

SPECIAL ISSUE

Kenya Gazette Supplement No. 40 (Senate Bills No. 12)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2023

NAIROBI, 31st March, 2023

CONTENT

Bill for Introduction into the Senate—

PAGE

The Prevention of Livestock and Produce Theft Bill, 2023 505

**THE PREVENTION OF LIVESTOCK AND
PRODUCE THEFT BILL, 2023
ARRANGEMENT OF CLAUSES**

Clause

PART I – PRELIMINARY

- 1 – Short title.
- 2 – Interpretation.
- 3 – Object of the Act.

PART II – BRANDING OF LIVESTOCK

- 4 – Functions of the Cabinet secretary.
- 5 – Functions of the county executive committee member.
- 6 – Application for registration of a brand.
- 7 – Certificate registration of a brand.
- 8 – Transfer of a registered brand.
- 9 – Cancellation of registered a brand.
- 10 – Obligation to brand livestock.
- 11 – Use of a permanent identification device.

PART III – MOVEMENT OF LIVESTOCK

- 12 – Removal of livestock.
- 13 – Retention of a removal permit.
- 14 – Owner of an abattoir to keep records.
- 15 – Appointment of inspectors.

PART IV – OFFENCES

- 16 – Use of unregistered brand.
- 17 – Branding another person’s livestock
- 18 – Offence of livestock or produce theft.
- 19 – Trespass with intent to steal livestock or produce.
- 20 – Conveyance of livestock or produce.

- 21— Tampering with identification brand.
- 22— Prohibition of the delivery or sale of livestock or produce at night.
- 23— Illegal possession of livestock.
- 24— Illegal possession of produce.
- 25— Killing of livestock with intent to steal such livestock.
- 26— Failure to report commission of an offence.
- 27— Issuance of warrant for search, seizure and arrest.
- 28— Forfeiture of assets derived from livestock theft.
- 29— Detention of livestock.

PART V – MISCELLANEOUS PROVISIONS

- 30— Public awareness and sensitization.
- 31— Dispute resolution.
- 32— Trial of offences.
- 33— General Penalty.
- 34— Legislation by county government.
- 35— Regulations.
- 36— Amendment to Cap. 63.
- 37— Repeal of Cap. 357.
- 38— Repeal of Cap. 355.

**THE PREVENTION OF LIVESTOCK AND
PRODUCE THEFT BILL, 2023**

A Bill for

AN ACT of Parliament to provide for a legal framework for the identification of livestock; the movement of livestock; the prevention of livestock theft; the regulation of trade in livestock; the return of illegally acquired livestock and firearms and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Prevention of Livestock and Produce Theft Act, 2023.

Short title

2. In this Act, —

Interpretation

“ammunition” has the meaning assigned to it under the Firearms Act;

Cap. 144.

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

“county executive committee member” means a county executive committee member responsible for matters relating to livestock;

“firearm” has the meaning assigned to it under the Firearms Act;

“identifier” means an official permanent mark, or permanent representation on livestock, which consists of a designated combination of numbers, codes or signs as may be prescribed under this Act

“livestock” means cattle, camel, donkey, pig, sheep, goat poultry and any other animal which the Cabinet secretary may by order declare to be livestock for purpose of this Act;

“livestock keeping community” means a community designated by the Cabinet Secretary as such for the purposes of this Act and whose main occupation involves the keeping of livestock;

“Ministry” means the Ministry responsible for the matters relating to internal security;

“permanent identification device” means a device, which bears a unique code, approved by the director of veterinary services appointed under the Veterinary Surgeons and Veterinary Para-Professionals Act and is intended to remain attached to or inserted in a livestock;

“produce” means the whole or any part of any skin, hide, horn, or carcass of livestock and includes wool, mohair and ostrich feathers; and

“register” means a register of livestock brands established and maintained by the county executive committee member in the respective county.

3. The objects of this Act are to —

Object of the Act.

