

THE KISUMU COUNTY COOPERATIVE SOCIETIES BILL 2015

FRIDAY 26TH JUNE 2015

SPEAKER'S PROCESSION

(PRAYERS)

Speaker (Hon. Samuel Ombogo): Clerk to take us through the order paper of today

COMMUNICATION FROM THE CHAIR

Speaker (Hon Samuel Ombogo): Hon. Members, we have a lot of business this afternoon and I expect members to observe the rules of the house and bring their contributions. Some Members contribute for longer hours than is stipulated in our standing orders and I request you to cooperate.

PAPERS

Speaker (Hon. Samuel Ombogo): Leader of Majority

Leader of Majority (Hon. Marlin Olero): I have papers to lay. And the letter is written to the Clerk of County Assembly of Kisumu. Re: Inclusion of pending billing for 2014/2015 Development Projects in the year 2014/2015.

I hereby forward the pending bills totaling to Kshs. 1,130,848,300 billion in the current FY 2014/2015. This amount should be included in the 2015/2016 Financial Year Budget Estimate to allow the service provider to be paid in the next year.

George Ongaya- Okoth. Thank you Mr. Speaker.

Speaker (Hon. Samuel Ombogo): Hon. Members, there is a paper laid by the Leader of Majority from George Ongaya, CEC member for finance and I will commit it to the Committee of budget.

NOTICES OF MOTION

Hon. Bob Ndolo: Thank you Mr. Speaker Sir. I rise to give a notice of motion on the County Co-operative Society Bill 2015.(2nd and 3rd reading)

Speaker (Hon. Samuel Ombogo): Any other notice of motion? Hon. Were

Hon. James Were: Thank you Mr. Speaker, I rise to give a notice of motion on Kisumu County Women, Youth and Persons Living with Disability Bill, 2015.(2nd and 3rd reading)

Hon. Caroline Agwanda: Thank you Mr. Speaker, I rise to give a notice of motion on the Kisumu Disaster Management Bill 2015 (2nd and 3rd reading).

Majority Leader (Hon. Marlin Olero): Thank you Mr. Speaker, I stand to give a notice of Motion on The Kisumu County Solid Waste Management (2nd and 3rd reading), I also give a notice of motion on the Kisumu County Administration of Revenue Bill 2014 (2nd and 3rd

reading) and lastly I give a notice of motion on the Kisumu County Rating Bill 2015 (2nd and 3rd reading).

COMMENCEMENT OF BUSINESS

KISUMU COUNTY COOPERATIVE SOCIETIES BILL 2015

Hon. Bob Ndolo: Thank you Mr. Speaker. I want to give a report on the Kisumu County Cooperative Bill 2015 from the Trade, Cooperatives and Enterprise Development Committee.

Delete the word 'page' and the number 1 under the word 'page' from the cover page.

PART 1 – Preliminary

There were no amendments

Part II- Administration

Section I, Last sentence of page 5, Delete letter 's' from the word 'its', written between 'of' and being to read 'it'

Section I, paragraphs 5 of page 6 Insert the words 'Co-operative Union' in opening and closing apostrophes, delete the second repeated word 'means'.

Section I page7, Replace the word 'of' between the words purpose and Act in the sub-title to read ' objectives and purpose of this Act'

Section 6(3), first paragraph of page 9, Add an 's' to the words applicant and day to read ' applicants' and 'days'

Delete letter 's' from the word 'co-operatives in the sub-title after section 15 (4), page 2

PART II – RIGHTS AND LIABILITIES OF MEMBERS

Section 23, (a), page 13 delete the word 'their' and insert the word 'his'

Section 23 (b) page 13 delet the words 'they own' and insert the words 'he owns'

Section 24, (a) page 14 delete the word 'their' and insert the word 'his'

Section 23 (c) page 14, insert the word 'with' between issued and share

Section 29 Add letter 's' to the sub title to read 'Accounts'

Section 30 (2) page 17 Add the word 'supplement' to read County Gazette supplement

PART IV – GOVERNANCE OF CO-OPERATIVE SOCIETIES

Section 32 (3) page 18, delete the preceding repeated words ' the members'

Section 6 (b) page 19 correct the word 'objects' to read 'objectives' between the words the and, and.

Section 7 page 19 correct the word ‘objects’ to read ‘objectives’ between the words the and, and.

Section 33 (2) page 19 insert a comma after the word ‘chairman’, insert a full stop after the word ‘Hon’, delete the word ‘number’ and insert the word ‘members’

Section 44 page 29, transfer the title ‘evidence of members’ interest in society’ from page 28 to page 29

Section 49 page 30, transfer the title investment of society’s funds from page 29 to page 30

Section 49 page (c) page 30, Add the words ‘of Kenya’ after the word Act

Section 49 page 30, add amend the word ‘bonus’ to read ‘bonuses’

Section 50 (2) Add amend the word ‘account’ to read ‘accounts’

Section 51 (5) page 31 capitalize the words ‘reserve fund account’ to read ‘reserve fund account.’

PART VIII – CHARGES BY CO-OPERATIVE SOCIETIES

That in this bill, all money matters were left to the discretion of the committee of the whole house.

Section 51 (4), page 31, delete letter ‘s’ from the word ‘commits’ between the words committee and an.

Section 57 (I), page 32, Add letter ‘a’ between the words of and receiver and between the words or and manager.

PART X – DISSOLUTION

Section 65 (c) delete the word objects and replace with the word ‘objectives’

Section 69, page 37, and capitalize the word ‘account’ to read ‘Account’ between Liquidation and of, in the sub title.

Section 70 (e), page 37, delete the word ‘the’ between to and him.

PART XI – MISCELLANEOUS PROVISIONS

Section 75 (2), page 49, insert the word ‘for’ between the words passed and other.

Section 76 (2), page 40, insert the words ‘is hereby’ between the words one and thousand, and insert the word ‘hundred’

Section 77 (1) page 40, insert the words ‘is hereby’ between the words their and established.

Section 77 (c) , page 41, Delete the word ‘youth’ and insert the word society

Section 77 (e) , page 41, Add the letter ‘s’ to the word institution to read ‘institutions’, between the word sector and that, delete the word ‘and’ between comma and women, insert the words ‘and youth groups’ after the word women.

Section 78(p), page 43, add the letters ‘ct’ to the letter ‘a’ to read act.

Page 44, after Memorandum of Objects and reasons, delete the name and title “ HanifRana, Ag. Executive Committee Member, Industrialization, Energy and Enterprise Development and insert the name and title.

I would like to ask Hon. Elijah Omondi to second.

Hon. Elijah Omondi: Thank you Mr. Speaker, I stand to second the proposal of the Committee so that it can have a second and third reading of the bill. Thank you.

Speaker (Hon. Samuel Ombogo): Somebody to propose on reading of the bills. Majority Leader.

Majority Leader (Hon. Marlin Olero): Thank you Mr. Speaker. I want to propose that the Cooperative Bill be read for second and third time concurrently.

Hon. Willis Ogunyio: I second that the Cooperative Bill be read for 2nd and 3rd time concurrently.

Speaker (Hon. Samuel Ombogo): There is a proposal that Kisumu County Co-operative Bill 2015 be read for the second and third time concurrently.

(Question put and agreed upon).

THE KISUMU COUNTY CO-OPERATIVE SOCIETIES BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

PART 1 – PRELIMINARY

1. Short title
2. Interpretation
3. Objectives and Purpose of Act

PART II – ADMINISTRATION

4. County Commissioner of Co-operatives and other officers
5. Registration of Co-operative Societies
6. Procedure for Registration
7. Register of Co-operative Societies
8. Limitation of liability
9. Co-operative to be body Corporate
10. Evidence of Registration
11. Display of the Certificate of Registration
12. Reservation of a Name
13. Protection of the name “Co-operative”

14. Change of Name
15. Appeal against refusal to register
16. By-laws to bind members of Co-operatives societies
17. Fines for violation of by-laws

PART III – RIGHTS AND LIABILITIES OF MEMBERS

18. Qualification of Membership
19. Membership subject to authorization by Annual General Meeting
20. Limitation of holding Share Capital
21. Limitation of Membership to one Society
22. Transfer of shares
23. Rights of Members
24. Voting rights of members
25. Member's obligations
26. Registered address of a Co-operative Society
27. Society to keep a copy of the Act and by-laws at the registered office
28. Committee's power to prepare estimates
29. Account and Audit
30. Approval of Auditors
31. Production of books and other documents

PART IV – GOVERNANCE OF CO-OPERATIVE SOCIETIES

32. General meetings
33. Membership and powers of the Committee

PART V – AMALGAMATION AND DIVISION OF COOPERATIVE SOCIETIES

34. Amalgamation of Co-operative Societies
35. Division of Co-operative Societies

PART VI RIGHTS AND OBLIGATIONS OF CO-OPERATIVE SOCIETIES

36. Society to have charge over member's produce
37. Society to have first charge over debts, assets etc in certain cases
38. Society to have first charge over member's share
39. Failure to remit the sum deducted
40. Member's share not subject to attachment
41. Liability of past members
42. Transfer of share or interest of deceased members
43. Evidence of member's interest in society
44. Application of society's property and funds.

PART VII – PROPERTY AND FUNDS OF CO-OPERATIVE SOCIETIES

45. Restriction on giving loans
46. Restriction on borrowing

47. Limitation of borrowing powers
48. Investment of society's funds
49. Declaration and payment of bonus
50. Maintenance of reserve fund
51. Creating charge over society's property

PART VIII – CHARGES BY CO-OPERATIVE SOCIETIES

52. Charge to comply with applicable law
53. Charges to be registered with the Commissioner
54. Register of charges
55. Certificate of satisfaction of charges
56. Receiver to give notice of his appointment
57. Keeping of instruments of charge
58. Keeping of register of particulars of charges
59. Right of members and creditors
60. Right of members and creditors to inspect register of charges

PART IX – INQUIRY AND INSPECTION

61. Inquiry by the Commissioner
62. Inspection of books of indebted Society
63. Expenses of inquiry

PART X – DISSOLUTION

64. Procedure for dissolution
65. Cancellation of Registration
66. Effects of Cancellation
67. Appointment of Liquidator
68. Powers of Liquidator
69. Liquidation account of Societies
70. Powers of the Commissioner during liquidation
71. Institution of winding up proceedings
72. Powers to restrain convicted person from being officers of Society.

