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THE SENATE

THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES

REPORT ON THE CONSIDERATION OF THE COTTON INDUSTRY
DEVELOPMENT BILL,

(SENATE BILLS No. 55 of 2021)

PAPERS LAID	
DATE	6/4/2022
TABLED BY	Sen. Fatuma Sullo
COMMITTEE	Agriculture, Livestock & Fisheries
CLERK AT THE TABLE	A. Madhania

Clerk's Chambers
Parliament Buildings,
NAIROBI

MARCH, 2022

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EXECUTIVE SUMMARY

The Cotton Industry Development Bill, (Senate Bills No. 55 of 2021) was read a First Time in the Senate on Tuesday, 21st December, 2021 and thereafter stood committed to the Senate Standing Committee on Agriculture, Livestock and Fisheries.


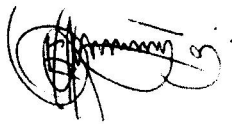

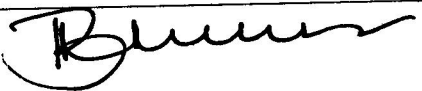

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Senate Standing Committee on Agriculture, Livestock and Fisheries invited interested members of the public to submit their views on the Bill through advertisements in The Standard and The Daily Nation newspapers on 21st January, 2021. The Committee received written submissions from various stakeholders.

At its 160th Sitting held on 7th March, 2022, the Committee considered the submissions on the Bill. The Committee thereafter, considered the proposed amendments at its 167th Sitting held on 29th March, 2022.

Chapter One of this report contains an overview of the Bill setting out the salient provisions contained in it. Chapter Two of the report documents all the submissions received from the various stakeholders. Chapter Three contains the Committee observations and finally, Chapter Four contains the Committee Recommendations.

**REPORT ON THE CONSIDERATION OF THE COTTON INDUSTRY
DEVELOPMENT BILL, (SENATE BILLS NO. 55 OF 2021)**

MEMBERS' ADOPTION LIST

MEMBERS' ADOPTION LIST		
1.	Sen. Njeru Ndwiga, EGH, MP Chairperson	
2.	Sen. Enoch Wambua, MP Vice-Chairperson	
3.	Sen. (Canon) Naomi Waqo, MP	
4.	Sen. Kipchumba Murkomen, EGH, MP	
5.	Sen. (Dr.) Michael Mbito, MP	
6.	Sen. Issa Juma Boy, MP	
7.	Sen. Justice (Rtd.) Stewart Madzayo, MP	
8.	Sen. (Eng.) Ephraim Maina, EBS, MP	

PREFACE

Mr. Speaker Sir,

Establishment of the Committee

The Senate Standing Committee on Agriculture, Livestock and Fisheries was constituted on Wednesday, 24th June, 2020 during the Fourth Session of the Twelfth (12th) Parliament pursuant to the provisions of standing order 187 (1) of the Standing Orders of the Senate which states:

“Unless otherwise provided by any written law or these Standing Orders, the Senate Business Committee shall, in consultation with Parliamentary Parties, nominate Senators who shall serve on a Select Committee.”

Mandate of the Committee

The Standing Committee on Agriculture, Livestock and Fisheries is mandated under the Second Schedule of the Standing Orders to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

Oversight

In executing its mandate, the Committee oversees the following Government Departments and agencies, namely-

- i. The State Department for Crops Development and Agricultural Research;
- ii. The State Department for Livestock;
- iii. The State Department for Fisheries, Aquaculture and the Blue Economy; and
- iv. The State Department for Irrigation.

Membership of the Committee


The Committee is comprised of the following Members-

ABBREVIATIONS

AFA	-	Agriculture and Food Authority
CECM	-	County Executive Committee Member
CEO	-	Chief Executive Officer
COG	-	Council of Governors
CS	-	Cabinet Secretary
PS	-	Principal Secretary

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 213 (6), to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the consideration of the Cotton Industry Development Bill (Senate Bills No. 55 of 2021) for consideration by the House.

Signed.....  Date.....29/3/2022.....

SEN. PETER NJERU NDWIGA, EGH, M.P.

CHAIRPERSON

1. Sen. Peter Njeru Ndwiga, EGH, MP - **Chairperson**
2. Sen. Enoch Wambua, MP - **Vice-Chairperson**
3. Sen. Kipchumba Murkomen, EGH, MP
4. Sen. (Canon) Naomi Jillo Waqo, MP
5. Sen. (Dr.) Michael Malinga Mbito, MP
6. Sen. (Eng.) Ephraim Maina, EBS, MP
7. Sen. Justice (Rtd.) Madzayo Stewart Mwachiru, MP
8. Sen. Issa Juma Boy, MP

Secretariat of the Committee

The Committee secretariat is comprised of –

1. Ms. Carol Kirorei - Clerk Assistant
2. Mr. David Angwenyi - Clerk Assistant
3. Ms. Regina Munyao - Legal Counsel
4. Mr. Tiyan Joseph - Research Officer
5. Ms. Njeri Manga - Media Relations Officer
6. Ms. Mary Nyawira - Audio Officer
7. Mr. Alex Mutuku - Serjeant-At-Arms
8. Mr. Godana Mamo - Serjeant-At-Arms

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the consideration of the Cotton Industry Development Bill, (Senate Bills No. 55 of 2021).

1.0 INTRODUCTION

1.1 Overview of the Bill

The object of the Cotton Industry Development Bill, (Senate Bills No. 55 of 2021) is to amend the Crops Act, 2013 so as to unbundle the regulation and management of cotton that falls within the ambit of the Agriculture and Food Authority (AFA) and establish a stand-alone agency for its regulation. The Bill seeks to reorganize the cotton industry by establishing the Cotton Industry Development Board, providing a framework for cotton farming and ensuring value addition to cotton and its related products.

The salient provisions of the Bill are as highlighted below-

Clause 4 of the Bill establishes the Cotton Industry Development Board with its headquarters in Nairobi City County and with powers to establish branches in other parts of the country.

Clause 7 of the Bill provides for the composition of the Board as follows-

1. the Chairperson appointed by the President;
2. the Principal Secretary responsible for agriculture or a designated representative;
3. six persons representing cotton farmers, one from the six regions specified in the first schedule, nominated by the farmers' cooperative societies with the largest membership in the respective counties;
4. two persons of opposite gender representing cotton farmers nominated by the Council of County Governors; and
5. the Chief Executive Officer.

Clause 8 of the Bill sets out the qualifications for appointment as a member including that the person must be a citizen of Kenya, holding a degree from a university recognised in Kenya or in the case of the farmer representatives, hold post-secondary school

qualification; have at least three years' experience in management and meet the requirements of Chapter 6 of the Constitution.

Clause 9 provides for the tenure of the board members as a term of three years' renewable for one further term.

Clause 11 sets out the functions of the Board as follows-

- (a) regulate and promote the development of the cotton growing and cotton ginning;
- (b) advise the Cabinet Secretary which counties qualify as cotton producing;
- (c) make recommendations to the Cabinet Secretary on the implementation of strategies, plans and policies relating to the cotton sector;
- (d) promote the diversification of cotton products;
- (e) regulate the import and export of cotton lint and cotton seed;
- (f) promote the marketing of cotton products and by-products in both local and foreign markets;
- (g) formulate national standards acceptable in the international markets to ensure that the competitiveness and reliability of the country as a producer and suppliers of cotton products is preserved;
- (h) carry out surveillance and inspections to ensure compliance with the standards and legislation on the cotton sector;
- (i) establish linkages with local and international training and research institutions to conduct scientific research and investigations in all areas pertaining to the development of the cotton industry;
- (j) undertake technology transfer and provide technical assistance to county governments on matters relating to cotton;

(k) collect, collate and disseminate information on the cotton industry including the appropriate technology and practices to ensure maximization of yields by cotton farmers; (l) regulate the marketing and the exportation of cotton products and by-products to conform to the quality or standards recognized in the international market;

(m) put in place a framework for capacity building and training of various players in the cotton sector;

(n) develop and enforce the cotton industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards; and

(o) carry out such other functions as may be assigned by the Cabinet Secretary or conferred under any other law.

This clause further provides that the Board shall consult and collaborate with the county executive committee members in the development, promotion and regulation of the cotton industry in the respective counties.

Clause 12 provides that the Board may establish such committees as it may deem necessary for the efficient performance of its functions and it may co-opt any person to sit in the committees whose skills and knowledge are necessary for the performance of the Board's functions.

Clause 15 provides for the qualifications of the CEO who shall be competitively recruited. He must be a citizen of Kenya holding a degree from a university recognized in Kenya, have at least ten years' experience in senior management and meets the requirements of Chapter 6 of the Constitution. The CEO shall hold office for a term of five (5) years and is eligible for re-appointment for one further term.

Clause 16 sets out the functions of the CEO as follows-

(a) be responsible for the day to day management of the affairs of the Board;

- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the Board—
 - (i) the strategic plan and annual plan of the Board; and
 - (ii) the annual budget and audited accounts of the Board; and
- (f) perform such other duties as may be assigned by the Board.

Clause 17 provides for the removal of the CEO if he resigns in writing, is convicted of an offence and sentenced to a term of imprisonment of not less than six months, is found liable for gross misconduct or abuse of office, is declared bankrupt or is unable to perform the functions of office by reason of mental or physical infirmity or if he dies.

Clause 18 provides that the Board may employ staff through competitive recruitment for the discharge of its functions.

Clause 23 of the Bill requires county governments to maintain an up-to-date register of cotton growers, cotton cooperative societies and other associations. It also requires counties to implement the policies, standards and strategies by the National Government and guidelines on corporate governance in cotton growers' institutions.

In addition, the counties are required to facilitate the production of cotton by implementing and expanding the planting and replanting program of cotton in strategic areas identified as having the most potential and facilitate the rehabilitation and fertilization of existing cotton. Counties are also legally obliged to offer extension services on cotton production and primary processing and to promote the organisation of cotton farmers' cooperatives, associations and organizations and provide them with credit and financing support; as well as provide training and extension service programs.

Further, counties are required to collaborate with relevant institutions so as to promote access to credit and other financial services for farmers; formulate and adopt a general program of development geared towards increased farm productivity, through planting of suitable seeds varieties, rehabilitation and fertilization of cotton, integrated cotton farming systems and product processing; and inspect cotton farms, ginneries and value addition industries located within their respective counties.

Clause 24 of the Bill provides for the registration of a person or entity carrying out the business of a cotton grower, cotton ginner, commercial cotton nursery, cotton cooperative society or cotton association by the respective county government in which the business is to be undertaken. No fees shall be paid in this respect.

Clause 25 provides for application for a license by a person seeking to engage in the manufacture or processing of cotton products. It also provides the grounds upon which the county executive committee member may accept or reject the application for the license. **Clause 26** states that the county executive committee member (CECM) may refuse to grant a licence where the application does not comply with the requirements imposed under this Act or prescribed under the specific county legislation. The CECM is however required to notify the applicant of the refusal within fourteen (14) days. Should an applicant be aggrieved by the decision of the county executive committee member not to issue a licence under this Act, he or she may appeal to the High Court against the decision within thirty days of receipt of the decision.

Clause 31 provides that the county executive committee member shall in consultation with the cotton growers in the county, designate cotton collection centres.

Clause 32 provides for the process of licensing of persons intending to export or import cotton seeds or cotton products. These licenses shall be issued by the Cotton Industry Development Board.

Clause 37 of the Bill provides for the establishment of the Cotton Development Fund which shall be administered by the Board. The Bill further provides that the Fund shall

consist of monies appropriated by Parliament, such monies or assets as may accrue to or vest in the Board and donations, grants, loans or gifts made to the Board.

