 pm. The date of the next meeting was scheduled for Thursday, 9th March, 2023 at 11.00 am at a venue to be communicated.

SIGNATURE:

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

DATE:

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9th March/2023





KAM/10/14/rl /mb/jw/AM/2023

14th March 2023

Mr. Jeremiah M. Nyegenye
The Clerk, Senate
Parliament of Kenya, Parliament Buildings
P.O Box 41842 - 00100
NAIROBI



Dear Sir,

RE: SUBMISSION OF KAM MEMORANDUM ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

The Kenya Association of Manufacturers (KAM) presents its compliments and appreciates the continued support.

Following the call for views on the **County Licensing (Uniform Procedures) Bill, 2022**, we wish to submit our Memorandum.

The purpose of this letter is to therefore submit the Kenya Association of Manufacturers' Memorandum on the County Licensing (Uniform Procedures) Bill, 2022.

Feedback may be communicated to us via our physical address and advance feedback email to ceo@kam.co.ke on mobile +254 721 303335/+254 723 443363.

Your early feedback will be appreciated.

Yours Sincerely,

Anthony Mwangi
CHIEF EXECUTIVE

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THE SENATE
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MEMORANDUM ON THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

Submitted to

**JEREMIAH M. NYEGENYE, CBS
THE CLERK,
SENATE, PARLIAMENT BUILDINGS, NAIROBI**

Presented By

**ANTHONY MWANGI, CHIEF EXECUTIVE,
KENYA ASSOCIATION OF MANUFACTURERS**

MARCH 2023 – NAIROBI, KENYA

1.0 INTRODUCTION

Kenya Association of Manufacturers (KAM) is the leading business membership organization in East Africa that plays a key advocacy role on behalf of manufacturers in Kenya and in the region through her strong linkages with all sectors of the economy. KAM has over 950 members and represents over 40% of Kenya's manufacturing value add industries.

KAM represented Kenya's manufacturing sector interests in the East Africa Trade integration process through the design, ratification and implementation of the Customs Union, and the Common Market Protocol. The integration process in East Africa has been successful with Kenya Playing a critical role. The EAC region integration is expected to spur the manufacturing sector enhancing intra-EAC trade in value added products and thus grow the economies of the region.

KAM has a membership of manufacturers across thirteen manufacturing sectors and Service ranging from **Food and Beverage, Pharmaceutical; Automotive; Chemical and Allied; Metal and Allied; Paper and Paperboard; Leather and Apparel; Textile and Apparel; Plastics and Rubber; Timber, Wood and Furniture; Electric and Electronic; Building, Mining and Construction; Agro-Processing.**