PART XI – MISCELLANEOUS PROVISIONS

73. Power to surcharge officers of Co-operative Society
74. Disputes
75. Remuneration of officers and members of Society
76. Restriction on use of word "co-operative"
77. Co-operative Development Fund
78. Power to make Rules and Regulations.

THE KISUMU COUNTY CO-OPERATIVE SOCIETIES BILL, 2015

A Bill for

AN ACT of the County Assembly of Kisumu to implement section 7 (e) of part 2 of the Fourth Schedule to the Constitution by providing the Legal and Institutional framework for the constitution, registration and regulation of Co-operative Societies and for purposes incidental thereto.

ENACTED by the County Assembly of Kisumu County Co-operative Societies Act, 2015 and shall come into force on such date as the County Executive Committee Member shall by Notice in the Gazette appoint

“agricultural produce” means any produce or article produced or obtained by the work or industry of members of a Co-operative Society or marketed by a Co-operative Society, whether the produce be of agriculture, animal husbandry, forestry, fisheries, handicrafts or otherwise;

“apex society” means a society formed at the national level by the Co-operative development and represent the interests of Co-operative societies locally and internationally.

“bonus” in relation to a member of a Co-operative Society, means that member’s share of the surplus of the society which is divided amongst its members, calculated by reference to the proportion which that member’s volume of business with the society bears to the total volume of business done by the society;

“by laws” means the by-laws made by a society and registered under this Act and includes any registered amendment of such by-law;

“capital” means the permanent members equity in the form of common stock and includes all disclosed reserves, retained earnings, grants or donations;

“committee” means the governing body of a Co-operative Society that is established under Section 33 of this Act;

“Commissioner” means the County Commissioner of Co-operatives appointed under section 4 of this Act and includes any person on whom any of the powers of the Commissioner have been conferred in accordance with this Act.

“contributor” means a person liable to contribute to the assets of a Co-operative Society in the event of its being wound up and for the purposes of any proceedings for determining and before the final determination of the persons who are to be deemed contributors includes any person alleged to be a contributor.

“Co-operative Society” means a society registered under section 5 of this Act;

“deposit” means a sum of money paid on terms under which it shall be repaid with or without interest or premium and either on demand or at a time or in circumstances agreed by or on behalf of the person making the society to receive it at the risk of the society receiving it;

“dividend” in relation to a member of a Co-operative Society, means that members’ share of the surplus of the society which is divided amongst its members, calculated by reference to the proportion which that member’s share capital bears to the total share capital share capital of the society;

“Co-operative union” means a Co-operative Society whose membership is restricted to primary societies;

“Executive Committee Member” means the County Executive Committee responsible for Co-operative affairs;

“limited liability” means limited by shares or limited by guarantee, according to the nature of the liability prescribed by the by-laws of the Co-operative Society;

“member” includes a person or a co-operative society joining in the application for the registration of a society, and a person or co-operative society admitted to membership after registration in accordance with the by-laws.

“officials” includes a chairman, vice chairman, secretary, treasurer, committee member, employee or any other person empowered under any rules made under this Act, or by-laws of a Co-operative Society to give directions in regard to the business of the society.

“personal representative” means any person who under law or custom, is responsible for administering the estate of a deceased person;

“share” means the amount represented by a member’s portion in the equity of a society as a co-owner;

“special resolution “ means a resolution passed by two thirds of the members present and voting at a general meeting of a society;

“Special general meeting” means a general meeting, other than an ordinary general meeting, of which at least fifteen clear written notice of the resolution and of the date, time and place of the meeting has been given to each member;

“ prescribed” means prescribed by the member of the Executive Committee;

“primary society” means a Co-operative Society whose membership is restricted to individual persons;

“regulations” means regulations made under this Act;

“tribunal” means committee or board appointed to adjudicate on matters related to Co-operative societies development under this Act and regulation made thereunder.

Objective and Purposes of Act

3. (1) The overriding objectives of this Act is to provide a comprehensive, harmonized, efficient and effective legal and regulatory framework for development and regulation of the Co-operative sector in the County by –

a) enabling the formation, registration and operation of Co-operatives;

b) promoting Co-operative philosophy, principles, practices and objectives,

- c) protecting the interests of Co-operative, their members and the public in the operations and activities of Co-operatives;
- d) ensuring Commissioners and officials of Co-operatives are accountable for their actions and decisions to the members of Co-operatives
- e) encouraging and facilitating self-management by Co-operatives at all levels; and
- f) encouraging the development, integration and strengthening of Co-operatives at the village, ward, sub-county, and County levels by supporting and fostering peak organizations and Co-operative instrumentalities.

All County Government agencies, public servants and bodies charged with development and regulation of the Co-operative sector shall at all times have due regard to and observe, the overriding objective of this Act as set out in sub-section (1).

Whenever there is a conflict between this Act and any other written law, having a bearing on achievement of the overriding objective of this Act, the provisions of this Act shall prevail save for the National Laws.

This Act applies to a Co-operative Society operating within the County

Hon. Aggrey Ogosi: Mr. Chair, as we did with other bills, it is better we deal with this one part by part. Let us finish with the interpretation before we move and I have my own interpretation that Apex Society in page 5 which reads apex society means a society formed at the national level by the Co-operative movement in Kenya and registered under this Act to promote Co-operative Development and present the interests of Co-operative societies locally and internationally.

To me it means a different thing, apex society which is registered at the National Level cannot be registered under this act.

Chair (Hon. Samuel Ombogo): So what is your proposal?

Hon. Aggrey Ogosi: Allow me to explain so that you can understand. It has to be registered under another Act so I suppose this bit was taken from a National Act and we need to find out which this Act is. If we do not do that, then it will not work so we need to replace it but I suggest it be deleted

Hon. Elijah Omondi: Mr. Chair, I beg to second the proposal that it be deleted.

Leader of Majority (Hon. Marlin Olero): Before you move to delete it, in my own understanding, they are just giving the meaning of an apex society so that if you come around it in this bill you will actually know what it means. They are not saying it is going to form an Act of this bill. They are only explaining the meaning in the short title.

Hon. Aggrey Ogosi: Mr. Chair, what we need to do because we are not making this law in isolation. There is another law that exists at the National level. In that law that exists, there must

be a cooperative law under legislation. In our contest, it is a bit funny. We should remove the word under this act and put that act.

Hon. Joseph Osano: I can now support you Hon. Ogosi, because this is what I was saying. We cannot put it under an act. According to how it is written it is like it is under this Act that is creating an apex society which is wrong.

Hon. Samuel Ongow: Registration of Cooperatives is now on Board. When something is said under this act, I want to assume the act is what we are doing. What I do not understand, is registered under National.

Hon. Elijah Omondi: An apex society is the umbrella of all societies in the 47 county, but this one is already in existence, it is already an act where this one should be subscribing to.

Hon. Samuel Ongow: This statement is saying that an apex society means a society formed at the national level by the cooperative movement in Kenya and registered under this Act to promote Co-operative development and represent the interests of Co-operative societies locally and internationally. The Cooperative apex that is registered in this County is Kisumu Sugar Belt Cooperative Union. It is allowed to operate in this County by being registered based again on this act. In our case of Kisumu, we will only be allowing the ones which are registered by this Act.

Speaker (Hon. Samuel Ombogo): The Chair of implementation has brought it clearly and I would want us to continue.

Hon. Aggrey Ogosi: Mr. Chair, if we go by the meaning it means at the pic, which is not even Kisumu County. If we talk about nationally it means it is the society formed at the National level. How do we force somebody who has registered at the national level to come and register under this? It is not possible. Somewhere in this bill you will see that this law is inferior to the National Act.

Hon. Samuel Ongow: If you look at this section, there is also areas dealing with the loaning and that section will block those cooperatives registered nationally but are not registered under this act.

Hon. Samuel Ombogo (Chair): Hon. Members, the chair of Implementation has explained this clearly and I am requesting that we proceed. We have therefore agreed that we leave it the way it was. Any other input in part one? If there is no any amendment, in Part one and II, I will put the question

(Question put and agreed upon)

Insert Part II before County Commissioner of Co-operatives and other officers.

County Commissioner of Co-operatives and other Officers

- 4.** (1) there shall be an office of the County Commissioner of Co-operatives which shall be an office in the County Public Service

(2) The Commissioner shall be responsible for the regulation and development of the Co-operative and development of the Co-operative sector in the County in accordance with the provisions of this Act.

(3) The County Public Service Board shall recruit such other officers who in the opinion of the Chief Officer are required to assist the Commissioner in the performance of functions under this Act.

5. (1) Subject to the provisions of this Act, a society which has for its objects the promotion of the welfare and economic interest of its members, and has incorporated the Co-operative principles in its by-laws may be registered under this Act with or without limited liability.

(2) A society shall not be registered under this Act unless –

a) In the case of a primary society, consists of at least ten persons all of whom shall be qualified for membership of the Co-operative Society or

b) In the case of a Co-operative union has at least two registered societies as its members.

(3) An application to register a society shall be made to the Commissioner in the prescribed form.

Procedure for Registration

6. (1) The application shall be accompanied by four copies of the proposed by-laws of the society in English, the prescribed registration fee, and the person or persons by whom or on whose behalf such application is made shall furnish such information with regard to the society as the commissioner may require.

(2) The Commissioner shall within 30 days review the application and issue the Certificate of Registration to the applicant who meets the registration requirements.

(3) If an application for registration does not meet the requirements under this Act, the Commissioner shall reject the application and notify the applicant accordingly within fourteen day of the decision to reject the application.

(4) A person who is aggrieved with the decision of the Commissioner under this section may appeal to the member of the Executive Committee within 14 days in the manner prescribed.