2.0 SUBMISSIONS

2.1 Submissions from the Ministry of Agriculture, Livestock, Fisheries and Cooperatives

Vide a letter dated 3rd February, 2022, the Ministry of Agriculture, Livestock, Fisheries and Cooperatives submitted its submissions on the Bill. The Ministry gave the following observations on the Bill-

1. The composition of the proposed Board was farmer heavy with 90% farmer representation while government representation was only 10%. There was no representation of other important value chain players in the industry such as cotton markets (consumers), ginners, processors and manufacturers. This exclusion may pose challenges during implementation of the Act due to lack of buy in by these major industry stakeholders as was witnessed during the tenure of the Cotton Development Authority in 2006 which had seven (7) farmer representatives and only two (2) ginners on the Board;
2. Also left out in the membership of the Board are crucial government Ministries, Departments and Agencies specifically the Principal Secretary, National Treasury and the counterpart in the Ministry responsible for industrialization whose roles in the Board would be crucial;
3. The Bill does not recognize the existence of the current legal and regulatory framework for the cotton industry i.e. the Agriculture and Food Authority (AFA) through its Fibre Crops Directorate. The Bill makes no reference to the Authority and has no transition clause for the Fibre Crops Directorate staff, existing staff pension schemes and the assets of the Directorate;
4. Apart from establishing linkages with local and international training and research institutions to conduct scientific research, there is no clarity in the Bill on how cotton research will be conducted, its funding and the support structure. Poor

research remains one of the main impediments to the growth and development of the industry;

5. Processing and manufacturing of cotton and cotton products go beyond individual county operations. The operations have serious impact on quality, standards and international trade of cotton thus making licensing of this category of dealers a national function and not a county government function as proposed in the Bill. Retaining licensing of processing and manufacturing of cotton at the national government will harmonize standards across counties and maintain country competitiveness nationally and internationally for our cotton and cotton products;
6. There is a draft Fibre Crops Bill, 2022 which is at an advanced stage in which cotton issues are well articulated. The Bill has undergone public participation involving value chain players including county governments. The Bill includes sisal. The synergy between the two fibre crops was considered in the drafting of the Bill since both crops have common defining important physical attributes and grow in the same counties. The two crops can share legislation formulation aspects in guiding their development, regulation and value addition initiatives;
7. The Ministry proposed that the Senate Bill be withdrawn for further consideration by all stakeholders or that a possible merger of the two Bills be considered for enhanced inclusivity of all stakeholders and ensure smooth transition.

A summary of the proposed amendments to the Bill and their justifications were provided as follows-

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
1	2	Meaning of the words 'value addition' is missing	Interpret the word 'value addition' to cotton to mean the processing of cotton produce into intermediary and secondary products	To provide clarity on value addition

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			and includes but is not limited to seed cotton ginning and cotton seed milling	
2	7	The Board composition is 90% farmers and 10% Government.	Amend the section by reconstituting the composition of the Board to include crucial stakeholders in the value chain. i.e. Ginners, Spinners, Exporters/Importers, the National Treasury and the Ministry responsible for matters relating to industrialization	The industry requires representation of the complete value chain in the Board for purposes of optimum functioning of the industry, and for proper and effective discharge of the Board functions stipulated in section 11 of this Bill.
3	7 (1) (c)	Representation of cotton farmers in the Board from regions specified in the 1 st schedule.	Amend 'first schedule' to read 'second schedule'	Typo error. The intended or referred schedule is the 2 nd schedule
4	7 (1) (d)	Nomination of two cotton farmers by COG will create an over representation of farmers in the Board	COG to nominate two members from its membership	To provide representation of COG

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
5	8 (1)(b)(ii)	Post-secondary qualification requirement for farmers' representative	Amend the requirement to read 'secondary school qualification'	The bar is too high for cotton farmers
6	8 (2)	Disqualification description in this sub section is not clear	Amend to read 'A person is not qualified for appointment if that person at the time of appointment is'	To provide clarity
7	9	The Section does not apply persons in sub section 7(1)(b) and (e)	Amend to read 'A person who is appointed under sub section 7(1)(a), (c) or (d) shall ...'	To provide clarity
8	10 (e)	Declaration of bankruptcy was provided for under the Bankruptcy Act which has been repealed	Amend to read 'adjudged bankrupt'	To provide clarity
9	10 (f)	Failure to declare interest is not sufficient to warrant one to cease from being a board member	Delete the sub section and replace it with ' <i>contravenes the provisions of chapter six of the Kenya Constitution 2010</i> '.	The issue is more administrative on the conduct of Board members

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
10	11 (b)	Counties qualifying as cotton producing is ambiguous	Amend the sub section by replacing the words 'which counties qualify as cotton producing' with 'which counties are suitable for cotton production'	To provide clarity
11	11 (c)	The Development of policies, strategies and plans for the cotton sector is missing	Amend by adding the words 'development and' after the words 'on the'	To include the development component for policies, strategies & plans
12	11 (g)	Suppliers is in plural	Amend the word 'suppliers' to read 'supplier'	To correct typo error
13	11	The representation of the country on cotton matters in the international fora is missing in the Bill	Add sub section (11) (p) to read 'represent the country in National or International fora on matters relating to cotton industry'	The Board require collaboration with other organizations nationally and globally to acquire and adopt best practices
14		Market research and pricing mechanisms are missing in the Bill	Add sub section 11 (q) to read 'carry out market research and gather market intelligence on the pricing mechanisms and promotion of cotton produce and by products	To provide market advise based on correct and accurate information

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			and disseminate information on its findings to stakeholders'	
15	14	Payment of the fees to members of the Board	Delete the word 'fees'	Members of the Board are paid allowances and remuneration
16	15 (3)	The five year term limit for the CEO is quite long and may lead to complacency	Amend the section to provide for a three year term renewable once	A three years term is adequate for a person to implement any innovation, exploit their potential and attain higher productivity
17	17 (d)	Declaration of bankruptcy was provided for under the Bankruptcy Act which has been repealed	Amend to read 'adjudged bankrupt'	To provide clarity
18	18	The section has not addressed the transition of staff of Agriculture and Food Authority (AFA) who are currently regulating cotton industry	The Bill should provide for transitional clauses to read as follows; 'Any person who at the commencement of this Act is a member of staff of Agriculture and Food Authority (AFA) dealing with fibre crops shall, on the appointed day	To provide for transition of staff of AFA currently regulating the cotton industry

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary’.	
19	23 (2)(c)	The use of the word ‘replanting’ in cotton is not applicable	Amend by deleting the words ‘and replanting’	To provide clarity of the meaning in the sub section.
20	23 (2)(h)	The use of the word ‘replanting’ and ‘seedling varieties’ in cotton are not applicable	Amend by deleting the words ‘or replanting’ and deleting the word ‘seedling’	To provide clarity of the meaning in the sub section.
21	23 (2)(i)	Inspection of ginneries and value addition industries should be a function of the Board.	Amend by deleting the words ‘ginneries and value addition industries’	Ginning and value addition activities cut across counties and has an impact on quality, standards, and international trade hence a function of the National Government in accordance with Part one of the Fourth Schedule of the Constitution of Kenya, 2010.
22	24 (1)	Registration of a cotton ginner by the	Amend by deleting the word ‘cotton ginner’	Ginning activities cuts across counties and has an

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
		respective county government		impact on standards, quality and international trade hence a function of the National Government in accordance with Part one of the fourth schedule of the Constitution of Kenya, 2010.
23	24 (1)	Registration of commercial cotton nursery.	Amend by deleting the words 'commercial cotton nursery'	Not applicable in the cotton value chain.
24	24 (4)(a)	Including the 'ginner' in the register under sub section (3)	Amend by deleting the word 'ginner'	Ginning activities cuts across counties and has an impact on standards, quality and international trade hence a function of the National Government in accordance with Part one of the Fourth Schedule of the Constitution of Kenya, 2010.
25	25 (2)	Manufacture or processing cotton products application for license in the form prescribed in the county legislation to the county	Amend by deleting the words 'in county legislation to the county executive committee member' and Insert the words ' in the form prescribed by the Board'.	Manufacturing and processing activities impacts on standards, quality and international trade hence a function of the National Government in accordance with Part one of the fourth

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
		executive committee member		<p>schedule of the Constitution of Kenya, 2010.</p> <p>Raw materials for manufacturers and processors are sourced from different/across counties hence it is not viable for the licensing to be issued by one county</p>
26	25(2)(a)	As the county executive committee member may prescribe	Amend by deleting the words 'county executive committee member' and replace with the word 'Board'	Licensing of manufacturers and processors is a National Government function.
27	25 (3)	A county executive committee member	Amend by deleting the words 'a county executive committee member' and replacing with the words 'The Board'	Licensing of manufacturers and processors is a National Government function.
28	25 (3) (b)	As the county may specify	Amend by deleting the words 'as the county may specify' and replacing with the words 'as the Board may specify'	Licensing of manufacturers and processors is a National Government function.
29	25 (4)	The respective county	Amend by deleting the	Licensing of manufacturers

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
		executive committee member	words 'respective county executive committee member' and replacing with the word 'Board'	and processors is a National Government function.
30	25 (5)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the word 'Board'	Licensing of manufacturers and processors is a National Government function.
31	25 (6)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the word 'Board'	Licensing of manufacturers and processors is a National Government function.
32	25 (7)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the word 'Board'	Licensing of manufacturers and processors is a National Government function.
33	25 (7)(c)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the word 'Board'	Licensing of manufacturers and processors is a National Government function.
34	25 (8)	The county executive committee member	Amend by deleting the words 'the county	Licensing of manufacturers and processors is a National

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			executive committee member' and replacing with the word 'Board"	Government function.
35	25 (10)	Twice the value of the cotton or cotton products, whichever is great	Amend by deleting the words 'twice the value of the cotton or cotton products, whichever is great'	Once a person has been convicted, he should either pay the fine or serve the jail term. Paying twice the value of cotton or cotton products will require another process of valuation which may unnecessarily take long and attract costs.
36	26 (1)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board"	Licensing of manufacturers and processors is a National Government function.
37	26 (1)	County legislation	Amend by deleting the words 'County legislation' and replacing with the word 'regulations'	The Cabinet Secretary will prescribe the regulations to operationalize the Act
38	26 (2)	The county executive committee member	Amend by deleting the words 'the county executive committee	Licensing of manufacturers and processors is a National Government function.

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			member' and replacing with the word words 'the Board'	
39	27 (1)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'	Licensing of manufacturers and processors is a National Government function.
40	27 (1)(a)	County legislation	Amend by deleting the words 'County legislation' and replacing with the word 'regulations'	The Cabinet Secretary will prescribe the regulations to operationalize the Act
41	27 (2)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'	Licensing of manufacturers and processors is a National Government function.
42	27 (3)	Relevance of the sub section	Amend by deleting the 'entire sub section	The section is not relevant
43	28 (2)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'	Licensing of manufacturers and processors is a National Government function.
44	28 (2)	The committee member	Amend by deleting the words 'the committee	Licensing of manufacturers and processors is a National

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			member' and replacing with the words 'the Board''	Government function.
45	29 (1)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board''	Licensing of manufacturers and processors is a National Government function.
46	29 (2)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board''	Licensing of manufacturers and processors is a National Government function.
47	30	An applicant is aggrieved	Amend by adding the word 'who'	Typo error.
48	30	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board''	Licensing of manufacturers and processors is a National Government function.
49	30	Application for review/appeal process	Amend by replacing the words "not to issue a license' with 'refusal to issue and revocation of a license' after the word 'county executive member' and ending the sentence at	To provide clarity on appeal process.