- (a) provide a framework for –
 - (i) the prevention, combating and eradication of livestock theft to promote security and stability;
 - (ii) the registration and management of livestock by livestock owners;
 - (iii) the regulation of the activities of livestock owners in relation to their livestock; and
 - (iv) the disarmament and the return of illegally acquired firearms and ammunition;
- (b) enhance social and economic development amongst the livestock keeping communities in Kenya;
- (c) provide a framework for the tracking and return of stolen livestock; and
- (d) provide a platform for collaboration amongst the governments, communities and relevant agencies in preventing, combating and eradicating livestock theft.

PART II –BRANDING OF LIVESTOCK

4. The Cabinet Secretary shall be responsible for –

Functions of the Cabinet Secretary.

- (a) formulating a national policy and national standards on identification and movement livestock;

- (b) developing and co-ordinating intergovernmental relations mechanisms in the delivery of services related to identification and movement of livestock;
- (c) establishing a national data base system for communication, sharing and analysis of information relating to livestock;
- (d) in collaboration with the security and other relevant agencies, establishing mechanisms for the disarmament and confiscation of firearms and ammunition illegally held by livestock owners; and
- (e) providing capacity building to the county governments on matters touching on identification and movement of livestock.

5. Every county executive committee in the respective county shall —

Functions of the county executive committee member.

- (a) establish and maintain a county register of livestock brands;
- (b) receive application for and register brands;
- (c) design and formulate strategies and mechanisms for the prevention, combating and eradicating livestock theft;
- (d) establish systems for the tracking of stolen livestock;
- (e) promote the abandonment of livestock theft by collaborating with the relevant agencies in sensitizing members of livestock owners on alternative sustainable forms of livelihood;
- (f) facilitate the acquisition of equipment for monitoring and managing the movement of livestock; and
- (g) carry out such duties or functions as may be necessary for the achievement of the objects of this Act.

6. (1) Every livestock owner shall apply to the county executive committee member for the registration in their name of a brand of such nature and dimensions as shall be prescribed in county legislation.

Application for registration of a brand.

(2) An application under this section for the registration of a brand shall –

- (a) be in the prescribed form;
- (b) be accompanied by a design of the brand;
- (c) be accompanied by the prescribed fee; and
- (d) contain such particulars as shall be prescribed in county legislation.

(3) The county executive committee member shall, within thirty days from the date of receipt of the application, register a brand if satisfied that the requirements for registration have been complied with.

(4) The county executive committee member may reject an application for registration of a brand if –

- (a) the application has not complied with the provisions of this section; or
- (b) the design accompanying the application –
 - (i) is the same as the design of a registered brand;
 - (ii) in the opinion of the county executive committee member, so nearly resembles the design of a registered brand as to cause or be likely to cause confusion; or
 - (iii) is, in the opinion of the county executive committee member, unsuitable for any other reason.

(5) Where an application for registration is rejected, the county executive committee member shall, within thirty days from the date of receipt of the application give written notification with reasons for rejection to the applicant.

7. (1) On the registration of a brand as provided for under section 5(3), the county executive committee member shall issue to the applicant a certificate of registration in the form prescribed in the county legislation.

Certificate of registration of a brand.

(2) Where the holder of a certificate claims that the certificate has been lost or destroyed, the holder of a certificate may make an application in accordance with

subsection (4) to the county executive committee member for the issue of a duplicate certificate.

(3) On receipt of an application made under subsection (2), the county executive committee member shall, if satisfied that the certificate has been lost or destroyed, issue a duplicate certificate to the applicant in place of the original certificate.

(4) An application under subsection (2) shall –

- (a) be in the form and contain such information as shall be prescribed in the county legislation; and
- (b) be accompanied by the fee prescribed in the county legislation.

(5) Upon the issue of a duplicate certificate under subsection (3), the original certificate shall be deemed to be cancelled and the duplicate certificate has the same effect as the original certificate.

8. (1) A proprietor of a registered brand may apply to the county executive committee to transfer the right to that brand to another person.

Transfer of a registered brand.