(5) The decision of the member of the Executive Committee shall be final.

(6) The Member of the Executive Committee shall make rules and regulations providing the powers of the Commissioner to issue provisional registration for a period not exceeding one year to applicants who do not meet the requirements under this Act.

Register of Co-operative Societies

- 7 (1) The Commissioner shall keep or cause to be kept at its office a record called the register of Co-operative societies wherein shall be entered particulars relating to the registration of societies and their by-laws and any amendments thereto.
- (2) Every entry in the register shall be made by, or under the direction interlineations or erasure shall be initialed by the Commissioner.

Limitation of Liability

- 8 The liability of members in a Co-operative Society shall be limited to the amount of shares held or to the contribution made to such society.

Co-operative to be Body Corporate

- 9 A Co-operative Society registered under this Act shall be a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of whatever kind, to enter into contracts, to sue and be sued and to do all things necessary for the purpose of, or in accordance with its by laws

Evidence of Registration

10. A certificate of registration or of provisional registration signed by the Commissioner shall be conclusive evidence that the society therein mentioned is duly registered or provisionally registered unless it is proved that such of the society has been cancelled or has been terminated.

Display of the Certificate of Registration

11. The certificate of Registration bearing the number and date of registration shall be displayed at the head office of every co-operative society

Reservation of Name

- 12 (1) The Commissioner may, on written application, reserve a name pending registration of a Co-operative Society or change of name by a Co-operative Society.
- (2) Any reservation under sub-section (1) shall remain in force for a period of thirty days or such longer period, not exceeding sixty days, as the Commissioner may for special reasons, allow, and during such period no other Co-operative Society shall be entitled to be registered with that name

Protection of the name “Co-operative”

- 13 (1) A society shall not be registered under a name identical to an existing society, or under any name likely, in the opinion of the Commissioner, to mislead the members of the public as to its identity.
- (2) The word “Corporative” shall form part of the name of every Co-operative Society, and the word “Limited” shall be the last word in the name of every Co-operative Society

Change of Name

14. (1) A Co-operative Society may, by special resolution and with the approval of the Commissioner signified in writing, change, change its name.
- (2) An amendment which changes the name of a Co-operative Society shall not affect any right or obligation of that society or any of its members, and any legal proceedings pending may be continued by or against the society under its new name.
- (3) An amendment of the by-laws of a Co-operative Society shall not be valid until the amendment has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Commissioner in the prescribed manner
- (4) If the Commissioner is satisfied that any amendment of the by-laws of the Co-operative Society is not contrary to this Act and any rules made there under, he may register the amendment
- (5) When the Commissioner is satisfied that any amendment of the by-laws of a co-operative Society, he shall issue a copy of the amendment certified by him. Which shall be conclusive evidence of the fact that the amendment has been duly registered
- (6) The Commissioner may, if he is satisfied that an amendment under this section was effected pursuant to a misrepresentation or concealment of a material fact by the person applying for registration, cancel the registration.

Appeal against refusal to Register

15. (1) A Co-operative Society may appeal to the Executive Committee Member against the Commissioner of Co-operatives’ refusal to register the society and its by-laws or any amendments of its by-laws within thirty days of being notified of the refusal.
- (2) The Executive Committee Member may within thirty days after considering reasons given in writing by both the aggrieved and the Commissioner uphold the decision of the Commissioner or reverse the decision of the /commissioner subject to such conditions as the Executive Committee Member may stipulate.
- (3) An application aggrieved by the decision of the executive member may appeal to the Co-operatives Tribunal within fourteen days of delivery of the decisions of the executive member.
- (4) An applicant aggrieved by the decision of the Tribunal may appeal to the High Court within fourteen days of delivery of the decisions of Tribunal

By laws to bind Members of Co-operatives Societies

16. (1) The By-Laws of Co-operative Society shall when registered, bind the Co-operative Society and the members to the same extent as if they were signed by each member and contained covenants on the part of each member for himself and his personal representatives to observe all the provisions of the by-laws.

(2) All money payable by any member to the Co-operative Society under the by-laws shall be a debt due from him to the Co-operative Society.

Fines for violation of By-Laws

17. (1) The by-laws of a Co-operative Society may subject to this Act provide for the imposition of fines, not exceeding twenty thousand shillings, on its members for any infringement of its by-laws.

(2) A fine shall not be imposed under this section upon any member until written notice of intention to impose the fine and the reason therefore has been served on him and he has had an opportunity of showing cause why the fine should not be imposed and if he so desires, of being heard with or without witnesses

(3) Any such fine shall be a civil debt due to the Co-operative Society and shall without prejudice to any other means of recovery be recoverable summarily

(4) The whole or any part of such fine may be set off against any moneys due to such member in respect of produce delivered by him to the Co-operative Society.

PART III – RIGHTS AND LIABILITIES OF MEMBERS

Qualification for Membership

18. A person shall not be qualified for membership of a Co-operative Society unless that person

a) has attained the age of eighteen years

b) is in employment, occupation or profession falls within the category or description of those for which the Co-operative Society is formed ; and

c) is a resident within or occupies land within the society's area of operation as described in the relevant by-law.

Membership subject to authorization by Annual General Meeting.

19. A company and unincorporated body of persons shall not become member of a Cooperative Society, except with a written authorization through a resolution by a general meeting of that Co-operative Society.

Limitation of holding share capital

20. A member, other than a Co-operative Society, shall not hold more than one fifth of the issued and paid up share capital of any Cooperative Society

Limitation of membership to one Society

21.(1) A person shall not be a member of more than one Co-operative Society having the same or similar objectives;

(2) Provided that a person who:-

- a.) is a member of a Co-operative Society and
- b.) carries on business on land or at premises outside the area of operation of that Co-operative Society.

Notwithstanding, the foregoing a person may be a member of a Cooperative Society outside his area of operation or residence if residency or location is not a core requirement for joining the Co-operative Society or if the Co-operative Society approves such membership in its by-laws.

Transfer of Shares

22 (1) The transfer or charge of the share or interest of a member in the capital of a Co-operative Society shall be subject to such conditions as to maximum holding as are laid down in section

(2) In the case of a Co-operative Society registered with unlimited liability, a member shall not transfer or charge any share held by him or his interest in the capital of the society or any part thereof, unless:

- a) he has held such share or interest for at least one year and
 - b) the transfer or charge is in favour of the society or a member of the society
- (3) Subject to the approval of the Committee, a member may transfer his share or her shares in a Co-operative Society or to any person whose membership of the society has been approved by the committee
- (4) A transfer of a share in a Co-operative Society shall not be valid and effective until such transfer has been recorded in the register of the society
- (5) A transfer of a share or shares in a Co-operative Society shall not be valid effective if made by a member indebted to a society whether such debt is due for payment or not.

Rights of Members

23. A member of a Co-operative Society is entitled to the following rights:

- (a) to have their name and signature entered in the register of members
- (b) to vote and be voted for at meetings – every member has one vote regardless of the number of shares they own;
- (c) to be issued share certificates once they have paid for their shares;
- (d) to be considered for leadership positions

- (e) to call meetings in accordance with by-laws
- (f) to nominate a successor
- (g) to be informed on all affairs of the society and be able to inspect society documents;
- (h) to gain income from the society's business operations;
- (i) to participate in making society by-laws
- (j) to withdraw their membership and
- (k) to institute an inquiry in to the affairs of the society

Voting Rights of Members

25. A member of a Co-operative Society shall have the obligation to

- a) observe and comply with all the society by-laws and decisions taken by the relevant organs of the Co-operative Society in accordance with the by-laws of that society
- b) buy and pay up for shares or make any other payments provided for in the by-laws of the society;
- c) meet the debts of the society in case of bankruptcy in accordance with the provisions of this Act and the by-laws of the society.

Registered address of a Co-operative Society

26. Every Co-operative Society shall have a registered address to which notices and communications may be sent and shall send to the commissioner notice of every change of address within one month of the change

Society to keep a copy of the Act and by –laws of registered office

27. Every Co-operative Society shall keep at its registered office a copy of this Act and of the rules made there under and of its own by-laws and a list of its members (excluding details of nominees and shareholdings) at its registered office and shall keep them open for inspection by any person free of charge at all reasonable time during business hours

Account and Audit

29. (1) Every Co-operative Society shall keep proper accounts which

- a) shall be prepared in accordance with International Accounting Standards;
- b) reflect the true and fair state of the Cooperative Society's affairs and
- c) explain the Co-operative Society's transactions including –
 - i) all sums of money received and paid by the Co-operative Society and the reasons thereto
 - ii) all sales and purchases of goods and services by the Co-operative Society and

iii) all assets and liabilities of the /co-operatives Society

(2) The books of accounts shall be kept at the registered office of the Co-operative /society or at such other place as may be determined by the Co-operative Society and shall at all times be available for inspection by any member or members of its supervisory committee and the auditor.

(3) It shall be the duty of every Co-operative Society to cause its accounts to be audited at least once in every financial year by a qualified audit firm as may be prescribed

(4) The auditor shall be appointed at the annual general meeting from a list of auditors approved by the Commissioner, in consultation with the Institute of Certified Public Accountants of Kenya

(5) Where at an annual general meeting no auditor is appointed, the Commissioner may appoint a person to fill the vacancy and the remuneration of the person so appointed shall be borne by the Cooperative Society

(6) An auditor shall not present the audited accounts of a Co-operative Society to the members at a general meeting unless the accounts have previously been submitted to the Commissioner in such form as may be prescribed.