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			the word may and then amend by inserting new sub sections 30 (1) to read as 'apply to the Board for review of the decision and 30 (2) to read 'appeal to the court'	
50	31 (1)	Designation of collection centres	Amend by adding the words 'and the Board' after the word county executive committee member	The Board has an input on the standards of collection centres to preserve quality which impacts on international trade.
51	32 (2)	Typo error	Amend by deleting the words 'intends to' and replacing the word 'from' with 'form'	Correcting typo errors.
52	New sub section	Gazettement of importers/exporters	Amend by introducing a new sub section 32 (2)(a) to read as follows 'The Board shall, at least thirty days before granting a new license under this Act, publish a notice of the proposed grant by notice in the Gazette and in such other manner as the Board	To inform the public on the intended importation/exportation licenses

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			<p>may determine'</p> <p>Introduce 32 (2)(b) to read 'The Board shall, in publishing the notice under subsection 32 (2)(a) —</p> <p>(i) specify the name or other particulars of the person or class of persons to whom the license is to be granted;</p> <p>(ii) state the purpose and the date for which the license is proposed to be issued; and</p> <p>(iii) Invite objections to the proposed grant of license and direct that such objections be lodged with the Board within fourteen days from the date of the notice.</p> <p>Introduce 32(2) (c) to read 'The Board shall consider any objection submitted to</p>	

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			it under sub section 32 (2) (b) (iii) and may grant the license applied for subject to such terms and conditions as the Board shall consider appropriate.	
53	32 (3)(b)	Conditions of a license issued by the county	Amend by deleting the word 'county' and replacing with the word 'Board'	Import/export license is issued by the Board
54	32 (7)	The county executive committee member	Amend by deleting the words 'county executive committee member' and replacing with ' Board'	Import/export license is issued by the Board
55	32(8)	Section not relevant	Amend by deleting the entire section	The proposed amendment in section 30 adequately covers the review and appeal process
56	33 (1)	Validity of a license	Amend by deleting the words 'the sub section and replacing with the words 'A license issued under section 32 shall expire at the end of the financial year in which the license was issued'	To tie the validity of the license to a financial year.

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
57	33 (2)	Application for renewal of a license	Amend by deleting the words 'sixty days' and replacing with the words 'thirty days'	To reduce the turnaround time for renewal of licenses.
58	33 (3)	Procedure for the application of license renewal	Amend by adding the words 'except gazettelement' at the end of the sentence	Renewal of licenses does not require gazettelement.
59	34 (1)(a)	Typo error	Amend by deleting the word 'by'	Typo error.
60	34 (1)(b)		Amend by deleting the sub section	Conflicts with 34 (1) (a).
61	34 (2)	The county executive committee member	Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'	The Licensing is a National Government function.
62	34 (3)	Relevance of the sub section	Amend by deleting the 'entire sub section	The section is not relevant
63	37 (2)	Cotton Development Fund	Amend by adding new 37 (2)(d) to read 'all monies received in respect of the levies and fees'	Expand the sources of money to the Cotton Development Fund.
64		Power of the CS to prescribe levies.	Introduce a new section 38 to read 'the Cabinet Secretary, may in	To give the CS powers to impose a levy and the rates payable so as to effectively

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			consultation with the Board and the Cabinet Secretary responsible for the National Treasury, by notice in the gazette, impose a levy not exceeding four per cent of the value of the cotton produce or cotton product on which levy is payable. Re-arrange and re-number the sections appropriately.	finance the objectives set and the functions of the Board. Correct numbering of the sections.
65	43 (b)	Issuance of license	Amend by deleting the sub section	Licenses are issued by the Board
66	43 (c) & (d)	Issuance of license	Amend by deleting the words 'or issuance of license'	Licenses are issued by the Board.
67	43 (e)	Issuance of license	Amend by deleting the sub section	Licenses are issued by the Board.
68	43 (f)	Application for renewal of licenses	Amend by deleting the sub section	Licenses are issued by the Board.
69	43 (g)	Rejection or cancellation of a license	Amend by deleting the sub section	Licenses are issued by the Board.
70	44	Market research	Amend by deleting the section	Market information and research is adequately

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
				covered in section 11 of the Bill.
71	45 (1)	<p>Twice the value of the cotton or cotton products, whichever is great</p> <p>The fine of twenty thousand shillings is not deterrent enough</p>	<p>Amend by deleting the words 'twice the value of the cotton or cotton products, whichever is great'</p> <p>Amend by deleting the words 'twenty thousand shilling' and replacing with the words 'five hundred thousand shillings'</p>	<p>Once a person has been convicted, he should either pay the fine or serve the jail term.</p> <p>Paying twice the value of cotton or cotton products will require another process of valuation which may unnecessarily take long and attract costs.</p> <p>To enhance the general penalty. The penalty provided is too lenient.</p>
72	46 (1)	Procedure for regulations	The Cabinet Secretary may, in consultation with the Board and the Council of Governors, make Regulations for better carrying out provisions of	Some regulations had been omitted that are important for implementation of this Act.

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			this Act	
73	46 (2)(a)	Nomination of persons to the Board	Amend the section by adding the word 'processors' after the word cotton farmers	To provide a clear procedure for nomination and appointment of board members by the Cabinet Secretary.
74	46 (2)(b)	Procedure for regulations	<p>Without prejudice to the generality of subsection (1) make Regulations —</p> <p>(a) prescribing the manner of nominating the members of the Board;</p> <p>(b) prescribing the manner of registration and licensing under this Act</p> <p>(c) prescribing the forms, certificates and manner of application for registration and licensing under this Act;</p> <p>(d) prescribing the manner in which cotton may be produced, harvested,</p>	Some regulations had been omitted that are important for implementation of this Act.

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			<p>graded, processed, warehoused, packaged and traded;</p> <p>(e) prescribing the forms, manner of submitting returns under this Act;</p> <p>(f) prescribing the fees or charges for services rendered under this Act by the Board;</p> <p>(g) prescribing the forms and procedure for appeals under this Act;</p> <p>(h) prescribing regulations for establishment of a cotton price stabilization mechanism</p> <p>(i) prescribing regulations for establishment and management of a cotton development fund;</p> <p>(j) prescribing guidelines on how cotton research will be conducted in the</p>	

NO	SECTION	ISSUE/COMMENT RAISED	RECOMMENDATIONS	JUSTIFICATION
			utilization of the research levy; (k) prescribing regulations for the control of infected and infested areas. (l) Prescribing regulations for contracts entered by growers and processors	
75	First Schedule	At least ten meetings in every financial year are too frequent	Amend the section to read 'at least four meeting in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting'	To reduce the cost of the Board meetings.

2.2 Submissions from the Council of Governors (COG)

Vide a letter dated 7th February, 2022, the Council of Governors submitted their views on the Bill as summarized below-

1. That Clause 11 on the functions of the Board be amended by deleting clauses 11(1)(a), (b) and (c) to and replacing with the following new clause 11 (1) (a), (b) and (c) to read as follows-

- a) *Provide technical assistance to county governments in the regulation and promotion of cotton growing and cotton ginning;*

- b) *Advise the Cabinet Secretary and county governments on matters related to cotton production;*
- c) *Make recommendations to the Cabinet Secretary and county governments on the implementation strategies, plans and policies relating to the cotton sector;*

Rationale: To align the Fourth Schedule of the Constitution which has devolved agriculture development to counties and mandated the national government to build the capacity and provide technical assistance to the counties.

2. That Clause 30 of the Bill on appeals be amended so as to read as follows-

30 (1) Where an applicant is aggrieved by the decision of the county executive committee member not to issue a license under this Act, the applicant may appeal to the County Executive Committee through the office of the County secretary within thirty days of the decision;

(2) Where an application is aggrieved by the decision of the County Executive Committee, the applicant may appeal to the High Court within fourteen days of the decision.

Rationale: To provide an appeal to the County executive Committee as opposed to the courts. The court should be the last resort.

3. That Clause 37 on Cotton Development Fund be amended by deleting clause 37(10 and replacing with the following new clause:

37.(1) The Funds of the Board shall consist of-

(a).....

Rationale: To provide clarity as to the Fund being referred to under the Act. The Council opines that the intention of the clause was to provide for the Funds of the Board and not the Cotton Development Fund.

3.0 COMMITTEE OBSERVATIONS

The Committee made the following observations:

1. There were a number of minor typographical errors in the Bill that require correction;
2. The composition of the Board lacks representation of other crucial stakeholders in the cotton and cotton products stakeholders such as ginners, manufacturers, government representatives among others. It was further noted that there was over-representation of farmers in the Board's membership, which would likely pose a challenge in its overall effectiveness and success in the carrying out of its mandate;
3. The term of office of the CEO of five years is too long. There was need to review this provision and to keep it in line with the *Mwongozo* code and practice in other government agencies;
4. The Bill does not recognize the existence of the current legal and regulatory framework for the cotton industry i.e. AFA through its Fibre Crops Directorate. The Bill makes no reference to the Authority and has no transition clause for the Fibre Crops Directorate staff, existing staff pension schemes and the assets of the Directorate;
5. On appeals by an applicant aggrieved by the decision of the county executive member to deny a licence, there was need to introduce another level of appeal prior to the courts. The Bill should provide for an appeal to the county executive committee and have the court should as the last resort;
6. Issuance of licences on manufacturing and processing of cotton and cotton products is a county function and should remain so. The national government on the other hand, should be responsible for licences relating to exports and imports;

4.0 COMMITTEE RECOMMENDATIONS

The Committee recommends as follows:

1. That the various typographical errors appearing throughout the Bill be corrected;
2. That clause 7 be amended to include other stakeholders in the composition of the Board including ginners, manufacturers, government officials and to have the COG appoint two members from its membership as opposed to farmers;
3. That clause 7(1) be amended to replace the words first schedule with the words “second schedule”;
4. That clause 8(1)(b)(ii) be amended to reduce the requirement of possession of post-secondary education for farmers’ representatives;
5. That clause 10 (f) on vacation of office of a Board member be deleted and replaced with “if a person contravenes Chapter six of the Constitution”;
6. That clause 11(c) be amended to include the word “development” after the words “on the”
7. That clause 14 be amended by deleting the word “fees”;
8. That clause 15(3) be amended to reduce the term of office of the CEO from five (5) years to three (3) years;
9. That clause 18 be amended to provide for the transition of staffers of the AFA Fibre Crops Directorate;
10. That clause 23(2)(h) be amended to delete the words “or replanting” and “seedling” which do not apply in cotton farming;
11. That clause 24(1) be amended by deleting the words “commercial cotton nursery” as cotton is propagated through seeds and not seedlings;
12. That clause 27(3), 34(3) and 44 be deleted due to irrelevance;
13. That clause 30 be amended to provide that an applicant can appeal to the county executive committee following denial of a licence by a county executive

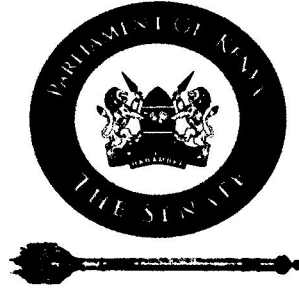
- committee member, and where the applicant is aggrieved by the committee's decision, he may appeal to the High Court within 14 days;
14. That a new clause 32(2)(a) be inserted to provide for an obligation on publication in the gazette of the decision to grant a new license within thirty (30) days;
 15. That clause 32(3)(b) and 34(2) be amended to have the Board mandated to issue import and export licenses;
 16. That clause 33 be amended to provide for expiry of a licence at the end of a calendar year and to reduce the application period from sixty (60) days to thirty (30) days;
 17. That the Bill be amended to introduce a levy to be imposed by the Cabinet Secretary not exceeding four percent of the value of the cotton produce or cotton product on which levy is payable;
 18. That the Bill be amended to provide for specific areas under which the Cabinet Secretary may make Regulations; and
 19. That the Bill proceeds to the next stage in the legislative process.

APPENDICES

APPENDIX I	Minutes of the Committee Deliberations
APPENDIX II	Committee Stage amendments to the Bill
APPENDIX III	Copy of the Newspaper advertisement
APPENDIX IV	The Cotton Industry Development Bill, (Senate Bills No. 55 of 2021)

APPENDIX I

Committee Minutes



MINUTES OF THE 164TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON SATURDAY, 12TH MARCH, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | | |
|--------------------------------------|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. Enoch Wambua, MP | - | Vice-Chairperson |
| 3. Sen. (Canon) Naomi Jillo Waqo, MP | | |
| 4. Sen. (Dr.) Michael Mbito, MP | | |
| 5. Sen. Issa Juma Boy, MP | | |

ABSENT WITH APOLOGY

1. Sen. Justice (Rtd.) Stewart Madzayo, MP
2. Sen. (Eng.) Ephraim Maina, MP
3. Sen. Kipchumba Murkomen, EGH, MP

SECRETARIAT

- | | | |
|-----------------------|---|---|
| 1. Ms. Carol Kirorei | - | Clerk Assistant |
| 2. Mr. David Angwenyi | - | Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Mr. Alex Mutuku | - | Serjeant-At-Arms |
| 4. Ms. Regina Munyao | - | Legal Counsel |
| 5. Mr. Mitchell Otoro | - | Legal Counsel |
| 6. Mr. Tiyan Joseph | - | Research Officer |
| 7. Ms. Mary Nyawira | - | Audio Officer |
| 8. Mr. Titus Michubu | - | Pupil |

MIN. NO. 36/2022

PRELIMINARIES

The Chairperson called the meeting to order at 11.25 a.m. followed by a word of prayer.