(2) An application under subsection (1) shall –

- (a) be in the form and contain such information as shall be prescribed in the county legislation;
- (b) contain the consent of the person to whom the proprietor of the registered brand wishes to transfer the right to that brand; and
- (c) be accompanied by the fee prescribed in the county legislation.

(3) The county executive committee member shall, within thirty days from the date of receipt of the application under subsection (1), approve the application if satisfied that the application complies with this section or reject the application where the application does not comply with this section.

(4) Where the county executive committee member approves an application under subsection (1), he or she shall issue to that person a certificate of the transfer in the form prescribed in the county legislation.

(5) Where an application for transfer of a brand is rejected, the county executive committee member shall, within thirty days from the date of receipt of the application give written notification with reasons for rejection to the applicant.

9. (1) The county executive committee member may cancel a registered brand if -

Cancellation of a registered brand.

- (a) the proprietor no longer requires the use of that brand and has notified the county executive committee member;
- (b) the proprietor has died; or
- (c) the proprietor is a body corporate and the county executive committee member is satisfied that the body corporate has been wound up or dissolved.

(2) Notwithstanding the provisions of subsection (1)(b), where the proprietor of a registered brand dies, his personal representative may use the brand until -

- (a) the appointment as a personal representative is terminated; or
- (b) the distribution of the estate of the deceased is completed.

10. (1) Every livestock owner shall, before the livestock attains the age of six months, brand it or cause it to be branded with a registered brand of which the livestock owner is the proprietor.

Obligation to brand livestock.

(2) Every livestock owner shall, in the case of livestock which is older than six months at the commencement of this Act, within three months of the commencement of this Act brand it or cause it to be branded with a registered brand of which the livestock owner is the proprietor.

(3) A person branding livestock with a brand under subsection (1), ensure that such brand -

- (a) is conspicuous;
- (b) is safe to the livestock and a consumer of the final product of the livestock; and

(c) meets such other criteria as the county executive committee member may, by notice in the *Gazette*, prescribe under subsection (4).

(4) The county executive committee member may prescribe further requirements on branding including branding of livestock which have not attained six months.

11. (1) The Cabinet Secretary may make regulations on the use of permanent identification devices.

Use of a permanent identification device.

(2) Where a permanent identification device is used instead of a brand, a reference to brand in any of the provisions of this Act shall be construed to mean a permanent identification device.

PART III – MOVEMENT OF LIVESTOCK

12. (1) A livestock owner who intends to remove livestock of which he is the owner from the premises where they are ordinarily kept to other premises for the purpose of sale and slaughter or any other purpose shall obtain a removal permit from the inspector.

Removal of livestock.

(2) A removal permit issued by the inspector shall be in triplicate and clearly indicate –

- (a) particulars of the livestock owner;
- (b) the date of removal of the livestock;
- (c) the purpose for the removal;
- (d) the number and type of livestock to be moved;
- (e) particulars of the brand of which the owner of the livestock is the proprietor;
- (f) the premises from which the livestock are being moved from;
- (g) the destination of the livestock; and
- (h) in the case of sale –
 - (i) particulars of the purchaser; and
 - (ii) a document evidencing such sale.

(3) The inspector shall not issue a removal permit if –

- (a) the premises the livestock are being moved from or destination of the livestock is within an area

declared to be an area infected by a notifiable disease; or

(b) this Act or any other written law has not been complied with.

(4) An inspector may at any time inspect livestock being removed from the premises they are ordinarily kept and require the production of a removal permit for inspection.

13. (1) The livestock owner shall retain the original removal permit and each of the copies shall be retained by the inspector and the purchaser of the livestock respectively.

Retention of a removal permit.

(2) The removal permit shall be kept for a period of three months from the date of the removal of the livestock from the premises where they were kept immediately before the removal.

14. (1) Every owner of an abattoir shall keep books and records of every livestock slaughtered, and carcass or produce leaving the abattoir.

Owner of an abattoir to keep records.