(7) An auditor shall submit the audited accounts to a general meeting within four months after the end of the financial year period and shall include his opinion as to whether or not the Cooperative Society's business has been conducted-

a) In accordance with the provisions of this Act and whether the books of accounts kept by the Co-operative Society are in agreement therewith and give a true and fair view of the state of the affairs of the society and

b) in accordance with the Co-operative Society's Objectives, by-laws and any other resolutions made by the society at a general meeting

8) the auditor shall have the right to:

a) attend any general meeting of the Cooperative Society and be heard on any matter which concerns him as an auditor

b) receive all notices and other communications relating to any general meeting which a member of the Cooperative Society is entitled to receive

c) access, at all times, any accounting records, books or documents of the Co-operative Society as may be necessary for the purpose of carrying out his duties as an auditor and may at the time of his audit –

(i) summon any officer, agent or member of the Co-operative Society for the purpose of obtaining information on the transactions of the Co-operative Society or management of its affairs

(ii) Require the production of any book, document, cash or securities relating or belonging to the Co-operative Society by any officer, agent, trustee or member having custody of such book, document, cash or production of books and other documents

(iii) demand such other information or explanation from any officer of the Co-operative Society as may be necessary for the performance of his duties as an auditor

(9) A Co-operative Society shall, at such time and in such form as may be prescribed, file with the Commissioner an annual return together with a certified true copy of the audited accounts and balance sheet of the society for each period of twelve months.

(10) Where a Co-operative Society fails to cause its accounts to be audited within the prescribed period in respect of its business for the previous financial year, members of the Committee shall automatically lose their positions at the next general meeting and shall not be eligible for re-election for three years unless the Commissioner is satisfied that the failure was due to circumstances beyond their control.

(11) For the purposes of this section, “International Accounting Standards” and “international Financial Reporting Standards” means the standards adopted by the institute of certified public accountants of Kenya

(12) A Co-operative Society shall remit audit and supervision fees to the County Revenue Fund at the rate prescribed in the County Finance Bill.

(13) A Co-operative Society audited by a private auditor shall remit to the County Revenue Fund Supervisor fees at the rate prescribed vide the Commissioner of Co-operative Society’s circulars³⁰ (1) A person qualified under the Accountants Act Chapter 521 of the Laws of Kenya and who wishes to be considered to audit Co-operative Societies shall make an application in writing to the Commissioner and shall pay the prescribed application fee and such application may be made annually

(2) The Commissioner shall cause the list of auditors approved to audit Co-operative societies to be published in the County Gazette

Approval of Auditors

31. An officer, agent, servant or member of a Co-operative society who is required to produce books of accounts or other documents shall so act at the direction of the Commissioner, Board or court order.

Securities, books, accounts and documents belonging to or relating to the affairs of such society which are in the custody such officer, agent, servant or member.

Hon. Samuel Ombogo (Chair): I now put a question for part III to be discussed. Under rights and liabilities.

Hon. Aggrey Ogesi: there are few issues under part III. Rights of Members. Mr. Chair rights and obligations are synonymous. If you look at what we have under rights and what we have under obligations are exactly the same yet they shouldn’t be the same. If you look at sec 24 (d)

under obligations, it states, obligation to be considered for leadership position. That one can only be under rights. And (j) obligation to withdraw their membership is not possible, it is also a right. (g) to be informed on all affairs of the society and be able to inspect society documents - is also a right not obligation.

I think as a committee we need to do a research because it seems the person who was doing this did not look at the obligations, he just picked the rights and placed under obligation.

Hon. Samuel Ombogo(Chair): So are you suggesting that the committee to look at it?

Hon. Aggrey Ogosi: Yes, because rights are here and it must have obligations.

Hon. Samuel Ombogo (Chair): Chair for Trade, can you guide us? (Silence) Any member who can contribute on that to help us move.

Hon. Aggrey Ogosi: Chair, I want to suggest as follows: There are those rights that can also serve as an obligations, those ones we can leave. But there are some which can only serve as rights so those ones we must remove.

Hon. Samuel Ombogo: Can you just mention so that we correct.

Hon. Aggrey Ogosi: For example (j), (d), (g).

Hon. Kelvin Odhiambo: I agree with what Hon. Aggrey Ogosi is saying but I also want to say that with the definition of obligation it is like a duty which means it is even a duty of a member to withdraw his membership. If we want to replace it with a right it will not fit.

Hon. Aggrey Ogosi: Mr. Chair, duty is not the same as obligation.

Samuel Ombogo: I don't think we should change that, members let us proceed.

Hon. Aggrey Ogosi: Under clause 31, Approval of Auditors should be changed to give a better meaning.

Hon. Kelvin Odhiambo: Seconded

Hon. Samuel Ombogo (Chair): The approval of Auditors in Part III clause 31 has been changed to read Approval for Audit. I want to propose a question that Part III with amendments be part of this bill.

(Question put and agreed upon)

PART IV-GOVERNANCE OF CO-OPERATIVE SOCITIES

General Meetings

32. (1)Overall control of Co-operatives is exercised by the members at the Annual General Meeting.

(2) subject to subsection (3) a Co-operative Society shall hold an annual general meeting within four months after the end of each financial year.

(3) In the first year after registration of a Co-operative Society, the general meeting shall be held not later than one month after the receipt of the certificate of registration of the Co-operative Society and during such meeting the members shall-

(a) elect the Co-operative Society's office bearers for the ensuing year.

(b) determine the maximum borrowing powers of the Co-operative society

(c) consider and approve estimates of income and expenditure for the ensuing financial year or part thereof

(d) appoint the Co-operative Society's bankers and auditors, and

(e) receive reports and decide upon such other matters as may be necessary for the conduct of the Co-operative Society's Business

(4) A general meeting of a Co-operative Society shall be convened by giving at least fifteen days written notice to the members.

(5) At the annual general meeting of a Co-operative Society, the members shall-

(a) consider and confirm the minutes of the last general meeting;

(b) consider any reports of the Committee or the Commissioner;

(c) consider and adopt audited accounts

(d) determine the manner in which any available surplus is to be distributed or invested;

(e) elect the Co-operative Society's office bearers for the ensuing year; as provided in the society's by-laws

(f) determine, where necessary, the maximum borrowing power of the society;

(g) appoint an auditor for the following year; and

(h) transact any other general business of the Co-operative Society of which notice has been given to members in the manner prescribed in the by-laws

(6) A special general meeting of a Co-operative Society may be convened-

(a) by the Committee for the purpose of approving annual estimates or discussing any urgent matter which in the Committee's opinion is in the interest of the Co-operative Society; or

(b) on receipt of a written notice for such meeting signed by such member of the members of the Co-operative Society as may be prescribed in the by-laws and stating the objects and reasons for the meeting and the fact that the Committee has failed to convene the meeting

(8) The Commissioner may convene a special general meeting of society at which he may direct the matters to be discussed at the meeting

(9) The chairman or in his absence the vice-chairman or such other person as may be prescribed in the by-laws of the Co-operative Society shall preside at a general meeting of a Co-operative Society

(10) The Commissioner may preside at any meeting convened under sub-section (8)

Membership and powers of the committee

33. (1) Every Co-operative Society shall have a Committee consisting of not less than five and not more than nine members

(2) The members of the committee shall elect the chairman, vice chairman, Hon. Secretary and Treasurer from among their number.

(3) The Committee shall be the governing body of the society and shall, subject to any direction from a general meeting or the by-laws of the Co-operative Society, direct the affairs of the Co-operative Society with powers to

a) enter into contracts

b) institute and defend suits and other legal proceedings brought in the name of or against the Co-operative Society and

c) do all other things necessary to achieve the objects of the Co-operative Society in accordance with its by-laws

(4) A person shall not be a member of a Committee if he –

(a) is not a member of the Co-operative Society

(b) is under eighteen years of age

(c) is unable to read and write

(d) receives any remuneration, salary or other payment from the Co-operative Society save in accordance with this Act;

(e) is a committee member in two other Co-operative Societies

(f) being a member of a Co-operative Society that lends money to its members, lends money on his own account

(g) being a member of a Co-operative Society which trades in goods or produce, trades either on his own account or some other person's account in the same type of goods or produce;

(h) has not, within thirty days of being appointed, declared his wealth to the Commissioner in the prescribed manner;

(i) is an undischarged bankrupt;

(j) is of unsound mind

(k) has been adversely named by the Commissioner in any inquiry report adopted by a general meeting for mismanagement or corrupt practices while a member of the Committee;

(l) has been convicted of any offence involving dishonesty or is sentenced to imprisonment for a term exceeding three months

(m) has been convicted of any offence under this Act or rules made there under;

(n) has any uncleared debt owing to a Co-operative Society at the end of its financial year other than in respect of a loan under the provision of any rules mad under this Act;

(o) is a person against whom any amount of money is due under a decree, decision or order or is pending recovery under this Act.

(4) The Committee may delegate any of its duties under this Act to an officer or officers of the Co-operative Society

(5) In the conduct of the affairs of a Co-operative Society the Committee shall exercise the prudence and diligence of ordinary men of business and the members shall be held, jointly and severally liable for any losses sustained through any of their acts which are contrary to the Act, rules, by-laws or the directions of any general meeting of the Co-operative Society.

(6) The Committee may suspend from duty any Committee member charged in a court of law with an offence involving fraud or dishonesty pending the determination of the matter.

Hon. Samuel Ombogo: Hon. Members Part IV has been read and I now propose a question for discussion of the same.

Hon. Aggrey Ogosi: Mr. Chair under this Part, clause 33(2) the word Hon. Secretary should be replace with the word secretary.

Hon. Samuel Ombogo: Hon. Ogosi, there is no law which is saying Hon. is not allowed to be used. You know very well that a secretary is the CEO of the Cooperatives. Let us proceed.If there are no amendments I would put a question that Part IV and the entire sections be part of this bill with amendments.

(Question put and agreed upon)

PART V – AMALGAMATION OF DIVISION OF COOPERATIVE SOCIETIES

Amalgamation of Co-operative Societies

34 (1) Any two or more Co-operative Societies hereinafter referred to as amalgamating societies may, by special resolution, in this section referred to as the preliminary resolution, resolve to amalgamate as a single society hereinafter referred to as the amalgamated society.

(2) A copy of the preliminary resolution shall be sent to all the members and creditors of each of the amalgamating societies, and to all other persons whose interests in any of the amalgamating societies will be affected by the amalgamation.