MIN. NO. 37/2022

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. (Dr.) Michael Mbito, MP and seconded by Sen. Issa Juma Boy, MP-

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*
2. Consideration and adoption of Reports
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

MIN. NO. 38/2022 **CONSIDERATION AND ADOPTION OF REPORTS**

The Committee considered the following Reports-

1. Report on the consideration of the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021); and
2. Report on the Petition concerning the plight of seed farmers in Trans-Nzoia County.

The Committee adopted the Reports after being proposed by Sen. (Dr.) Michael Mbito, MP and seconded by Sen. Issa Juma Boy, MP

MIN. NO. 39/2022 **DATE OF NEXT MEETING**

The next meeting would be on 12th March, 2022 at 12.30 p.m.

MIN. NO. 40/2022 **ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.00 noon.

SIGNED:.....



(CHAIRPERSON)

DATE:.....29/3/2022.....



MINUTES OF THE 161TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON MONDAY, 7TH MARCH, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | | |
|-------------------------------------|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. Enoch Wambua, MP | - | Vice-Chairperson |
| 3. Sen. Issa Juma Boy, MP | | |
| 4. Sen. (Dr.) Michael Mbito, MP | | |

ABSENT WITH APOLOGY

1. Sen. Kipchumba Murkomen, EGH, MP
2. Sen. Justice (Rtd) Stewart Madzayo, MP
3. Sen. (Canon) Naomi Jillo Waqo
4. Sen. (Eng.) Ephraim Maina, EBS, MP

SECRETARIAT

- | | | |
|-----------------------|---|---|
| 1. Ms. Carol Kirorei | - | Clerk Assistant |
| 2. Mr. David Angwenyi | - | Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Ms. Happy Julius | - | Budget Officer |
| 4. Ms. Regina Munyao | - | Legal Counsel |
| 5. Mr. Tiyan Joseph | - | Research Officer |
| 6. Ms. Mary Nyawira | - | Audio officer |
| 7. Mr. Titus Michubu | - | Pupil, Legal Services |

MIN. NO. 15/2022

PRELIMINARIES

The Acting Chairperson called the meeting to order at 11.16 a.m. followed by a word of prayer.

MIN. NO. 16/2022

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Enoch Wambua, MP and seconded by Sen. Issa Boy Juma, MP -

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*
2. Consideration of the Cotton Industry Development Bill, Senate Bills No. 55 of 2021
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

MIN. NO. 17/2022

CONSIDERATION OF THE COTTON INDUSTRY DEVELOPMENT BILL, SENATE BILLS NO. 55 OF 2021

The Legal Counsel presented the matrix on the submissions received on the Cotton Industry Development Bill, (Senate Bills No. 55 of 2021) as follows-

1. **Clause 2**
Proposal: Insert the definition of the word “value addition”.
Resolution: Not agreed to.
2. **Clause 7**
Proposal: Amend composition of the Board to include *crucial stakeholders* in the value chain. i.e., Ginners, Spinners, Exporters/Importers
Resolution: Agreed to.
3. **Clause 7(1) (c)**
Proposal: Amend ‘First Schedule’ to read ‘Second Schedule’
Resolution: Agreed to.
4. **Clause 7(1) (d)**
Proposal: That the clause be amended to enable the COG to appoint two members from its membership instead of from famers.
Resolution: Agreed to.
5. **Clause 8 (1) (b) (ii)**
Proposal: That the clause be amended to reduce the requirement for farmers’ representative to possess a post-secondary school education.
Resolution: Agreed to. The qualification should be left at secondary school education.
6. **Clause (8) (2)**

Proposal: That the clause be amended to read ‘A person is not qualified for appointment if that person at the time of appointment is’

Resolution: Not agreed to.

7. Clause 9

Proposal: That the clause be amended to read ‘A person who is appointed under sub section 7(1)(a), (c) or (d) shall ...’ To provide clarity because this Section does not apply persons in sub section 7(1)(b) and €.

Resolution: Not agreed to.

8. Clause 10 (e)

Proposal: That the clause be amended to read ‘adjudged bankrupt’ To provide clarity because declaration of bankruptcy was provided for under the Bankruptcy Act which has been repealed.

Resolution: Not agreed to.

9. Clause 10 (f)

Proposal: That the clause be amended by deleting the sub section and replacing it with ‘*contravenes the provisions of chapter six of the Kenya Constitution 2010*’. Failure to declare interest is not sufficient to warrant one to cease from being a board member. This is because the issue is more administrative on the conduct of Board members

Resolution: Agreed to.

10. Clause 10 (b)

Proposal: That the words “which counties qualify as cotton producing” with “which counties are suitable for cotton production”.

Resolution: Not agreed to.

11. Clause 11 (c)

Proposal: That the clause be amended by adding the words ‘development and’ after the words ‘on the’

Resolution: Agreed to.

12. Clause 11 (g)

Proposal: That the clause be amended to read, *The Board shall collaborate with other industry stakeholders, both private and public.* Amend the word ‘suppliers’ to read ‘supplier’

Resolution: Agreed to.

13. Clause 11

Proposal: That Clause 11 be amended to Add sub section (11) (p) to read 'represent the country in National or International fora on matters relating to cotton industry'

Resolution: Not agreed to.

14. Clause 11

Proposal: That the clause be amended to Insert sub section 11 (q) to read 'carry out market research and gather market intelligence on the pricing mechanisms and promotion of cotton produce and by products and disseminate information on its findings to stakeholders'.

Resolution: Not agreed to. This aspect is captured in Clause 11(i)

15. Clause 11

Proposal: That the Clause be amended by deleting clauses 11(1) a, b and c and replacing with following new clauses 11(1)(a)(b), and (c).

Resolution: Not agreed to.

16. Clause 14

Proposal: That clause be amended by Deleting the word 'fees'

Resolution: Agreed to.

17. Clause 15 (3)

Proposal: That there is need to amend the sub-section to provide for a three-year term renewable once.

Resolution: Agreed to. It was agreed that the term be reduced to three years.

18. Clause 17(d)

Proposal: That Clause 17 (d) be amended to read 'adjudged bankrupt'

Resolution: Not agreed to.

19. Clause 18

Proposal: That clause to amended to provide for transitional clauses to read as follows; 'Any person who at the commencement of this Act is a member of staff of Agriculture and Food Authority (AFA) dealing with fibre crops shall, on the appointed day become a member of staff of the Board on the same or improved terms and conditions of service as may be specified by the Cabinet Secretary'.

To provide for transition of staff of AFA currently regulating the cotton industry

Resolution: Agreed to.

20. Clause 23 (2) (c)

Proposal: That clause 23(2) (c) be Amended by deleting the words ‘and replanting’

Resolution: Not agreed to.

21. Clause 23 (2) (h)

Proposal: Amend by deleting the words ‘or replanting’ and deleting the word ‘seedling’

Resolution: Agreed to.

22. Clause 23 (2) (i)

Proposal: Amend by deleting the words ‘ginneries and value addition industries’

Resolution: Not agreed to.

23. Clause 24 (1)

Proposal: Amend by deleting the word ‘cotton ginner’

Resolution: Not agreed to.

24. Clause 24 (1)

Proposal: Amend by deleting the words ‘commercial cotton nursery’

Resolution: Agreed to.

25. Clause 24 (4) (a)

Proposal: Amend by deleting the word ‘ginner’

Resolution: Not agreed to.

26. Clause 25 (2)

Proposal: Amend by deleting the words ‘in county legislation to the county executive committee member’ and Insert the words ‘in the form prescribed by the Board’.

Resolution: Not agreed to.

27. Clause 25 (2) (a)

Proposal: That the clause be Amended by deleting the words ‘county executive committee member’ and replace with the word ‘Board’

Resolution: Not agreed to.

28. Clause 25 (3)

Proposal: Amend by deleting the words ‘a county executive committee member’ and replacing with the words ‘The Board’

Resolution: Not agreed to.

29. Clause 25 (3) (b)

Proposal: Amend by deleting the words 'as the county may specify' and replacing with the words 'as the Board may specify'

Resolution: Not agreed to.

30. Clause 25 (c)

Proposal: That the clause be amended by deleting the words 'the county executive committee member' and replacing with the word 'Board'

Resolution: Not agreed to.

31. Clause 25 (7)

Proposal: Amend by deleting the the words 'the county executive committee member' and replacing with the word 'Board'

Resolution: Not agreed to.

32. Clause 25 (7)

Proposal: Amend by deleting the the words 'the county executive committee member' and replacing with the word 'Board'

Resolution: Not agreed to.

33. Clause 25 (7)

Proposal: Amend by deleting the the words 'the county executive committee member' and replacing with the word 'Board'

Resolution: Not agreed to.

34. Clause 25 (7) (c)

Proposal: Amend by deleting the words 'the county executive committee member' and replacing with the word 'Board'

Resolution: Not agreed to.

35. Clause 25 (8)

Proposal: Amend by deleting the words 'the county executive committee member' and replacing with the word 'Board'

Resolution: Not agreed to.

36. Clause 25 (10)

Proposal: Amend by deleting the words 'twice the value of the cotton or cotton products, whichever is great'

Resolution: Not agreed to.

37. Clause 26 (1)

Proposal: Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'

Resolution: Not agreed to.

38. Clause 26 (1)

Proposal: Amend by deleting the words 'County legislation' and replacing with the word 'regulations'

Resolution: Not agreed to.

39. Clause 27 (1)

Proposal: Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'

Resolution: Not agreed to.

40. Clause 27 (1) (a)

Proposal: Amend by deleting the words 'County legislation' and replacing with the word 'regulations'

Resolution: Not agreed to.

41. Clause 27 (2)

Proposal: Amend by deleting the words 'the county executive committee member'

Resolution: Not agreed to.

42. Clause 27 (3)

Proposal: Amend by deleting the 'entire sub section

Resolution: Agreed to.

43. Clause 28 (2)

Proposal: Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'.

Resolution: Not agreed to.

44. Clause 29 (1)

Proposal: Amend by deleting the words 'the county executive committee member' and replacing with the words 'the Board'

Resolution: Not agreed to.

45. Clause 29 (2)

Proposal: That the Clause be amended by deleting the words 'the county executive committee member' and replacing with the words 'the Board'

Resolution: Not agreed to.

46. Clause 30

Proposal: Proposal to amend clause 30 to read as follows:

Where an applicant is aggrieved by the decision of the county executive committee member not to issue a license under this Act, the applicant may appeal to the county executive committee through the office of the county secretary within thirty days of the decision.

Resolution: Agreed to.

47. Clause 31 (1)

Proposal: That the clause be amended by adding the words 'and the Board' after the word county executive committee member

Resolution: Not agreed to.

48. Clause 32 (2)

Proposal: That the Clause be amended by deleting the words 'intends to' and replacing the word 'from' with 'form'

Resolution: Agreed to.

49. Clause 32 (2)

Proposal: That the Clause be amended by introducing a new sub section 32 (2)(a) to read as follows 'The Board shall, at least thirty days before granting a new license under this Act, publish a notice of the proposed grant by notice in the Gazette and in such other manner as the Board may determine'

Resolution: Agreed to.

50. Clause 32 (2) (b)

Proposal: Amend the bill by introducing a new sub section 32 (2)(a) to read as follows 'The Board shall, at least thirty days before granting a new license under this Act, publish a notice of the proposed grant by notice in the Gazette and in such other manner as the Board may determine'

Introduce 32 (2)(b) to read 'The Board shall, in publishing the notice under subsection 32 (2)(a) —

(i) specify the name or other particulars of the person or class of persons to whom the license is to be granted;

(ii) state the purpose and the date for which the license is proposed to be issued; and

(iii) Invite objections to the proposed grant of license and direct that such objections be lodged with the Board within fourteen days from the date of the notice.