(2) The books and records, of every livestock slaughtered, to be kept by an owner of an abattoir shall clearly indicate –

- (a) particulars of the brand on the livestock;
- (b) the type of livestock including a brief description of the livestock;
- (c) particulars of the livestock owner;
- (d) if the person delivering the livestock is not the livestock owner –
 - (i) particulars of the person delivering the livestock; and
 - (ii) capacity of such a person whether agent, carrier or purchaser;
- (e) the date of delivery of the livestock;
- (f) the number and type of livestock to be moved;
- (g) the immediate previous premises where the livestock was ordinarily kept; and

(h) the date the livestock was slaughtered.

(2) The books and records, of every carcass or produce leaving an abattoir, to be kept by an owner of an abattoir shall clearly indicate –

- (a) particulars of owner of the carcass or produce;
- (b) particulars of the brand the produce, where applicable;
- (c) the nature of the produce;
- (d) if the person conveying, carrying or transporting the carcass or produce is not the owner –
 - (i) particulars of the person conveying, carrying or transporting the carcass or produce; and
 - (ii) capacity of such a person whether agent or carrier;
- (e) the date the carcass or produce is removed from the abattoir; and
- (f) particulars of the premises of destination of the carcass or produce.

(2) The books and records to be kept under subsection (1), shall be kept for a period of three months from the date of receipt of a livestock for slaughter, or the carcass or produce leaves the abattoir.

15. (1) The county executive committee member shall designate such persons to be inspectors for each ward in the respective county for the purpose of enforcement of this Act.

Appointment of inspectors.

(2) The inspector shall co-ordinate the implementation of this Act at the ward level and in particular –

- (a) be responsible for approving, issuing and inspecting removal permits;
- (b) assist in the investigation and recovery of stolen livestock;
- (c) facilitate the application for and registration of brands;
- (d) co-ordinate and facilitate citizen participation in the development of policies and plans, and

delivery of services on matters related to livestock development at the ward level; and

- (e) carry out such duties as may be assigned by the county executive committee member from time to time.

PART IV – OFFENCES

16. A person who, being a livestock owner, -

- (a) fails to apply for registration of a brand;
 (b) fails to brand his or her livestock;
 (c) brands his or her livestock with an unregistered brand,

Use of unregistered brand.

commits an offence and is liable, on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding one hundred thousand shillings, or to both such fine and imprisonment.

17. A person who wilfully and knowingly –

- (a) brands, or causes to be branded any livestock belonging to another with his or her brand, or any brand which is not the recorded brand of the livestock owner; or
 (b) alters, defaces or obliterates any brand on a livestock belonging to another so as to conceal or disguise the identification of such livestock,

Branding another person's livestock.

commits an offence of theft and is liable, on conviction to imprisonment for a term not exceeding fourteen years or to a fine not exceeding one million shillings, or to both such fine and imprisonment.

18. (1) A person who steals livestock or produce, or receives any livestock or produce knowing or having reason to believe it to be a stolen livestock or produce, commits an offence and shall be liable, on conviction, to a term of not less than twenty years.

Offence of livestock or produce theft.

(2) Where, for the purpose of stealing any livestock or produce, or in the course of stealing any livestock or produce, violence or the threat of violence is used, such person is liable, on conviction, to a life term of imprisonment.

(3) A person charged under subsection (1) may be convicted of the offence of stealing any livestock or produce or of receiving any livestock or produce notwithstanding that the person stated in the charge to be the owner of the livestock or produce is wrongly named as the owner of the livestock or produce.

(4) Any person who procures, incites, hires, directs, instigates, or colludes with, another person to contravene the provisions of subsection (1) commits an offence and is liable, on conviction to a term of imprisonment of not less than fifteen years.

19. (1) A person who enters any enclosed land with the intention of stealing livestock or produce on such land commits an offence and shall be liable, on conviction, to imprisonment for a term not exceeding seven years or to a fine not exceeding five hundred thousand shillings, or to both such fine and imprisonment.

Trespass with intent to steal livestock or produce.