(3) A member of any of the amalgamating societies may notwithstanding any agreement to the contrary by notice in writing given to such society at least one month before the date specified as the date of amalgamation, intimate his intention to demand the payment of any money due to him

(4) A creditor of any of the amalgamating societies may notwithstanding any agreement to the contrary, by notice in writing given to such society at least one month before the date specified as the date of amalgamation, intimate his intention to demand the payment of any money due to him.

(5) A person whose interest will be affected by the amalgamation may by notice in writing given to the concerned amalgamating society, not less than one month before the date specified as the date of amalgamation, object to the amalgamation unless his claim is satisfied

(6) Not less than three months after the date of the meeting at which the preliminary resolution is passed, a further special general meeting of each of the amalgamating societies shall be held to consider the preliminary resolution and any notices received under this section

(7) A special general meeting held under subsection (6) provision shall be made by a further resolution of the society (in this section referred to as the secondary resolution) for-

- a) the payment of the share capital of any member who has given notice under subsection (3);
- b) the satisfaction of any claims by creditors who have given notice under subsection (4); and
- c) the satisfaction of the claims of such other persons who have given notice under subsection (5) securing of their claims in such manner as determined or directed by the Commissioner.

Provided that no member or creditor or other person shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in subsection (8)

(8) Each amalgamating society may, by further resolution passed by a two thirds majority of the members present and voting, confirm the preliminary resolution.

(9) If, within such time as the Commissioner considers reasonable, he is satisfied that the secondary resolutions of each of the societies amalgamating complies with the provision of this section, he may register the amalgamated society and its by-laws and thereupon.

(10) Upon the registration of the amalgamated society-

- a) each of the amalgamating societies shall stand dissolved and its registration cancelled
- b) the registration of the amalgamated society shall be a sufficient conveyance to vest the assets and liabilities of the amalgamating societies in the amalgamated society

c) the remaining members of the amalgamating societies shall become members of the amalgamated society and will be subjected to its by-laws

d) anyshare holders of the amalgamating societies or any other persons who have claims against the amalgamating societies and persons who have claims against the amalgamating societies and

e) whose claims were not satisfied in accordance with the secondary resolution, may pursue such claims against the amalgamated society

(11) Where the Commissioner refuses the amalgamation of the amalgamating societies under subsection (such societies may within thirty days appeal against such refusal to the Executive Committee Member)

Division of Co-operative Societies

35(1) A Co-operative Society (hereinafter referred to as the existing society) may, by special resolution (in this section referred to as the preliminary resolution) resolve to divide itself into two or more Co-operative Societies (hereinafter referred to as the new societies.)

(2) The preliminary resolution shall contain proposals for the division of assets and liabilities of the existing society among the new societies in which it is proposed to be divided and may prescribe the area of operation of and specify the members who will constitute each of the new societies

(3) A copy of the preliminary resolution shall be sent to all the members and creditors of the existing society and to all other persons whose interests will be affected by the division of the existing society.

(4) Any member of the existing society may, notwithstanding any by-law to the contrary, by notice in writing given to the society within two months of the receipt of the copy of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(5) Any creditor of the existing society may, notwithstanding any agreement to the contrary, by notice in writing given to the existing society within two months after his receipt of the copy of the preliminary resolution, intimate his intention to demand the payment of any money due to him.

(6) Any other person whose interest will be affected by the division may, by notice in writing given to the existing society within two months of the receipt of the preliminary resolution, object to the division.

(7) After the expiry of three months after the date of the preliminary resolution, a further special general meeting of the existing society shall be held to consider the preliminary resolution and any notices received under this section.

(8) At the special general meeting held under this Act provision shall be made by a further resolution of the society for –

- a) the repayment of the share capital of any member who has given notice under subsection (4);
- b) the satisfaction of any claims by creditors who have given notice under subsection (5)
- c) the satisfaction of the claims of such other persons who have given notice under subsection (6) or the securing of their claims as the Commissioner may determine or direct:

(9) The society may, by further resolution passed by a two-thirds majority of the members present and voting, confirm the preliminary resolution, with or without changes as in the opinion of the Commissioner are not substantial, and the decision of the Commissioner as to whether any changes are or are not substantial shall be final

If, the Commissioner is satisfied within such time as he considers reasonable that the provisions of the secondary resolution and the provisions of this section have been complied with, he may register the societies into which the existing society has been divided and the by-laws of such societies and thereupon

- a) The registration of the existing society shall stand dissolved
- b) The registration of the new societies shall be sufficient to vest the assets and liabilities of the existing society in then new societies in the manner specified in the preliminary resolution, as confirmed;
- c) The remaining members of the existing society shall become members of one or other of the new societies, as is provided by the preliminary resolution, as confirmed; and

(10) any shareholders or creditors of the existing society and any other persons who have claims against the existing society and whose claims were not satisfied in accordance with the secondary resolution, may pursue such claims against one or other of the new societies, as is provided by the preliminary

(11) Where the Commissioner refuses to approve the division of an existing society, the society may appeal to the Executive Committee Member within thirty days of the communication to it of the refusal

(12) A party aggrieved by the decision of the Executive Committee Member may appeal to the High Court within thirty days.

Hon. Samuel Ombogo (Chair): Hon. Members, Part V of this bill has been read and I now pose the question that it be discussed. Any input?

Hon. Kelvin Odhiambo: Mr. Chair, under clause 34, the numbering is not properly done. From sub clause 2, they jumped to number 5.

Hon. Isaya Onyango: I suggests that sub- clause 5 to read 3, 6, to read 4 in that manner to the end.

Hon. Samuel Ombogo (Chair): Any other?

Hon. Kelvin Odhiambo: The amendment be done in 34 part 3,4 and 5. The word one month be replaced with 3 months.

Hon. Samuel Ombogo (Chair): If there is no any other issue, I will put a question that part V clause 34 be part of amendment in this bill.

(Question put and agreed upon)

PART VI-RIGHTS AND OBLIGATIONS OF CO-OPERATIVE SOCIETY

Society to have over member's produce

36. (1) A Co-operative Society which has as one of its objects the sale and marketing of any agricultural produce ,may enter into a contract with its members,either in its bylaws or by a separate document binding the members to dispose or description of the same as may be stated therein,to or through the society.

(2) The contract referred to under subsection (1) may-

(a)The contract referred to produce the quantities of agricultural produce therein specified;

(b)Provide for payment of a specific sum per unit of weight or other measure as liquidated damage for any breach of the contact.

(3)The sum referred under subsection (2)shall on becoming payable-

(a)Be a debt due to the security; and

(b)Be a charge upon the immovable property of the member subject to registration of the charge under the law under which the property is registered and all stock then being thereon.

(4)Any such contract as is mentioned in subsection (1)shall have the effect of creating in favour of the Co-operative Society a charge upon the proceeds of sale of all produce mentioned therein. Whether existing or future.

(5) A Co-operative Society may, on the authority of a resolution passed in general meeting ,pledged the produce deliverable by members under any contact as is mentioned in subsection (1)as security for loans made to the society,in all respects as if it were owner of the produce.

(6)No contract entered into under this section shall be contested in any court on the ground that t constitutes a contract in restraint of trade.

Society to have First charge over debts, assets,etc.in certain cases.

37.(1) Subject to any other written law as to priority of debt where a Co-operative Society has-

(a) Supplied to any members or past member any seeds or manure ,or any animals ,feeding stuff, agricultural or industries implements or machinery or materials for manufacture or building; or

(b) Rendered any services to any member or past member; or

(c) Lent money to any member or past member to enable him to buy any such things as aforesaid or to obtain any such services ,the society shall have a first charge upon such things or, as the

case may be ,upon any agricultural produce ,animals or articles produced therewith or there form or with the aid of such money.

(2) The charge shall subsist for such period as the loan or value of the services rendered by a Co-operative Society to a member shall remain unpaid.

Society to have charge over members 'share

38. A co-operative Society shall have a first charge upon the share or interest in the capital and on the deposits of a member or past member, and upon any dividend,bonus or accumulated funds payable to a member or past member, in respect of any set off any sum credited or payable to such member,or past member in or towards the payment of any such debt.

Failure to remit the sum deducted

39. (1) Where an employer of a person who is a member of a Co-operative Society has, under the instructions of the employee, made a deduction from the employee's emolument for remittance to the Co-operative Society Concerned fails to remit the deductions within seven days after the date upon which the deduction was made, the employer shall be liable to pay the sum deduction together with compound interest thereon at a rate of not less than five per cent per month.

(2) The Commissioner may, on behalf of the society, institute legal proceedings in court for recovery of the sum owing under subsection (1) without prejudice to any other mode of recovery and such shall be a civil debt recoverable summarily.

(3) The Commissioner may, by written notice, appoint any person, bank or institution to be an agent of the society for the purposes of collection and recovery of be an agent of the society for the purposes of collection and recovery of a debt owed to the society.

(4)The agent shall pay the amount specified in the notice issued under subsection (3) out on any moneys which may, at any time during the twelve months following the date of the notice, be help by him for the employer or are due from him to the employer.

(5)Where an agent claim to be or to have become unable to comply with subsection (3) by reason of lack of moneys held by or due from him, he shall give a written notification to the commissioner stating reasons for his inability and the commissioner may-

(a) Accept the notification and cancel or amend the notice accordingly; or

(b) If he is not satisfied with the reasons, reject the notification in writing.

(6) When an agent fails to notify the Commission or the notification is rejected, it reject, it shall be presumed that the agent has sufficient moneys for the payment of the amount specified in the notice.

(7) Where an agent fails to pay the amount specified in the notice within thirty days from the date of service or the date on which any moneys come into his hands for or become due to him from the employer, the agent shall be liable for the amount specified in the notification ad if he were the employer.

(8) In any proceedings for the collection or recovery of the amount specified in the notice, it shall not be a defense for the agent to claim lack of the money.

(9) This section shall apply notwithstanding that the failure under subsection (1), to remit the sum deducted may constitute an offence under some other law for which the employer has been prosecuted, or is being, or is likely to be prosecuted.