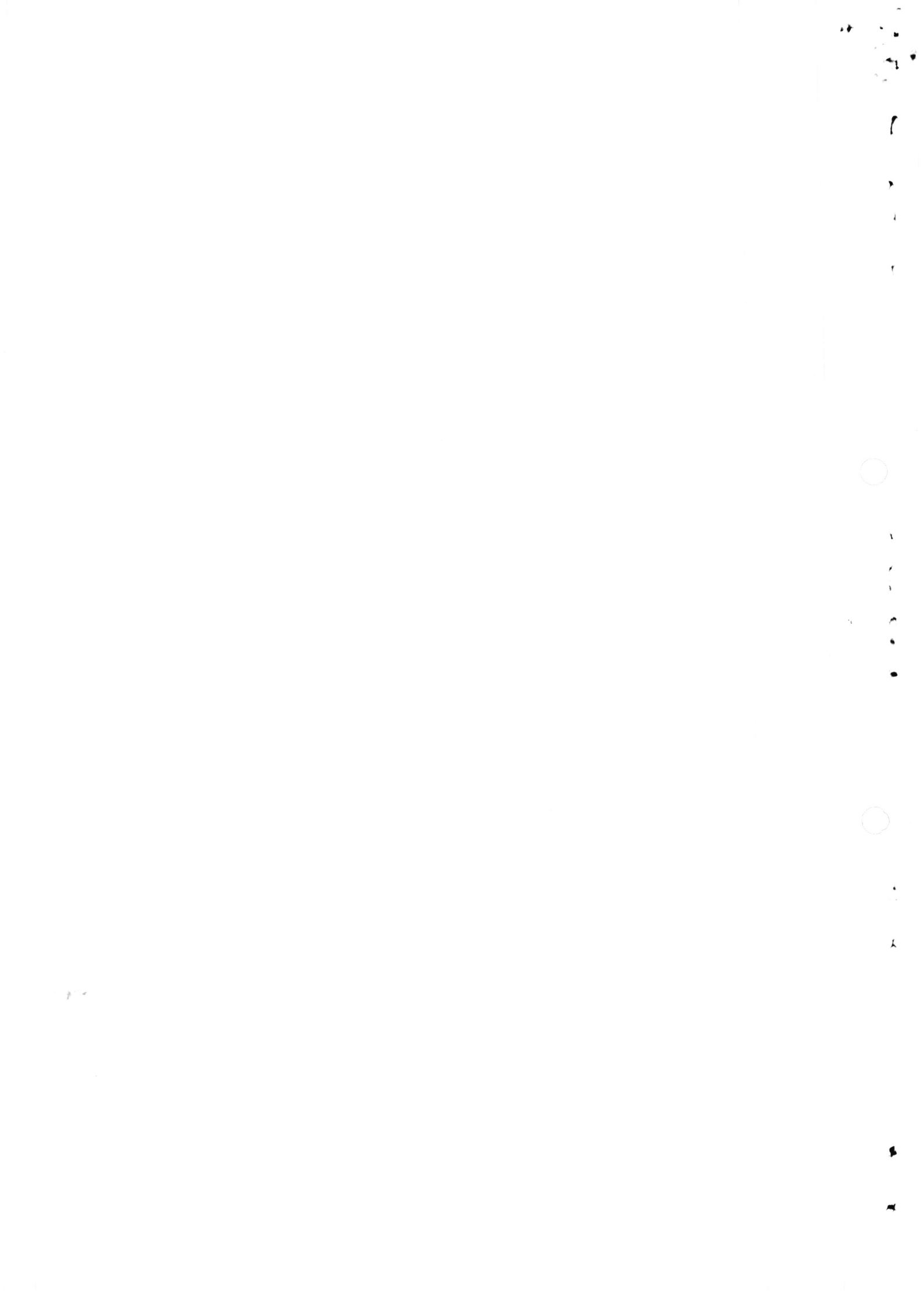
2.0 PROPOSED AMENDMENTS TO THE COUNTY LICENSING (UNIFORM PROCEDURES) BILL, 2022

In response to the call for public participation on the afore-referenced Bill, we propose the following amendments to be considered before the draft Bill is enacted:

	CLAUSE	PROPOSAL	JUSTIFICATION
1.	<p>Clause 6</p> <p>Obligations of County Governments</p> <p>a) Protect the rights of consumers in the respective counties.</p>	<p>We propose to amend paragraph (a) of this clause to read as follows:</p> <p>(a) Protect the rights of consumers and the manufacturers/ producers of goods and services in the respective counties.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> • The county governments should also be obligated to protect the rights of the manufacturers/producers. • The manufacturers/producers are the main job creators in the counties. Their welfare is therefore just as important as that of the consumers.
2.	<p>Clause 6</p> <p>Obligations of County Governments</p> <p>c) Ensure that the quality of goods produced, and services delivered are of high standards</p>	<p>We propose to amend this clause by deleting the phrase “quality of goods produced” in paragraph (c) to read as follows:</p> <p>c) Ensure that the services delivered are of high standards.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> • The mandate to ensure that goods produced are of a high standard is vested in the Kenya Bureau of Standards (KEBS). • KEBS has the capacity, resources and know how to effectively undertake this task. • Granting county governments this mandate will be a duplication of roles and will add on to the regulatory burden already faced by manufacturers.
3.	<p>Clause 7 (2)</p> <p>A licensing authority shall, within three years of the commencement of this Act, put in place mechanisms to enable</p>	<p>We propose to amend this clause to reduce the time for compliance from three years to one year.</p>	<p>This proposal is made based on the following justifications:</p> <ul style="list-style-type: none"> • Three years is a long time for counties to comply with this requirement.

	<p>the electronic application for grant, renewal, transfer or replacement of a licence or a variation of a condition for the issuance of a licence.</p>		<ul style="list-style-type: none"> • With the government's push for digitizing all its services, the provision for three years will go against the government policy. • Further, storage of information in the database within one year will make it easier to retrieve for renewal and replacement instead of providing the documentation again.
4.	<p>Clause 24</p> <p>Licensing fees</p> <p>e) Avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties.</p>	<p>We propose to amend this clause to add an implementation clause on how avoidance of multiplicity will be achieved.</p>	<p>We make this proposal based on the following justifications:</p> <ul style="list-style-type: none"> • The guiding principles as enumerated in clause 24 are welcome and overdue. • Avoidance of multiplicity in the issuance of licenses and multiple imposition of fees where goods are transported across different counties is particularly welcome. • Multiple fees and levies across different counties inhibit cross-county trade and increase the cost of doing business in the country. • We propose to add on this to include a clause on how this directive will be implemented to ensure seamless operationalization.

			<ul style="list-style-type: none"> This will avoid any confusion or ambiguity in the counties on how the proposed principle will be implemented.
	Additional Clause	Include a clause introducing Exchange of information by government agencies for ease of issuance of permits.	<p>As a comparator, there is a concept developed by other jurisdictions known as “only once principle.”</p> <p>The once-only principle is an e-government concept that aims to ensure that citizens, institutions, and companies only have to provide certain standard information to the authorities and administrations once. By incorporating data protection regulations and the explicit consent of the users, the public administration is allowed to re-use and exchange the data with each other. This principle will boost the plans by the government to digitize all its services by reducing the administrative burden on citizens and businesses</p>



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PROPERTY FOR SALE

VACANT LAND IN DIANI - L.R NO. KWALE/DIANI/182
DIANI AREA, KWALE COUNTY



The property is located 1.3 Kilometers off Diani Beach Road.

- Approximately 5.19 acres.
- Held on freehold interest.
- Ideal for residential/commercial development.
- Viewing strictly by appointment.

For more information or to make viewing arrangements,
text "DIANI" to 21938

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REPUBLIC OF KENYA



THIRTEENTH PARLIAMENT THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At a sitting of the Senate held on Thursday, 16th February, 2023 the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to their 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 Standing Committees now invite interested members of the public to submit any representations that they may have on the Bills.

The representations may be made by way of submission of written memoranda on email to the Clerk of the Senate on the address: 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 Tuesday 14th March, 2023.**

Bill	Committee Referred To	Email
a) The Prompt Payment Bill, 2022 (Senate Bills No. 8 of 2022)	Standing Committee on Finance and Budget	financebudgetcomm.senate@parliament.go.ke
b) The County Licensing (Uniform Procedure) Bill, 2022 (Senate Bills No. 9 of 2022)	Standing Committee on Trade, Industrialization and Tourism	tradeindtourism.senate@parliament.go.ke
c) The Employment (Amendment) Bill, 2022 (Senate Bills No. 11 of 2022)	Standing Committee on Labour and Social Welfare	laboursocialwelfarecomm.senate@parliament.go.ke

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

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

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