Introduce 32(2) (c) to read 'The Board shall consider any objection submitted to it under sub section 32 (2) (b) (iii) and may grant the license applied for subject to such terms and conditions as the Board shall consider appropriate.'

Resolution: Agreed to.

51. Clause 32 (3) (b)

Proposal: That the Clause be amended by deleting the word 'county' and replacing with the word 'Board'

Resolution: Agreed to.

52. Clause 32 (8)

Proposal: That the Clause be amended by deleting the entire section

Resolution: Not agreed to. Section 30 is on licensing by the county governments while this section provides for licensing by the Board.

53. Clause 33 (1)

Proposal: That the Clause be amended by deleting the words 'the sub section and replacing with the words 'A license issued under section 32 shall expire at the end of the financial year in which the license was issued'

Resolution: Agreed to.

54. Clause 33 (2)

Proposal: That the clause be amended by deleting the words 'sixty days' and replacing with the words 'thirty days'

Resolution: Agreed to.

55. Clause 33 (3)

Proposal: That the clause be amended by adding the words 'except gazetteement' at the end of the sentence

Resolution: Agreed to.

56. Clause 34 (1) (a)

Proposal: That the clause be amended by deleting the word 'by'

Resolution: Agreed to.

57. Clause 34 (1) (b)

Proposal: That the clause be amended by deleting the sub section.

Resolution: Not agreed to.

58. Clause 34 (2)

Proposal: That the clause be amended by deleting the words 'the county executive committee member' and replacing with the words 'the Board'

Resolution: Agreed to.

59. Clause 34 (3)

Proposal: That the Clause be amended by deleting the 'entire sub section

Resolution: Not agreed to.

60. Clause 34 (3)

Proposal: That the Clause be amended by deleting clause 37(1) and replacing it with a new clause 37(1) to read as follows:

Funds of the Board

37.1 The funds of the board shall consist of—

Resolution: Agreed to.

61. Clause 37 (2)

Proposal: That the Clause be amended by adding new subsection 37 (2)(d) to read 'all monies received in respect of the levies and fees'

Resolution: Not agreed to.

62. Clause 38

Proposal: That the Clause be amended to introduce a new section 38 to read 'the Cabinet Secretary, may in consultation with the Board and the Cabinet Secretary responsible for the National Treasury, by notice in the gazette, impose a levy not exceeding four per cent of the value of the cotton produce or cotton product on which levy is payable.'

Resolution: Agreed to.

63. Clause 43 (b)

Proposal: That the Clause be amended by deleting the sub section

Resolution: Not agreed to.

64. Clause 43 (c) and (d)

Proposal: That the Clause be amended by deleting the words 'or issuance of license'

Resolution: Not agreed to.

65. Clause 43 (e)

Proposal: That the Clause be amended by deleting the sub section.
Resolution: Not agreed to.

66. Clause 43 (f)

Proposal: That the Clause be amended by deleting the sub section
Resolution: Not agreed to.

67. Clause 43 (g)

Proposal: That the Clause be amended by deleting the sub section.
Resolution: Not agreed to.

68. Clause 44

Proposal: That the Clause be amended by deleting the section
Resolution: Agreed to.

69. Clause 45 (1)

Proposal: That the Clause be amended by deleting the words 'twice the value of the cotton or cotton products, whichever is great'
Resolution: Not agreed to.

70. Clause 45

Proposal: That the Clause be amended by the words 'twenty thousand shilling' and replacing with the words 'five hundred thousand shillings'
Resolution: Not agreed to.

71. Clause 46 (2) (a)

Proposal: That the Clause be amended by adding the word 'processors' after the word cotton farmers.
Resolution: Agreed to.

MIN. NO. 18/2022

DATE OF NEXT MEETING

The next meeting would be held on Wednesday, 8th March, 2022 at 11.00 a.m.

MIN. NO. 19/2022

ADJOURNMENT

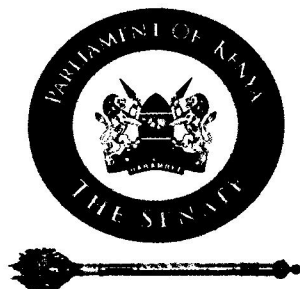
There being no other business, the meeting was adjourned at 1.10 p.m.



SIGNED:.....

(CHAIRPERSON)

DATE:.....29/3/2022.....



MINUTES OF THE 164TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON SATURDAY, 12TH MARCH, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | | |
|--------------------------------------|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. Enoch Wambua, MP | - | Vice-Chairperson |
| 3. Sen. (Canon) Naomi Jillo Waqo, MP | | |
| 4. Sen. (Dr.) Michael Mbito, MP | | |
| 5. Sen. Issa Juma Boy, MP | | |

ABSENT WITH APOLOGY

1. Sen. Justice (Rtd.) Stewart Madzayo, MP
2. Sen. (Eng.) Ephraim Maina, MP
3. Sen. Kipchumba Murkomen, EGH, MP

SECRETARIAT

- | | | |
|-----------------------|---|---|
| 1. Ms. Carol Kirorei | - | Clerk Assistant |
| 2. Mr. David Angwenyi | - | Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Mr. Alex Mutuku | - | Serjeant-At-Arms |
| 4. Ms. Regina Munyao | - | Legal Counsel |
| 5. Mr. Mitchell Otoro | - | Legal Counsel |
| 6. Mr. Tiyan Joseph | - | Research Officer |
| 7. Ms. Mary Nyawira | - | Audio Officer |
| 8. Mr. Titus Michubu | - | Pupil |

MIN. NO. 36/2022

PRELIMINARIES

The Chairperson called the meeting to order at 11.25 a.m. followed by a word of prayer.

MIN. NO. 37/2022

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. (Dr.) Michael Mbito, MP and seconded by Sen. Issa Juma Boy, MP-

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*
2. Consideration and adoption of Reports
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

MIN. NO. 38/2022 **CONSIDERATION AND ADOPTION OF REPORTS**

The Committee considered the following Reports-

1. Report on the consideration of the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021);
2. Report on the Petition concerning the plight of seed farmers in Trans-Nzoia County; and
3. Report on the consideration of the Cotton Industry Development Bill (Senate Bills No. 55 of 2021).

The Committee adopted the Reports after being proposed by Sen. (Dr.) Michael Mbito, MP and seconded by Sen. Issa Juma Boy, MP

MIN. NO. 39/2022 **DATE OF NEXT MEETING**

The next meeting would be on 12th March, 2022 at 12.30 p.m.

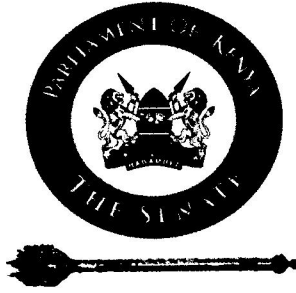
MIN. NO. 40/2022 **ADJOURNMENT**

There being no other business, the meeting was adjourned at 12.00 noon.



SIGNED:.....
(CHAIRPERSON)

DATE:.....29/3/2022.....



MINUTES OF THE 167TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON TUESDAY, 29TH MARCH, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | | |
|---|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. Enoch Wambua, MP | - | Vice-Chairperson |
| 3. Sen. (Dr.) Michael Mbito, MP | | |
| 4. Sen. (Canon) Naomi Jillo Waqo, MP | | |
| 5. Sen. Justice (Rtd) Stewart Madzayo, MP | | |

ABSENT WITH APOLOGY

1. Sen. Kipchumba Murkomen, EGH, MP
2. Sen. (Eng.) Ephraim Maina, EBS, MP
3. Sen. Issa Juma Boy, MP

SECRETARIAT

- | | | |
|----------------------|---|---|
| 1. Ms. Carol Kirorei | - | Clerk Assistant |
| 2. Mr. David Agwenyi | - | Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Ms. Regina Munyao | - | Legal Counsel |
| 4. Mr. Alex Mutuku | - | Serjeant-At-Arms |
| 5. Mr. Godana Mamo | - | Serjeant-At-Arms |
| 6. Ms. Happy Julius | - | Fiscal Analyst |
| 7. Ms. Mary Nyawira | - | Audio Officer |
| 8. Mr. Titus Michubi | - | Pupil, Legal Services |

MIN. NO. 32/2022

PRELIMINARIES

The Chairperson called the meeting to order at 11.13 a.m. followed by a word of prayer.

MIN. NO. 33/2022

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Enoch Wambua, MP and seconded by Sen. (Dr.) Michael Mbito, MP-

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*
2. Consideration of the proposed amendments to the Cotton Industry Development Bill (Senate Bills No. 55 of 2021)
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

MIN. NO. 34/2022

CONSIDERATION OF THE PROPOSED AMENDMENTS TO THE COTTON INDUSTRY DEVELOPMENT BILL (SENATE BILLS NO. 55 OF 2021)

The Legal Counsel presented the proposed amendments to the Cotton Industry Development Bill (Senate Bills No. 55 of 2021). The Committee adopted the proposed amendments to the Bill, after being proposed by Sen. (Canon) Naomi Jillo Waqo and seconded by Sen. (Dr.) Michael Mbito.

The Chairperson commended the secretariat for the good job they were doing in the Committee.

MIN. NO. 35/2022

ANY OTHER BUSINESS

1. Pending Legislative Business

The Committee was briefed on the pending legislative business as follows-

- a) The Sugar Bill (National Assembly Bills No. 68 of 2019) was currently still undergoing public participation following the extension of the deadline for submissions to 5th April, 2022; and
- b) Petition regarding unlawful and arbitrary deprivation of land, Internal Displacement of persons, trespass to Land, delayed and non-compensation in respect of way leaves and public rights of way required for irrigation infrastructure and unnecessary, prolonged and inordinate delay in undertaking full implementation the Lower Kuja Irrigation Development Project in Nyatike sub-county.

The Committee was yet to receive official communication from the Ministry of Water, Sanitation and Irrigation on the fact that the matters contained in the Petition were *sub judice*.

2. Coffee Bill, 2020

The Legal Counsel was tasked to follow up on the progress on Coffee Bill (Senate Bills No. 22 of 2020) and the amendments proposed by the National Assembly.

MIN. NO. 36/2022

DATE OF NEXT MEETING

The next meeting would held on notice.

MIN. NO. 37/2022

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.44 a.m.

SIGNED:.....



(CHAIRPERSON)

DATE:.....29/3/2022.....

APPENDIX II

Committee Stage amendments to
the Cotton Industry Development Bill,
(Senate Bills No. 55 of 2021)

28th March, 2022

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

**RE: COMMITTEE STAGE AMENDMENTS TO THE COTTON BILL, SENATE
BILLS NO. OF 2021**

NOTICE is given that Sen. Peter Njeru Ndwiga, Chairperson, Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Coffee Bill, Senate Bills No. 55 of 2021, at the Committee Stage—

CLAUSE 7

THAT clause 7 of the Bill be amended in subclause (1) by —

- (a) deleting the word “first” appearing immediately after the words “specified in the” in paragraph (c) and substituting therefor the word “second”; and
- (b) deleting the words “representing cotton farmers” appearing immediately after the words “of opposite gender” in paragraph (d) and substituting therefor the words “with knowledge of the cotton industry”.

CLAUSE 8

THAT clause 8 of the Bill be amended in subclause (1) by deleting the word “post - secondary” appearing immediately after the words “section 7(1)(c) a” in paragraph (b)(ii) and substituting therefor the word “secondary”.

CLAUSE 10

THAT clause 10 of the Bill be amended by deleting paragraph (f).

CLAUSE 11

THAT clause 11 of the Bill be amended in subclause (1) by —

- (a) inserting the words “formulation and” immediately after the words “secretary on the” in paragraph (c); and
- (b) deleting the word “suppliers” appearing immediately after the words “a producer and” in paragraph (g) and substituting therefor the word “supplier”.

CLAUSE 14

THAT clause 14 of the Bill be amended by deleting the word “fees” appearing immediately after the words “paid such remuneration”.

CLAUSE 15

THAT clause 15 of the Bill be amended in subclause (3) by deleting the word “five” appearing immediately after the words “a term of” and substituting therefor the word “three”.