(10) In this section "employer" include any person, firm or organization holding remuneration or payment for produce of a member of a Co-operative Society and the term "employee" includes any person who receives remuneration or payment for produce from such persons or firm or organization.

Member's share not subject to attachment

40. The share or interest of a member in the capital of a co-operative Society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and a trustee in bankruptcy under the law relating to bankruptcy shall not have any claim on such share or interest:

Provided that, where a Co-operative Society is dissolved, the share or interest of any member who is adjudged a bankrupt under such law shall vest in the trustee in bankruptcy in accordance with such law.

Liability of past members

41. The liability of a past member of a Co-operative Society shall be in respect of the debts of the society as they existed at the date when he ceased to be a member and proceedings in respect thereof may be commenced within a period of two year from such date:

Provided that, in the case of a Co-operative Society after his ceasing to be a member disclosed that the society is solvent, the financial liability of such past member shall cease forthwith.

Liability of deceased members

42. The estate of a deceased member shall be liable for the debts of the Co-operative Society as they existed at the time of his death, and proceedings in respect thereof may be commenced within once a year of the death.

Provided that-

- (i) In the case of a Co-operative Society with limited liability, if the first audit of the accounts of the society after the death discloses a credit balance in favour of the society, the financial liability of the estate shall cease forthwith ;and
- (ii) A person represent shall not be liable except in respect of assets in his possession or under his control.

Transfer of share or interest of deceased members

43. (1) on the death of a member, a Co-operative Society may transfer the share or interest of the deceased member to-

(a) The person nominated in accordance with this Act; or

(b) If there is no person so nominated, such person as may appear to the Committee of the society to be the personal representative of the deceased member; or

(c) If either of such persons is not qualified under this Act or the by-laws of such society for membership, such person, specified by the nominee or personal representative, as the case may be, a sum representing the value of such member's share or interest ascertaining in accordance with any rules made under this Act or by-laws of the society:

Provided that-

(I) In the case of a Co-operative Society with unlimited liability, such nominee or personal representative, as the case may be, may require the society to pay him the value of the share or interest of the deceased member ascertaining in the manner mentioned in this subsection; or

(II) In the case of a Co-operative Society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee or personal representative, as the case may be, being qualified in accordance with this Act or the by-laws of such society for membership of the society, or on his application within one month of the death, to any person specified in the application, who is so qualified.

(2) A Co-operative Society shall pay all other moneys due to the deceased member from the society to such nominee or personal representative, as case may be.

(3) All transfers and payments made by a Co-operative Society in accordance with this section shall be valid and effectual against any demand made upon the society by any other person

Evidence of member's interest in society

44. (i) Any register or list of members or of shares which is kept by a Co-operative Society shall be prima facie evidence of any of the following particulars entered therein-

(a) the date on which the name of any person was entered in such register or list, as a member;

(b) the date on which any such person ceased to be a member; and

(c) the number of shares held by any member.

(2) A copy of any entry in a book of a Co-operative Society regularly kept in the course of its business, shall, if certified in accordance with the rules made under this Act, be prima facie evidence in any proceedings of the existence of such entry, and of the matters, transaction, and accounts, therein recorded.

Hon. Samuel Ombogo(Chair): I propose a question that part vi of the bill be discussed.

Hon. Aggrey Ogosi: Mr. Chair, I want to amend that Section 40 paragraph to the word “a” between adjudged and bankrupt.

Hon. Nereah Okombo: I second the proposal of Hon. Aggrey Ogosi that we remove the “a” between adjudged and bankrupt now to read: Provided that , where a Co-operative Society is dissolved, the share or interest of any member who is adjudged a bankrupt under such law shall vest in the trustee in bankruptcy in accordance with such law.

Hon. Samuel Ombogo(Chair):If there are no more amendments, I want to put a question that the entire part VI be part of this bill with amendments.

(Question put and agreed upon).

PART VII-PROPERTY AND FUNDS OF CO-OPARETIVE SOCIETIES.

Application of society’s property and funds

45. The property and funds of a Co-operative Society shall only be applied for the benefit of the society and, its members,in accordance with the provisions of this Act,the rules made hereunder and the by-laws of the society.

Restriction on giving loans

46. A co-operative Society shall not give a loan nor allow any credit to person other than a member, unless the by-laws of the society provide for giving a loan subject to a resolution passed at the general meeting of the society to that effect.

47. A C-operative Society may receive deposits and loans from persons who are not members is such manner and condition as may be prescribed.

48.(1) A Co=operative Society which under its by-laws has power to borrow money shall from time to time at general meeting fix the maximum liability which it may incur in loan or deposit from non-members.

(2) The maximum liability fixed shall be subject to the approval of the commissioner who may at any time reduce it or impose such conditions as he deem necessary.

(3) A member of the society may appeal against the decision of the Commissioner mane under sub-rule(3) to the Executive Committee Member within thirty days ofsuch decision

Investment of society’s funds

49. (1) a Co-operative Society may invest or deposit its funds only-

(a) in and upon such investment and securities as are the time being authorized for the investment of trust funds;

- (b) In the share of any other Co-operative Society;
 - (c) with any bank licensed under the Banking Act;
 - (d) In the stock of any statutory body established in Kenya or in any limited liability company incorporated in Kenya or in any limited liability company by a resolution at a general meeting of the said society;or
 - (e) in such other investment scheme,avenue or method as may be prescribed,
- (2) Where the society invests in real estate other than for its own accommodation, it shall not hold more than twenty per cent of its share capital in such venture.

Declaration and payment of bonus

50.(i) Subject to this section, every Co-operative Society shall declare each year all bonuses due to members;but ,where the bonuses are required for re-investment by the society for capital development ,or for the redemption of bonus certificates,the society shall issue bonus certificate to its members in lieu of cash payment ,redeemable from a revolving fund established by the society for that purpose.

(2) A Co-operative Society shall not pay a dividend,bonus or distribute any part of its accumulation funds without a balance sheet and audited account and report disclosing the surplus funds out of which the dividend, bonus or distribution to be made.

(3)A Co-operative Society shall pay a dividend at rate as may be recommend by the management committee and approved by the annual general meeting of the society.

Maintenance of reserve fund

51.(1) A Co-operative Society which does or can derive surplus from its transaction shall maintain a reserve fund.

(2) A Co-operative Society may carry to the reserve fund such portion of the net surplus in each year as may be prescribed by rules made under this Act or by the by-laws of the society.

(3) The reserve fund shall be invested in the manner as may be prescribed.

(4) The reserve fund set up under this section shall be indivisible and no member shall be entitled to claim a specific share of it.

(5) The reserve fund shall be kept in separate account to be known as the reserve fund account,

(6) Upon the dissolution of a Co-operative Society,the assets under the reserve fund shall be applied in the discharge of the liabilities of the society.

PART VIII-CHARGES BY CO-PERATIVE SOCIETIES

Creating charge over society's property

52. A Co-operative Society may from time to time, charge the whole or any part of its property, if its by-laws expressly empower to do so, subject to a special resolution by the general meeting

Charge to comply with applicable law

53. A charge created by a Co-operative Society in accordance with section 52 of this Act shall comply with the provisions of the law applicable to the particular type of charge.

Charge to be registration with the Commissioner

54.(1) It shall be the duty of every co-operative Society to register with the Commissioner, every charge created by it and the particulars thereof.

(2) The registration of a charge under subsection (1) may be affected on the application of any interest person.

(3) Where registration is affected on the application of a person other than the Co-operative Society, such person shall be entitled to recover from the Co-operative Society the amount of any fees properly paid by him to the Commissioner for such registration.

(4) If any Co-operative Society fails to register a charge with the Commissioner within thirty days of creation of such a charge, and the registration has been affected by some other person within that period, the members of the Committee commits an offence and shall be liable to a fine not exceeding two thousand shillings for every day during which the default continues.

Register of Charges

55.(1) The Commissioner shall, with respect to each Co-operative Society, register in such form as may be prescribed all charges requiring registration and shall enter in the register, with respect to every charge, the following particulars-

(a) if the charge is a charge created by the society, the date of its creation, and if the charge was a charge existing on property;

(b) Property acquired by the society, the date of the acquisition of the property;

(c) the amount secured by the charge;

(d) Short particular of the property charged; and

(e) the persons entitled to the charge.

(2) the Commissioner shall issue a certificate of the registration of any charge registered under this Act stating the amount secured and the certificates shall be conclusive evidence that the requirement of this Act as to registration of charges have been complied with.

(3) The register kept in pursuance of this section be open for inspection by any interest person on payment of the prescribed fee.

(4)The Commissioner shall keep a chronological index in the prescribed form and containing the prescribed particulars, of the charges entered in the register,

Certificate of satisfaction of charges

56. The Commissioner may, on evidence being given to his satisfaction or satisfied, order that a memorandum of satisfaction be entered on the register, and shall if required, furnish the Co-operative Society concerned with a copy thereof.

Receiver to give notice of his appointment

57. (1) If any person obtain an order for the appointment of receiver or manager of the property of a Co-operative Society, or if the Commissioner appoints such a receiver or manager under any powers contained in any instruments, he shall, within seven days from the date of the order of the Commissioner and the commissioner shall enter the notice in the register of charges.

(2) Where any person appointed receiver or manager of the property of a Co-operative Society under the powers contained in any instrument ceased to act as such receiver or manager, he shall, on so ceasing, give written notice of the fact to the commissioner and the Commissioner shall enter the notice in the register of charged.

(3) If any person makes default in complying with the requirements of this section, he shall be guilty of an offence and shall be liable to a fine not exceeding two thousand shillings for every day during which the default continues.

Keeping of instruments of charge

58. Every Co-operative Society shall cause a copy of every instrument of a charge which is required by this Act to be registered, to be kept at the registration address of the society.

Keeping of register of particulars of charges

59.(1) Every Co-operative Society shall keep, at the registers office of the society, a register of charges in which shall be entered all charges on the property or assets of the society, giving in each case a short description of the property charged, the amount of the charge, and the name of the person entitled thereto.