CLAUSE 23

THAT clause 23 of the Bill be amended in subclause (2) by deleting the words “or replanting of suitable seedlings” appearing immediately after the words “productivity through planting” in paragraph (h) and substituting therefor the words “of suitable seed”.

CLAUSE 24

THAT clause 24 of the Bill be amended in subclause (1) by deleting the word “commercial cotton nursery” appearing immediately after the words “cotton ginner”.

CLAUSE 27

THAT clause 27 of the Bill be amended by deleting subclause (3).

CLAUSE 30

THAT the Bill be amended by deleting clause 30 and substituting therefor the following new clause—

Appeals.

30. (1) An applicant who is aggrieved by the decision of the county executive committee member not to issue a licence under this Act may appeal to the county executive committee against the decision within thirty days of the receipt of the decision.

(2) An applicant who is aggrieved by the decision of the county executive committee under subsection (1) may appeal to the High Court against the decision within fourteen days of receipt of the decision.

CLAUSE 32

THAT clause 32 of the Bill be amended —

(a) by deleting subclause (2) and substituting therefor the following new subclause —

(2) A person who intends to import or export cotton, cotton seed or cotton products shall submit an application, in the prescribed, form to the Board.

(b) by inserting the following new subclauses immediately after subclause (2) —

(2A) The Board shall, at least thirty days before granting a new licence under this section, publish a notice of the proposed grant in the Gazette and in such other manner as the Board may determine.

(2B) The Board shall, in publishing the notice under subsection (2A)—

- (a) specify the name or other particulars of the person or class of persons to whom the license is to be granted;
- (b) specify the purpose and the date on which the license is proposed to be issued; and
- (c) invite comments on the proposed grant of license and direct that such comments be lodged with the Board within fourteen days from the date of the notice.

(2C) The Board shall consider any objection submitted to it under paragraph (c) and may grant or deny the license applied for subject to such terms and conditions as the Board shall consider appropriate.

(c) in subclause (3) by deleting the word “county” appearing immediately after the words “conditions as the” in paragraph (b) and subsisting therefor the word “Board”; and

(d) in subclause (7) by deleting the words “county executive committee member” appearing immediately after the words “under subsection (3),” and subsisting therefor the word “Board”.

CLAUSE 33

THAT clause 33 of the Bill be amended in—

(a) subclause (1) by deleting the words “a period of one year from the date” appearing immediately after the words “be valid for” and subsisting therefor the words “the year in which”; and

(b) subclause (2) by deleting the word “sixty” appearing immediately after the words “form at least” and subsisting therefor the word “thirty”.

CLAUSE 34

THAT clause 34 of the Bill be amended —

(a) in subclause (1) by deleting the word “by” appearing immediately after the words “condition prescribed under” in paragraph (a);

(b) in subclause (2) by deleting the words “committee executive member” appearing immediately after the words “subsection (1) unless the” and subsisting therefor the word “Board”; and

(c) by deleting subclause (3).

CLAUSE 37

THAT clause 37 the Bill be amended —

(a) by deleting subclause (1);

(b) in subclause (2) by-

- i. deleting the word “Fund” appearing immediately after the word “The” and substituting therefor the words “funds of the Board”;
 - ii. inserting the following new paragraph immediately after paragraph (b); and
 - (ba) monies received in respect of the levies and fees;
- (c) by deleting the marginal note and substituting therefor the following new marginal note —

Funds of the Board.

CLAUSE 44

THAT the Bill be amended by deleting clause 44.

CLAUSE 46

THAT clause 46 of the Bill be amended in subclause (2) by inserting the following new paragraphs immediately after paragraph (b)—

- (c) conditions for the issuance of certificates, licenses and permits under this Act;
- (d) forms, certificates and manner of application for registration and licensing under this Act;
- (e) manner in which cotton may be produced, harvested, graded, processed, warehoused, packaged and traded;
- (f) charges for services rendered under this Act by the Board;
- (g) forms and procedure for appeals under this Act;
- (h) establishment of a cotton price stabilization mechanism;
- (i) contracts entered by growers and processors and;
- (j) apportionment of any levy imposed under this Act.

NEW CLAUSE 37A

THAT the Bill be amended by inserting the following new clause immediately after clause 37—

Imposition of levy.

37A. The Cabinet Secretary may, in consultation with the Board, the county governments and the Cabinet Secretary responsible for the National Treasury, and by notice in the Gazette, impose a levy payable to the Board for the development of the cotton industry.

SECOND SCHEDULE

THAT paragraph (1) of the First schedule be amended in sub-paragraph (1) by deleting the word “ten” appearing immediately after the words “have at least” and substituting therefor the word “six”.

Dated.....29th March.....2022.



Sen. Njeru Ndwiga,

Chairperson

Committee on Agriculture, Livestock and Fisheries.

APPENDIX III

Newspaper advertisement

REPUBLIC OF KENYA



TWELFTH PARLIAMENT | FIFTH SESSION THE SENATE

The Cotton Industry Development Bill (Senate Bills No. 55 of 2021)

INVITATION FOR PUBLIC PARTICIPATION AND SUBMISSION OF MEMORANDA

The Cotton Industry Development Bill (Senate Bills No. 55 of 2021) was read a First Time in the Senate on 21st December, 2021 and thereafter stood committed to the Standing Committee on Agriculture, Livestock and Fisheries.

Pursuant to the provisions of Article 118 and standing order 140 (5) of the Senate Standing Orders, the Standing Committee on Agriculture, Livestock and Fisheries now invites interested members of the public to submit any representations that they may have on the Bill, by way of written memoranda.

The written memoranda may be emailed to the Office of the Clerk of the Senate on the address - csenate@parliament.go.ke and copied to senatescalf@parliament.go.ke to be received on or before **Monday, 7th February, 2022** at **5.00 p.m.**

The Bill may be accessed on the Parliament website at <http://www.parliament.go.ke/senate>.

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



APPENDIX IV

The Cotton Industry Development Bill,

(Senate Bill No. 55 of 2021)



SPECIAL ISSUE

Kenya Gazette Supplement No. 205 (Senate Bills No. 55)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2021

NAIROBI, 12th November, 2021

CONTENT

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THE COTTON INDUSTRY DEVELOPMENT BILL, 2021
ARRANGEMENT OF CLAUSES

Clause

PART I— PRELIMINARY

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

PART II—COTTON INDUSTRY DEVELOPMENT BOARD

- 4—Establishment of the Board.
- 5—Headquarters of the Board.
- 6—Powers of the Board.
- 7—Composition of the Board.
- 8—Qualifications for appointment as a member.
- 9—Tenure of appointment.
- 10—Vacation of office.
- 11—Functions of the Board.
- 12—Committees of the Board.
- 13—Delegation by the Board.
- 14—Remuneration of members of the Board.
- 15—Chief executive officer.
- 16—Functions of the chief executive officer.
- 17—Removal of the chief executive officer.
- 18—Staff of the Board.
- 19—Protection from personal liability.
- 20—Common seal of the Board.
- 21—Signing authority.
- 22—Meetings of the Board.

PART III — ROLE OF COUNTY GOVERNMENTS

- 23—Role of county governments.

PART IV— REGULATORY PROVISIONS

- 24—Registration.

- 25—Licensing of manufacturers or processors.
- 26—Refusal to grant licence.
- 27—Revocation of licence.
- 28—Compliance notice.
- 29—Effect of cancellation of licence.
- 30—Appeals.
- 31—Designation of collection centres.
- 32—Licencing of importers and exporters.
- 33—Renewal of a Licence.
- 34—Revocation of a licence.
- 35—Compliance notice.
- 36—Effect of revocation of a licence.

PART V— FINANCIAL PROVISIONS

- 37—Cotton Development Fund.
- 38—Annual estimates.
- 39—Accounts and Audit..
- 40—Annual Report and Publication.
- 41—Financial year of the Board.

PART V— MISCELLANEOUS PROVISIONS

- 42—Incentives.
- 43—Enactment of county specific legislation.
- 44—Management of information.
- 45—Penalties.
- 46—Regulations.
- 47—Publication of cotton growing counties.
- 48—Consequential Amendments.

**FIRST SCHEDULE — PROVISIONS RELATING TO THE
CONDUCT OF BUSINESS AND AFFAIRS
OF THE BOARD**

SECOND SCHEDULE — COUNTIES

**THE COTTON INDUSTRY DEVELOPMENT BILL,
2021**

A Bill for

AN ACT of Parliament to provide for the production, processing, marketing and distribution of cotton in Kenya and its products; establish the Cotton Industry Development Board; provide a framework for cotton farming; ensure value addition to cotton and its related products; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows —

PART I—PRELIMINARY

1. This Act may be cited as the Cotton Industry Development Act, 2021. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“Board” means the Cotton Industry Development Board established under section 4;

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

“chief executive officer” means the person appointed as the chief executive officer to the Board under section 15;

“cotton product” means any product, extract or substance obtained or derived from cotton by any treatment or process;

“cotton seed” means cotton seed, including planting seed, produced from raw cotton; and

“county executive committee member” means the county executive committee member responsible for matters relating to agriculture.

3. The objects of this Act is to provide a framework— Objects.

- (a) to promote a globally competitive cotton industry;
- (b) to facilitate the production, value addition and processing of safe and healthy cotton and its products;
- (c) to promote the generation of high income for cotton farmers and traders;

- (d) for the continuous and sustained research and extension services for the development of the cotton industry;
- (e) to facilitate the introduction of modern cotton farming techniques and general modernisation of the cotton industry; and
- (f) for the provision of financial support to the various players in the cotton industry.

**PART II— THE COTTON INDUSTRY
DEVELOPMENT BOARD**

4. (1) There is established a Board to be known as the Cotton Industry Development Board. Establishment of the Board.

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

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

5. (1) The headquarters of the Board shall be in Nairobi. Headquarters of the Board.

(2) The Board may establish such other offices anywhere in Kenya as it may consider necessary for the effective performance of its functions under this Act.

6. (1) The Board shall have all the powers necessary for the proper performance of its functions under this Act. Powers of the Board.

(2) Without prejudice to the generality of the foregoing, the Board shall have power to—

- (a) enter into contracts;
- (b) manage, control and administer the assets of the

Board in such manner and for such purposes as best promote the purpose for which the Board is established;

- (c) receive gifts, grants, donations or endowments made to the Board and make disbursement therefrom in accordance with the provisions of this Act;
- (d) subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine; and
- (e) open such bank accounts for its funds as may be necessary.

(3) The Board may, if it considers it necessary, create or take part in the creation of, become a member of, or associate with a body or corporation designed to assist or promote the cotton industry.

7. (1) The Board shall consist —

Composition of the Board.

- (a) a chairperson appointed by the President by notice in the *Gazette*;
- (b) the Principal Secretary responsible for agriculture or a representative designated by the Principal Secretary in writing;
- (c) six persons representing cotton farmers, one from each region specified in the first schedule, nominated by the farmers' cooperative societies with the largest membership in the respective counties;
- (d) two persons of opposite gender representing cotton farmers nominated by the Council of County Governors established under section 19 of the Intergovernmental Relation Act; and
- (e) the Chief Executive Officer.

Act No. 2 of 2012.

(2) The Cabinet Secretary shall appoint the members under subsection (1)(c) and (d) by notice in the *Gazette*.

(3) The chief executive officer shall be an *ex-officio* member and secretary to the Board and shall have no right to vote at any meeting of the Board.

8. (1) A person is qualified for appointment as a member of the Board under section 7(1)(a), (c) and (d) if that person—

Qualifications for appointment as a member.

- (a) is a citizen of Kenya;
- (b) holds, in the case of a person appointed –
 - (i) section 7(1)(a) and (d), a degree from a university recognized in Kenya; and
 - (ii) section 7(1)(c), a post-secondary school qualification;
- (c) has at least three years' experience in management; and
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(2) A person is not qualified for appointment if that person—

- (a) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;
- (b) is a member of Parliament or county assembly; or
- (c) is adjudged bankrupt.

9. A person who is appointed under section 7 shall serve for a term of three years renewable for one further term.

Tenure of appointment.

10. A person shall cease to be a member of the Board if that person —

Vacation of office.

- (a) is absent, without reasonable cause, for three consecutive meetings of the Board;
- (b) becomes an officer, agent or member of staff of the Board;
- (c) resigns in writing addressed, in the case of the chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;
- (d) is convicted of a criminal offence and sentenced to a term of imprisonment of at least six months;
- (e) is declared bankrupt;

- (f) fails to declare interest in any matter being considered or to be considered by the Board;
- (g) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (h) dies.

11. (1) The functions of the Board shall be to —

Functions of the Board.

- (a) regulate and promote the development of the cotton growing and cotton ginning;
- (b) advise the Cabinet Secretary which counties qualify as cotton producing;
- (c) make recommendations to the Cabinet Secretary on the implementation of strategies, plans and policies relating to the cotton sector;
- (d) promote the diversification of cotton products;
- (e) regulate the import and export of cotton lint and cotton seed;
- (f) promote the marketing of cotton products and by-products in both local and foreign markets;
- (g) formulate national standards acceptable in the international markets to ensure that the competitiveness and reliability of the country as a producer and suppliers of cotton products is preserved;
- (h) carry out surveillance and inspections to ensure compliance with the standards and legislation on the cotton sector;
- (i) establish linkages with local and international training and research institutions to conduct scientific research and investigations in all areas pertaining to the development of the cotton industry;
- (j) undertake technology transfer and provide technical assistance to county governments on matters relating to cotton;
- (k) collect, collate and disseminate information on the cotton industry including the appropriate

technology and practices to ensure maximisation of yields by cotton farmers;

- (l) regulate the marketing and the exportation of cotton products and by-products to conform to the quality or standards recognized in the international market;
- (m) put in place a framework for capacity building and training of various players in the cotton sector;
- (n) develop and enforce the cotton industry standards and industry code of practice in collaboration with the Kenya Bureau of Standards; and
- (o) carry out such other functions as may be assigned by the Cabinet Secretary or conferred under any other law.

(2) The Board shall consult and collaborate with the county executive committee members in the development, promotion and regulation of the cotton industry in the respective counties.

12. (1) The Board may establish such committees as it may consider necessary for the efficient performance of its functions and the exercise of its powers under this Act.

Committees of the Board

(2) The Board may co-opt any person to sit in a committee established under subsection (1) such persons whose knowledge and skills are found necessary for the performance of the functions of the Board.

13. The Board may, by resolution either generally or in any particular case, delegate to any committee, member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions of the Board under this Act or under any other written law.

Delegation by the Board.

14. The members of the Board shall be paid such remuneration, fees or allowances as the Cabinet Secretary shall, in consultation with the Salaries and Remuneration Commission, determine.

Remuneration of members of the Board.

15. (1) There shall be a chief executive officer of the Board who shall be competitively recruited and

Chief executive officer.

appointed by the Board on such terms and conditions as the Board shall determine.

(2) A person is qualified for appointment as the chief executive officer if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years' experience in senior management; and
- (d) meets the requirements of leadership and integrity set out in chapter six of the Constitution.

(3) The chief executive officer shall hold office for a term of five years and is eligible for re-appointment for one further term.

16. The chief executive officer shall be the secretary to the Board and shall, subject to the direction of the Board—

Functions of the chief executive officer.

- (a) be responsible for the day to day management of the affairs of the Board;
- (b) manage the funds, property and affairs of the Board;
- (c) be responsible for the management of the staff of the Board;
- (d) oversee and coordinate the implementation of the policies, programmes and objectives of the Board;
- (e) cause to be prepared for the approval of the Board—
 - (i) the strategic plan and annual plan of the Board; and
 - (ii) the annual budget and audited accounts of the Board; and
- (f) perform such other duties as may be assigned by the Board.

17. The chief executive officer shall cease to hold office if that person—

Removal of the chief executive officer.

- (a) resigns in writing, addressed to the Board;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is found liable for gross misconduct or abuse of office in contravention any written law;
- (d) is declared bankrupt;
- (e) is unable to perform the functions of office by reason of mental or physical infirmity; or
- (f) dies.

18. (1) The Board may employ such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act and upon such terms and conditions of service as the Board may determine.

Staff of the Board.

(2) The persons appointed under subsection (1) shall be competitively recruited and appointed by the Board and shall serve on such terms and conditions as the Board may, in consultation with the Salaries and Remuneration Commission determine.

(3) The staff appointed under subsection (1) shall possess such knowledge and experience as shall be determined by the Board.

19. Liability shall not attach to the Board or to any of its members, officers, agents or staff for loss or damage incurred by a person as a result of an act or omission done or made in good faith and without negligence in the performance or exercise or the intended performance or exercise of any duty or power imposed by or conferred under this Act.

Protection from personal liability.

20. (1) The common seal of the Board shall be kept in the custody of the chief executive officer or such other person as the Board may direct, and shall not be used except upon the order of the Board.

Common seal of the Board.

(2) The seal of the Board shall be authenticated by the signature of the chief executive officer and the chairperson or a person designated by the Board for that purpose on behalf of the chairperson.

21. All letters and instruments written or made by or on behalf of the Board, other than those required by law to be under seal, and all decisions of the Board, shall be signed under the hand of the chief executive officer or in the absence of the chief executive officer, a person authorized by the Board. Signing authority.

22. (1) The business and affairs of the Board shall be conducted in accordance with the provisions set out in the First Schedule. Meetings of Board.

(2) Except as otherwise provided in the First Schedule, the Board may regulate its own procedure.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not be entitled to vote on any of the Board's decisions.

PART III—ROLE OF COUNTY GOVERNMENTS

23. (1) Each county government shall— Role of county governments.

- (a) implement the National Government policy relating to the cotton sector;
- (b) regulate and promote the development of the cotton industry within the respective county;
- (c) consider applications for the certificates, permits and licences;
- (d) regulate the cutting or destruction of cotton in order to conserve and protect the resources devoted to the cotton industry in the respective county;
- (e) coordinate the activities of persons, organisations and any other associations within the cotton industry in the respective county; and
- (f) facilitate access by players in the cotton industry to such resources and financial support as may be necessary to promote the development of the cotton industry in the respective county.

(2) Each county executive committee member shall, in ensuring that the county government fulfils its obligations under subsection (1)—

- (a) maintain an up to date register of cotton growers, cotton cooperative societies and other associations as it considers appropriate in that county;
- (b) implement the policies, standards and strategies by the National Government and guidelines on corporate governance in cotton growers' institutions;
- (c) facilitate the production of cotton in the respective county by implementing and expanding the planting and replanting program of cotton in strategic areas identified as having the most potential and facilitate the rehabilitation and fertilization of existing cotton;
- (d) offer extension services on cotton production and primary processing;
- (e) promote the organisation of cotton farmers cooperatives, associations, and organizations and provide them with credit and financing support;
- (f) provide training, extension service programs and disseminate information to cotton farmers, farm workers and processors relative to production technology, market systems, farm workers, entrepreneurial and other technical skills and values, attitude formation and socio-economic development strategies;
- (g) collaborate with relevant institutions so as to promote access to credit and other financial services;
- (h) formulate and adopt a general program of development geared towards increased farm productivity, through planting or replanting of suitable seedling varieties, rehabilitation and fertilization of cotton, integrated cotton farming systems and product processing;
- (i) inspect cotton farms, ginneries and value addition industries located within their respective counties;

- (j) in collaboration with law enforcement agencies, enhance security in cotton growing areas;
- (k) monitor and report incidences of pests and disease outbreaks to the Board and take action in collaboration with the Board and other relevant government agencies; and
- (l) carry out such other functions as may be conferred upon

PART IV— REGULATORY PROVISIONS

24. (1) A person or entity shall not carry out the business of a cotton grower, cotton ginner, commercial cotton nursery, cotton cooperative society or cotton association unless such person is registered by the respective county government in which the business is to be undertaken. Registration.

(2) A county government shall not charge a fee for the registration of an applicant under subsection (1).

(3) Each county government shall keep and maintain a register of persons registered under subsection (1).

(4) A register under subsection (3), shall include—

- (a) the name of the cotton grower, ginner, cooperative society or cotton association;
- (b) the location, size and parcel number of the land on which the business or that of its members is located; and
- (c) such other particulars as may be prescribed by county legislation.

(5) A county government shall submit to the Board a copy of the register under subsection (3).

(6) Any person may inspect the register and obtain a copy of an extract from the register, on payment of a prescribed fee.

(7) The respective county executive committee members shall prescribe, in county legislation, the form and procedure for the application for registration under subsection (1).

25. (1) A person shall not engage in the manufacture or processing of cotton products unless such person has Licensing of manufacturer or processor.

applied for, and obtained, a licence in accordance with this Act.

(2) A person who intends to manufacture or process cotton products shall submit an application in the form prescribed in county legislation to the county executive committee member together with —

- (a) such documents and information as the county executive committee member may prescribe; and
- (b) the prescribed fees.

(3) A county executive committee member shall consider an application within fourteen days, and may—

- (a) grant a licence unconditionally;
- (b) grant a licence subject to satisfying such conditions as the county may specify; or
- (c) with sufficient cause, refuse to issue or renew the licence.

(4) A decision made under subsection (3) on an application for a licence shall be communicated to the applicant by the respective county executive committee member, in writing within, fourteen days from the date of the decision.

(5) Where the county executive committee member refuses to grant an application for a licence, the county executive committee member shall, in its notification under subsection (3), specify the reasons for the refusal.

(6) A county executive committee member shall, at least thirty days before granting a new licence under this Act, publish a notice of the proposed grant by notice in the *Gazette* and in such other manner as the county executive committee member may determine.

(7) The county executive committee member shall, in publishing the notice under subsection (6)—

- (a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;
- (b) state the purpose and the date for which the licence is proposed to be issued; and

(c) invite objections to the proposed grant of licence and direct that such objections be lodged with the county executive committee member within fourteen days from the date of the notice.

(8) The county executive committee member shall consider any objection submitted to it under subsection (6) and may grant the licence applied for subject to such terms and conditions as the county executive committee member shall consider appropriate.

(9) A licence issued under this Act shall not be transferable.

(10) A person who contravenes the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or twice the value of the cotton or cotton products, whichever is great, or to imprisonment for a term not exceeding two years or both.

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

Refusal to grant a licence.

(2) The county executive committee member shall notify the applicant of the decision within fourteen days of such refusal in accordance with section 25(3) and (4).

27. (1) The county executive committee member may revoke a licence under this Act if the licensee —

Revocation of a licence.

- (a) fails to meet any condition imposed by this Act or county legislation; or
- (b) surrenders the licence together with a notice setting out a request that the licence be revoked.

(2) The county executive committee member shall not revoke the licence under subsection (1) unless the committee executive member—

- (a) issues to the person, a notice of at least fourteen days of the intention to revoke the licence;
- (b) issues to that person a compliance notice in the prescribed form; and

(c) grants the person, an opportunity to be heard on the revocation.

(3) The county executive committee member shall not revoke a licence of a person who has ceased to carry out the business for a which the licence was issued.

28. (1) A compliance notice issued under section 27(2) shall— Compliance notice.

- (a) be in writing;
- (b) set out the areas of non-compliance and the steps required to be undertaken in order to comply; and
- (c) specify the period within which the person is required to comply with the notice.

(2) The county executive committee member may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the committee member may consider necessary to ensure compliance.

29. (1) Where a person who receives a compliance notice under section 28 fails to comply with such notice, the county executive committee member shall — Effect of revocation of a licence.

- (a) revoke the licence of that person;
- (b) notify the person in writing of—
 - (i) the revocation and the reasons thereof; and
 - (ii) indicate the date of revocation.

(2) For purposes of this Act, a cancellation of licence takes effect on the date on which the licence is cancelled by the county executive committee member.

30. An applicant is aggrieved by the decision of the county executive committee member not to issue a licence under this Act, may appeal to the High Court against the decision within thirty days of receipt of the decision. Appeals.

31. (1) The county executive committee member shall designate such collection centres as the member shall, in consultation with the cotton growers in the county, determine. Designation of collection centres.