(2) If any officer of a Co-operative Society knowingly omits, or permits the omission of, any entry required to be made in any register in liable to a fine not exceeding five hundred thousand shillings.

Right of member and creditors to inspect register of charges

60. (1) The copies of the instruments creating charges which are required by this Act to be registered and the register of charges kept by the Co-operative Society shall be open, during business hours, to inspection by any creditor or member of the society, without fee, subject to such reasonable restrictions as the society, in general meeting, may impose

Provided however that not more than two hours in each day shall be allowed for inspection, and the register of charges shall also be open for inspection by any other person on payment of the prescribed fee.

(2) Any officer of a Co-operative Society who-

(a) Refuses to allow inspection of the register of charges or copies of the instruments creating charges in accordance with subsection

(1); or

(b) permits such refusal,

Is guilty of an offence and shall on conviction be liable to a fine not exceeding two million shillings.

Hon. Samuel Ombogo (Chair): I propose that this part be discussed.

Hon. James Omolo (Leader of Majority): Mr. Chair, looking at the time, we need to revert to the plenary so that we can seek for the extension of time.

Hon. Joshua Auko (Leader of Minority): I second that we revert to the plenary.

(The house reverts to the plenary)

Speaker (Hon. Samuel Ombogo): You can go ahead Leader of Majority.

Hon. James Omolo (Leader of Majority): Thank you. Mr. Speaker, we still need time to finish this bill and as we can see, the time for this session is over so at this moment I want to move a motion that we extend the sitting until we finish with the bill. I would like the Minority Leader to second.

Hon. Joshua Auko (Leader of Minority): I stand to second the motion that the house extends until the discussion of the bill is over.

Speaker (Hon. Samuel Ombogo): Hon. Members, there is a proposal for extension of time by the Leader of Majority and seconded by Hon. Leader of Minority so that we can finish this bill.

Hon. Prisca Misachi: Thank you Mr. Speaker. Can I call the mover to reply?

Hon. James Omolo (Leader of Majority): At this moment I beg to reply, thank you.

Speaker (Hon. Samuel Ombogo): Thank you. I now put a question for the extension of the business of the 2nd and 3rd reading on the bill of Cooperative Societies.

(Question put and agreed upon)

Hon. Paul Okiri: Mr. Speaker, I know it is important that we seek for the extension of this house but you must also look at the welfare of Members Mr. Speaker, I know this discussion is going to take us for almost another 3 hours. I beg the leader of the house that we adjourn

the house at least for 15 minutes before we come back again to deliberate. I request Hon. Petronila to second this. Thank you.

Hon. Petronila Omondi: Thank you Mr. Speaker, I beg to second the proposal that we break for 15 minutes before we come back to deliberate. We need to discuss this bill with a lot of soberness and fresh mind.

Hon. Jane Omolo: I propose that we revert to the committee of the whole house.

Hon. Bob Ndolo: I second that we revert to the Committee of the Whole.

(Reverting to the Committee of the Whole House)

Speaker (Hon. Samuel Ombogo): Yes, Hon. Okiri

Hon. Paul Okiri: Mr. Speaker, I know it is important that we seek for the extension of this house but you must also look at the welfare of Members Mr. Speaker, I know this discussion is going to take us for almost another 3 hours. I beg the leader of the house that we adjourn the house at least for 15 minutes before we come back again to deliberate. I request Hon. Petronila to second this. Thank you.

Hon. Petronila Omondi: Thank you Mr. Speaker, I beg to second the proposal that we break for 15 minutes before we come back to deliberate. We need to discuss this bill with a lot of soberness and fresh mind.

Hon. Samuel Ombogo (Chair): Hon. Members, I now put a question that this house adjourns for 15 minutes then we come back.

(Resuming after 15 minutes of rest)

Hon. Samuel Ombogo (Chair): We were in Part VIII and the members had their input and I shall now put a question that section 52-60 be part of this bill with amendments.

(Question put and agreed upon)

PART IX- INQUIRY AND INSPECTION

Inquiry by the commissioner

61.(i) The Commissioner may, of its own accord, and shall on the direction of the Executive Member, as the members present and voting at a meeting of the society which has duly advertised, hold an inquiry or direct any person authorized by it in writing to hold an inquiry, into the by-law, working and financial condition of any Co-operative Society.

(2) All officers and members of the Co-operative Society shall produce such cash, accounts, books, documents and securities of the society, and furnish such information in regard to the society, as the person holding the inquiry may require.

(3) The Commissioner shall report the findings of its inquiry at a general meeting of the recommendation of the inquiry report.

(4) A person who contravenes subsection(2) commits an offence and shall on conviction be liable to a fine not exceeding five hundred thousand shillings.

Inspection of books of indebted society

62.(i)The Commissioner may ,if it deems fit ,on the application of a creditor of a Co-operative Society, Inspect ,or direct some persons authorized by him in writing to inspect ,the books of the society, if-

(a)the creditor satisfies the Commissioner that the debt is a sum then due,and that he has demanded payment thereof and has not received satisfaction within a reasonable time;and

(b) the applicant deposits with the Commissioner may require.

(2) The Commissioner shall inform the creditor for the results of the inspection

Expensed of inquiry

63.(1) Where an inquiry is held section 61 or an inspection is made under section 62 of this Act,the Commissioner may,but a certificate under his hand,make an order apportioning the expenses ,or such part of the expenses as he considers proper,between the society,the members of creditor demanding the inquiry or inspection,and the officers or former officers of the society

(2) Any sum awarded by way of expenses under subsection (1)shall be a civil debt recoverable summarily on production of the certificate referred in that subsection.

PART X- DISSOLUTION

Procedure for dissolution

64.(1)If the Commissioner ,after holding an inquiry under section 61 or making an inspection under section 62 of this Act,or receiving an application made by at least three quarter of the members of a Co-operative Society, is of the opinion that the society ought to be dissolved, hemay, inwriting, order the dissolution of the society and subsequent cancellation of registration.

(2)Any member of a Co-operative Society who feels aggrieved by an order, appeal against the order to the executive Committee member.

(3) Where no appeal is filed within the prescribed time, the order shall take effect on the expiry of the period, but where an appeal is filed within the prescribed time the order shall not take effect unless it is confirmed by the Executive Committee Member.

(4) Where the Commissioner makes an order under subsection (1)he shall make such further order as he think fit for the custody of the books and documents and the protection of the assets of the society.

(5) A Co-operative Society shall not be dissolved or wound up except by an order of the Commissioner

Cancellation of Registration

65. (1) where a Co-operative has-

- (a) Less than the prescribed number of members; or
- (b) Failed to file returns with the Commissioner for a period of three years; or
- (c) Failed to achieve its objects.

The Commissioner may, in writing order the cancellation of its registration and dissolution of the society and the order shall take effect immediately.

(2) A person aggrieved by an order of the Commissioner under subsection (1) may appeal against such order to the Executive Committee Member.

Effects of Cancellation

66. Where the registration of a Co-operative Society is cancelled, the society shall cease to exist as a corporate body from the date the order takes effect.

Appointment of liquidator

67. Where the registration of a Co-operative Society is cancelled under this Act the commissioner may appoint one or more persons to be liquidator or liquidators of that society (hereinafter referred to as the liquidator) and all the property of that society shall vest in the liquidator from the date upon which the order of cancellation takes effect.

Power of liquidator

68. The liquidator shall, subject to this Act have the following powers-

- (a) to appoint a day, in the prescribed manner, before which the creditor whose claims are not already recorded in the books for admission, or be excluded from any distribution made before they have proved them,
- (b) to institute and defend suits and other legal proceedings by, and on behalf of, the society in his own name or office, and to appear before the Tribunal as litigant in person on behalf of the society;
- (c) to appoint an advocate to assist in the performance of his duties;
- (d) to determine from time to time the contribution to be made by the members and past members, and by the estate of deceased members of the society, to the funds of the society;
- (e) to investigate all claims against the society, and subject to this Act, to decide questions of priority arising between claimants;
- (f) to call such meeting of members and creditors as may be necessary for the proper conduct of the liquidation;

(g)to sell the movable and immovable property and rights of action of the society,by public auction or private contact with power to transfer the whole thereof to any person or company or to transfer the same in parcels;

(h)To carry on the business of the society as far as may be necessary for the proper liquidation of the affairs of the society;

(i)to determine ,from time to time ,by what persons and what proportion the expenses of the liquidation are to be borne;

(j)to take possession of the books,documents and assets of the society;

(k) to arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the Commissioner;

(l)to give such directions in regards to the disposal of the necessary for winding up the affairs of the society;

(m)to compromise ,with the approval of the Commissioner ,any claim by, or against,the society;

(n)to apply to the Commissioner for his discharge from the duties of liquidator after completion of the liquidation proceedings.

(2)The liquidation shall have power to summon and enforce the attendance of witnesses and to compel the production of documents;

Liquidation account of Society

69.The Commissioner shall open and administer an account,to be called the Co=operative Society Liquidation Account,in such a bank as may be prescribed.

Power of the Commissioner during liquidation

70. The Liquidator shall exercise power under this Act under the guidance and limitation imposed by the Commissioner and the Commissioner may-

(a)rescind or vary any order made by the liquidation and make any new order he think proper:

(b) direct on timeline for and the progress report to be submitted by the liquidation as may be prescribed.

(c)remove the liquidator from office and appoint a new liquidator in his place;

(d)call for all books,documents and assets of the society;

(e) at his discretion,require accounts to be rendered to the him by the liquidation;

(f)procure the auditing of the liquidator's accounts and authorize the distribution of the assets of the society;

(g) make an order for the remuneration of the liquidator;

(h) grant a discharge to the liquidator on application by him after completion of the liquidation proceedings;

(i) require any member or past member of the society and any trustee, banker, receiver, agent or officer of the society to pay, deliver, convey, surrender or transfer forthwith, or within such time as he shall direct, to the liquidator, any money, property, books or papers in his hands to which the society appear to be entitled;

(j) appoint a special manager for the management of the business of the society and determine his remuneration and what, if any, security he shall give for the proper performance of his duties;

(k) require the indemnification of the liquidator.