(2) The county executive committee member shall, in designating a collection centre—

- (a) ensure that a centre meets such standards as may be prescribed by the Cabinet Secretary; and
- (b) take into account such codes of practice and standards as may be applicable to cotton collection centres.

32. (1) A person shall not import or export cotton, cotton seed or cotton products unless such person has applied for, and obtained a licence for the said import or export.

Licensing of importers and exporters.

(2) A person who intends to import or export cotton, cotton seed or cotton products shall submit an application, in the prescribed, form to the Board.

(3) The Board shall consider an application within thirty days, and may—

- (a) grant a licence unconditionally;
- (b) grant a licence subject to satisfying such conditions as the county may specify; or
- (c) with sufficient cause, refuse to issue or renew the licence.

(4) A decision made under subsection (2) shall be communicated to the applicant, in writing within, seven days from the date of the decision.

(5) The licence granted to an applicant under subsection (3) shall be in the prescribed form.

(6) A licence issued under this section shall not be transferable.

(7) Where the Board refuses to grant an application for a licence under subsection (3), the county executive committee member shall, specify the reasons for the refusal.

(8) A person who is dissatisfied with the decision of the Board may appeal to the Cabinet Secretary.

33. (1) A licence issued under section 32 shall be valid for a period of one year from the date it was issued.

Renewal of a licence.

(2) A person who intends to renew a licence under subsection (1) shall submit an application in the prescribed form at least sixty days before the date of expiry of the licence.

(3) The procedure for the application of a licence under section 32 shall apply to the application for the renewal of a licence

34. (1) The Board may revoke a licence issued under section 32 or renewed under section 33 if the licensee — Revocation of a licence.

- (a) fails to meet any condition prescribed under by this Act; or
- (b) surrenders the licence together with a notice setting out a request that the licence be revoked.

(2) The Board shall not revoke the licence under subsection (1) unless the committee executive member—

- (a) issues to the licensee, a notice of at least fourteen days of the intention to revoke the licence;
- (b) issues to that person a compliance notice in the prescribed form; and
- (c) grants the person, an opportunity to be heard on the revocation.

(3) The Board member shall not revoke a licence of a person who has ceased to carry out the business for a which the licence was issued.

35. (1) A compliance notice issued under section 34(2) shall— Compliance notice.

- (a) be in writing;
- (b) set out the areas of non-compliance and the steps required to be undertaken in order to comply; and
- (c) specify the period within which the person is required to comply with the notice.

(2) The Board may, upon request by the licensee and, where there are sufficient grounds shown by the licensee, extend the period of compliance for such period as the Board may consider necessary to ensure compliance.

36. (1) Where a person who receives a notice under section 34 fails to comply with such notice, the Board shall— Effect of revocation of a licence.

- (a) revoke the licence of that person;

- (b) notify the person in writing of—
 - (i) the revocation and the reasons thereof; and
 - (ii) indicate the date of revocation.

(2) For purposes of this Act, a cancellation of licence takes effect on the date on which the licence is cancelled by the Board.

PART VI— FINANCIAL PROVISIONS

37. (1) There may be established a Fund to be known as the Cotton Development Fund which shall be administered by the Board. Cotton
Development Fund.

- (2) The Fund shall consist of—
- (a) monies appropriated by Parliament for the purposes of the Board;
 - (b) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or any other written law; and
 - (c) donations, grants, loans or gifts made to the Board and approved by the Cabinet Secretary for the time being responsible for matters relating to finance.

38. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board for that year. Annual Estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year concerned.

(3) The annual estimates prepared by the Board under subsection (2) shall be submitted to the Cabinet Secretary for tabling in the National Assembly and the Senate.

39. (1) The Board shall cause to be kept such books of accounts and other books in relation thereto of all its undertakings, funds, activities and property as the Cabinet Secretary may from time to time approve and shall, within a period of three months after the end of the financial year, Accounts and
Audit.

cause to be prepared, signed and forwarded to the Auditor-General—

- (a) a balance sheet showing in detail the assets and liabilities of the Board; and
- (b) such other statements of accounts as the Cabinet Secretary may approve.

(2) The accounts of the Board shall be examined, audited and reported upon annually by the Auditor-General in accordance with the Public Audit Act. No. 34 of 2015.

(3) The Board shall submit to the Auditor-General all books and accounts of the Board, together with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Auditor-General shall be entitled to require from any member, officer, employee or agent of the Board such information and explanation as he may consider necessary for the performance of his duties.

40. (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the Cabinet Secretary may approve, submit to the Cabinet Secretary a report of the operations of the Board during such year, and the yearly balance sheet and such other statements of account as the Cabinet Secretary shall require, together with the Auditor-General's report. Annual report and publication.

(2) The Board shall, if the Cabinet Secretary so requires, publish the report, balance sheet and statements submitted to him under subsection (1) in such manner as the Cabinet Secretary may specify.

(3) The Cabinet Secretary shall submit to the National Assembly and the Senate the reports, balance sheet and statements submitted under subsection (1), within a period of fourteen days of the receipt of the reports and statements.

41. The financial year of the Board shall be the period of twelve months ending on the thirtieth of June in each year. Financial year of the Board.

PART VI—MISCELLANEOUS PROVISIONS

42. The Cabinet Secretary responsible for finance may from time to time implement such measures, including tax incentives in order to promote the development of the cotton industry.

Incentives.

43. Each county government may enact county specific legislation setting out –

Enactment of county specific legislation.

- (a) the criteria for the registration of a cotton grower within the respective county;
- (b) criteria for the issuance of a licence to an applicant within the respective county;
- (c) information required to be submitted by an applicant for registration or issuance of a licence;
- (d) process of determination of an application for registration or issuance of a licence;
- (e) the conditions for the issuance or renewal of a licence under this Act;
- (f) process of application for the renewal of licences and revocation of a licence issued to an applicant under this Act.
- (g) the grounds for the rejection of an application or cancellation of a licence issued under this Act; and
- (h) process of application for the renewal of registration and de-registration.

44. The Board shall carry out market research and analysis and disseminate information on its findings to all stakeholders.

Management of information.

45. (1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not less than twenty thousand shillings or a fine not exceeding twice the value of the cotton or cotton by products or, to imprisonment for a term not exceeding six months, or to both.

Penalties.

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed—

- (a) was director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is liable for the offence as if they had committed the offence, unless they prove that the act or omission constituting the offence took place without their knowledge, consent or connivance and that they exercised diligence to prevent the commission of the offence as they ought to have exercised having regard to the nature of their functions as director, partner or officer concerned as aforesaid and to all the circumstances.

46. (1) The Cabinet Secretary may, in consultation with the Board and the Council of County Governors, make regulations generally for the effective carrying out the provisions of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations providing for the –

- (a) nomination of the persons representing cotton farmers under section 7(1)(c); and
- (b) regulation of the processing, importation and exportation of cotton and cotton product.

47. (1) The Cabinet Secretary may on the advice of the Board review the list of counties that grow cotton under the Second Schedule of this Act. Publication of cotton growing counties.

(2) The Cabinet Secretary shall publish annually the list under subsection (1) in the *Gazette*.

48. Part 1 of the First Schedule to the Crops Act is amended by deleting the following item — Consequential amendment.

Cotton.....*Gossypium app.*

FIRST SCHEDULE (s. 22(2))

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. (1) The Board shall have at least ten meetings in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(2) Meetings shall be convened by the chief executive officer in consultation with the chairperson and shall be held at such times and such places as the chairperson shall determine.

(3) The respective Chairpersons shall preside over all meetings and in the absence of the Chairperson, by a person elected by the Board as the case may be at the meeting for that purpose.

(4) The Chairperson may at any time convene a special meeting of the Board as the case may be, and shall do so within one month of the receipt by the Chairperson of a written request signed by at least five other members.

(5) Unless half of the members of the Board otherwise agree, at least seven days' notice of a meeting shall be given to every member of the Board as the case may be.

2. The quorum of a meeting of the Board is half of the total number of members. Quorum.

3. A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote. Voting.

4. Minutes of all meetings shall be kept and entered in records kept for that purpose. Minutes.

5. (1) If a person is present at a meeting of the Board or respective committee at which any matter is the subject of consideration and in which matter that person is directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest. Disclosure of interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(4) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(5) A member or employee of the Board shall not transact any business or trade with the Board.

SECOND SCHEDULE

(s 47)

COUNTIES

COAST REGION

Kwale County

Kilifi County

Lamu County

Taita-Taveta County

Tana River County

CENTRAL REGION

Kiambu

Kirinyaga

Muranga

RIFT VALLEY REGION

Baringo

Elgeyo Marakwet

Kajiado-South East

Kericho

Turkana

West Pokot

EASTERN REGION

Embu

Isiolo

Kitui

Machakos

Makueni

Marsabit

Tharaka Nithi

Meru

WESTERN REGION

Bungoma

Busia

Kakamega

NYANZA REGION

Homa Bay

Kisumu

Migori

Siaya

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the policy and institutional framework within which cotton industry operates by among others establishing the Cotton Industry Development Board. The cotton industry was once a major foreign exchange earner whose collapse led to massive loss of revenue to the government and farmers. Governmental issues, regulatory challenges, national and international economic realities, and scientific reliability are some of the pressing concerns that need to be addressed by the institution responsible for cotton industry development in order to attain success in the industry.

There is therefore a genuine need for a strong and robust policy and institutional foundation to support and guide the multitude of activities, operations, and interactions within the industry with the aim that the growth of the industry will result to a strengthened agricultural economy for the various counties across the country.

The highlight of this Bill is the revamping of cotton farming in order to make it a profitable, sustainable and development-oriented activity. It proposes to provide an avenue of appreciating the value of cotton by encouraging value addition in the processing of cotton and its products. The Bill further provides for research and development to cultivate a culture of scientific excellence and professionalism in cotton farming and industrial development.

Part I (clauses 1-3) contains preliminary matters. It contains the short title, interpretation of terms and the object of the Act.

Part II (clauses 4-22) provides for the establishment, functions and powers of the Cotton Industry Development Board. It further provides for the composition and qualifications for appointment of the members of the Cotton Industry Development Board. In addition, it provides for the office of the chief executive officer of the Board and the secretariat.

This part also provides for the establishment of Committees of the Boards as well as tenure of office of Board members. It further provides for remuneration of the members as well as the meetings of the Board. It also provides for removal from office and vacation from office of members. Finally, it provides for the filling of any vacancies as well as the Common Seal of the Board.

Part III (Clause 23) contains provisions related to the role of county governments in regulating the cotton industry.

Part IV (clause 24-30) sets out the regulatory provisions. It provides the criteria for registration and licensing of the cotton industry stakeholders. The provision requires cotton growers, cotton association and societies to register with the county government. It further requires the processors and manufacturers to be licenced by the county government.

Part V (clauses 31-35) sets out the financial provisions of the Board. It also establishes the Cotton Development Fund which it is proposed should be administered by the Board. It further sets out the sources of the fund. It also provides for the preparation of annual estimates of income and expenditure of the Board. It further provides for the period of the financial year of the Board and the preparation and auditing of its accounts.

Part VI (Clauses 36-42) contains provisions relating management of information by the Board and authorises the Cabinet Secretary in consultation with the Board and the Council of County Governors to develop regulations. The Bill further authorises the Cabinet Secretary responsible for finance to offer tax incentives from time to time. In addition, it allows county governments to develop county specific legislation.

The First Schedule contains the list of counties that have been recorded as cotton producing while the Second Schedule contains provisions relating to meetings of the Board and the conduct of such meetings.

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

Clauses 41 of the Bill does delegates powers to the Cabinet Secretary for the 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

Agriculture is a devolved function set out in paragraph 1 of Part 2 of the Fourth Schedule to the Constitution. By facilitating the development of the cotton industry in the country, the Bill seeks to ensure that cotton farmers have opportunities to enhance cotton farming and value addition to cotton products. This will in turn facilitates the growth and development of the economy of the counties that produce cotton and the country at large.

The Bill therefore concerns county governments in terms of Articles 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 11th November, 2021.

NJERU NDWIGA,
*Chairperson, Standing Committee
on Agriculture, Livestock and Fisheries.*