Institution of winding up proceeding

71. (1) If the liquidator of a society whose registration has been cancelled alleges that any of the offences under any written law have been committed, the liquidator shall report the facts to the Commissioner,

(2) The Commissioner shall within 7 days submit the report received under subsection (1) to the Commissioner of public prosecutions

Power to restrain convicted person from being officer of the society

72. Any person who is convicted of an offence under this Act shall cease to be, or remain officer of a Co-operative Society, and shall cease to be concerned in or take part in, whether directly or indirectly, the management of a co-operative Society, for a period of five years from the date of his conviction, and any person acting as, or taking part in the management of a Co-operative Society during that period, shall be guilty of an offence and shall be liable to imprisonment for the term not exceeding two years.

PART XI – MISCELLANEOUS PROVISIONS

Power to surcharge officer of Co-operative Society

73. (1) Where it appears that any person who has part in the organization or management of a Co-operative Society, or any past or present officer or member of the society-

(a) has misapplied or retained or become liable or accountable for any money or property of the society-

(b) has been guilty of misfeasance or breach of trust in the relation to the society, the Commissioner may, on his own accord or on the application of the liquidator or of any creditor or member, inquire into the conduct of such person.

(2) Upon inquiry under subsection (1), the Commissioner may, if it considers it appropriate, make an order requiring the person to repay or restore the money or property or

any part thereof to the Co-operative Society together with interest at such rate as the Commissioner thinks just or to contribute such sum to the assets of the society by way of compensation as the Commissioner deems just.

(3) This section shall apply notwithstanding that the act or default by reason of which the order is made may constitute an offence under another law for which the person has been prosecuted, or is being or is likely to be prosecuted.

Disputes

74.(1) If any dispute concerning the business of a Co-operative Society arises-

- (a) Among member, past members and persons claiming through
- (b) Between members, past members or deceased members, and the society, its Committee or any officer of the society; or
- (c) Between the society and any other Co-operative Society, it shall be referred to the Commissioner.

(2) A dispute for the purpose of this section shall include-

- (a) a claim by a Co-operative Society for any debt or demand due to it from a member or past member, or from the nominee or personal;
- (b) Representative of a deceased member, whether such debt or demand is admitted or not; or
- (c) a claim by a member, past member or the nominee or personal representative of a deceased member for any debt or demand due from a Co-operative Society, whether such debt or demand is admitted or not.

The Commissioner shall make every reasonable effort to settle disputes under this Act. If the Commissioner does not resolve a dispute under this Act the Commissioner shall within 14 days refer the dispute to an Arbitration Committee which shall be constituted in the manner prescribed by regulation

Remuneration of officer and member of society

75.(1) An officer or member of a Co-operative Society shall not receive any remuneration, salary, commission or any other payment from the society for service for services rendered to the society unless the society has, by a resolution passed at a general meeting, approved the payment of such remuneration, salary, commission or other payment.

(2) An officer or member of a Co-operative Society shall not receive any remuneration, salary, commission or other payment from any person or body or association other than the society in respect of any business or transaction entered into by the society;

Provide that in special circumstances the society may, by resolution passed other payment to be made

(3) Any officer or member of a Co-operative Society who received any remuneration, salary, commission or other payment in contravention of this section commits an offence and shall be liable to a fine not exceeding two years, or to both

(4) Notwithstanding subsection (3), where the offence is the contravention of subsection (1) of this section, be ordered to repay the amount of the subsection, salary, commission or other punishment, and default in such payment shall be dealt with in the same manner as default in paying a fine imposed by a court.

Restriction on use of word “Co-operative”

76.(1) A person, other than a Co-operative Society, shall not trade or carry on business under any name or title of which the word “Co-operative” or its equivalent in any other language is part, without the written approval of the Commissioner

(2) Any person who contravenes subsection (1) of this section commits an offence and shall on conviction be liable to a fine not exceeding one million thousand shillings.

Co-operative Development Fund

77.(1) There is established a fund to be known as the county Co-operative Society Development Fund.

(2) The Fund shall consist of -

(a) sums of money which may from time to time be voted by the County Assembly for that purpose;

(b) sums which represent the repayment of the capital and interest of any loan granted from the Fund;

(c) income from any investment made by the fund;

(d) any sums of money borrowed by the Fund with the approval of the County Assembly; and

(e) any gifts, donations, grants and endowments made to the Fund by development partners.

(3) The Fund shall be used -

(a) to grant low-interest loans to Co-operative institutions with a view to scaling up their lending activities, value addition amongst other activities as may be prescribed;

(b) to provide funds to support, review and initiate Co-operative sector institutions in areas that can have an immediate impact on household economy;

(c) to attract and facilitate investment in Co-operative sector institutions that have linkage to micro, small and medium enterprises that benefit the youth;

(d) provide financial support to Co-operative sector institutions that support strategic and high-return interventions which directly and indirectly have the potential to trigger growth and sector-wide impact;

(e) to attract and facilitate investment in Co-operative sector institution that have linkages to low-income persons, community based organization, and women groups;

(f) provide funds to Co-operatives sector institution to facilitate marketing of products and services both in the domestic and the international market; and

(g) Conduct research and development, capacity building and training the Co-operative Sector.

(4) The Fund shall be administered by a Board of Trustees in the manner prescribed in regulations.

Power to make rules and regulations

78.(1) The Member of the Executive Committee may make regulations for the better carrying out the provisions of this Act, and without prejudice to the foregoing, may make regulations in respect of the following-

(a) Prescribe the forms to be used and conditions to be complied with in making application for the registration of a society and the procedure to be followed;

(b) Prescribe the matter in respect of which a Co-operative Society may or shall make by-laws, and the procedure to be followed in making, varying and revoking by-laws, and the conditions to be satisfied before making, varying or revoking by-laws;

(c) Prescribe the condition to be complied with by persons applying for admission or admitted as member, and the payment to be made and the interest to be acquired before the exercise of the right of membership;

(d) Regulate the manner in which funds may be raised whether by means of share or debentures or otherwise;

(e) Provide for general meeting of the members and for the procedure at such meetings and the powers to be exercised by such meetings

(f) provide for the appointment, suspension and removal of the members of the Committee, members and other officers, and for the procedure at meetings of the Committee, and for the powers to be exercised and the duties to be performed by the Committee and other officers;

(g) Prescribe the accounts and books to be kept by a Co-operative Society;

(h) Provide for the form of the final account and the balance sheet to be prepared annually and any other statements and schedules relating thereto;

(i) provide for the resignation, suspension and expulsion of members and for the payments, if any, to be made to members who resign or are expelled, and for the liabilities of past members;

(j) provide for the person by whom and the form in which copies of entries in books of Co-operative Society may be certified;

(k) provide for the inspection of documents and registers at the Commissioner's office and prescribe the fees to be paid thereof and for the issue of copies of such documents or registers;

(l) provide for the formation and maintenance of a register for members and, where the liability of members is limited by shares or limited by guarantee, of the register of shares;

(m) provide for the order in which the value of a deceased member's interest shall be ascertained and subject to section 55 for the nomination of a person to whom such interest may be paid or transferred;

(n) provide for the mode in which the value of the interest of a member who has become of unsound mind or incapable of managing his affairs shall be ascertained and for the nomination of any person to whom such interest may be paid or transferred;

(o) provide for the manner of formation and maintenance of reserve fund and the objects to which such funds may be applied and for the investments of any funds under the control of a Co-operative Society;

(p) prescribe the procedure to be followed in appeals made to the Executive Committee Member under the Act

(q) prescribe the returns to be submitted by a Co-operative Society to the Commissioner and the person by whom and the form in which such returns shall be submitted;

(r) prescribe the fees to be paid on applications, registrations and other acts done by the Executive Committee Member under this Act.

(s) prescribe the procedures to be followed in the liquidation of societies; and

(t) prescribe anything which under this Act may be prescribed.

(2) The regulation under this Act shall be approved by the County Executive Committee and the County Assembly before they take effect.

Hon. Samuel Ombogo (Chair): Hon. Members, I put the question for the discussion of part IX – XII. Yes Hon. Ongow.

Hon Samuel Ongow: Mr. Chair, there is amendment by the Committee on clause 76 part 2. They did not include Kenya Shillings.

Hon. Elijah Omondi: I second because we must be specific with the shillings we are talking about.

Hon. Samuel Ombogo (Chair): Mr. Clerk now read the amendment.

(Reading of the amended clause 76 (2))

(2) Any person who contravenes subsection (1) of this section commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand Kenya Shillings or imprisonment not exceeding 6 months or both.

Hon. Samuel Ombogo (Chair): Hon. Members I think we are through with amendments and I want to put a question that pare IX – XII be part of amendment of this bill.

(Question put and agreed upon)

Hon. Bob Ndolo: Thank you Mr. Speaker Sir, having gone through the second and third reading concurrently I propose that the house reverts to plenary so that we can adopt the report. I request Hon. Gabriel Ochieng to second.

Hon. Gabriel Ochieng: Thank you. I do second the proposal that we revert to the plenary.

(Reverting to Plenary)

Speaker (Hon. Samuel Ombogo): Hon. Members, Kisumu County Co-operative Societies Bill, 2015 has been read for the 2nd and 3rd time and I now want to put a question that the Kisumu County Co-operative Societies Bill, 2015 has been passed this day of 26th June 2015.

(Question put and agreed upon).

Hon. James Omolo (Leader of Majority): Thank you Mr. Speaker. There are some bills that are still in the order paper and we cannot discuss them now, I wish to withdraw all of them until Monday next week. I request Hon. Petronila Omondi to second.

Hon. Petronila Omondi: Thank you Mr. Speaker, I do rise to second the proposal that we withdraw all the remaining motions.

Speaker (Hon. Samuel Ombogo): Hon. Members, there is a proposal that motion 9,10, 11 and 12 be withdrawn until Monday next week and I now put a question.

(Question put and agreed upon)

Adjournment:

There being no any other business this house stands adjourned until Monday at 9.00 am