(2) A person who enters and is found on such land under subsection (1) shall, unless such person—

- (a) satisfies the court that they had reasonable and lawful excuse for their presence in the land; or
- (b) was proceeding along a road or thoroughfare traversing such land or part of such land,

be presumed to have entered the land with the intention of stealing livestock unless such person proves that they did not enter such land with the intention to steal the livestock or produce therein.

20. (1) No person shall, without lawful authority, drive, convey or transport any livestock or produce along a public road unless that person is in possession of —

Conveyance of livestock or produce.

- (a) the document of identification issued by the owner of such stock or produce or the duly authorized agent of such owner; and
- (b) a removal permit issued by the registrar for the conveyance of the livestock or produce, in which is stated—
 - (i) the name and address of the person who issued the certificate;

- (ii) the name and address of the owner of such stock or produce;
- (iii) the place from which and the place to which such stock or produce is being driven, conveyed or transported;
- (iv) the name of the driver, conveyer or transporter;
- (v) the date of issue of the permit; and
- (vi) where applicable, the registration number, model and make of the vehicle with which the stock or produce is being conveyed or transported.

(2) No person shall cause or permit any livestock or produce of which he is the owner to be driven, conveyed or transported by any other person without furnishing him with a removal permit which he is required to have in terms of subsection (1).

(3) A registrar or any officer may demand from any person who is required in terms of subsection (1) to have in his or her possession a removal permit, an inspection of such permit, and upon such demand the person having possession of such permit shall produce it for inspection to the person making the demand.

(4) A person who-

- (a) contravenes any provision of this section;
- (b) wilfully makes any false statement in a removal permit furnished under subsection (1); or
- (c) falsely declares that he or she is the owner of stock or produce which is being driven, conveyed or transported by him or her,

commits an offence.

(5) For the purposes of this section "livestock owner" includes any person who obtained livestock or produce by virtue of an agreement of sale in terms of which such person does not become the owner of such stock or produce merely by virtue of the delivery to him of such stock or produce.

21. A person who tampers with, alters, or assists in tampering with, alteration of any identification brand or ear mark on stock or produce so as to conceal or disguise the identification of such stock or produce commits an offence and shall be liable, on conviction, to imprisonment for a term of three years, to a fine of one million Shillings, or both.

Tampering with identification brand.

22. (1) A person shall not deliver or sell or otherwise trade in, or accept the delivery of any livestock between 6:30 p.m. and 6:00 a.m.

Prohibition of the delivery or sale of livestock or produce at night.

(2) A person who contravenes the provision of subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term of not more than twelve months or to a fine not more than eight hundred thousand or to both.

23. A person who has in his or her possession any livestock which may reasonably be suspected of being stolen or unlawfully obtained shall, if that person fails to prove to the satisfaction of the court that he or she came by the livestock lawfully, commits an offence and is liable on conviction to imprisonment for a term of not less than fifteen years.

Illegal possession of livestock.

24. (1) A person who has in their possession produce which may reasonably be suspected of being stolen or unlawfully obtained commits an offence and is liable on conviction, to imprisonment for a term of not less than ten years.

Illegal possession of produce.

(2) For the purposes of this section it shall be sufficient, in order to raise a reasonable suspicion that any produce is stolen or unlawfully obtained, if, when required by the person who arrests him to account for the possession of the produce, the person arrested fails to account therefor or gives an account which the person who arrests him or her reasonably finds insufficient.

25. A person who kills any livestock with intent to steal the skin or carcass, or any part of the skin or carcass commits an offence and shall be liable on conviction, to imprisonment for a term of not less than ten years.

Killing of livestock with intent to steal such livestock.

26. A person commits an offence if the person, being aware that an offence of stock theft has been, is in the

Failure to report commission of an offence.

process of being, or intends to be, committed, fails to report accordingly to a law enforcement officer.

27. (1) The court, upon being informed on oath that any livestock has been stolen, may by warrant under his or her hand authorise a law enforcement officer to –

Issuance of warrant for search, seizure and arrest.

- (a) seize or impound or cause to be seized or impounded such livestock;
- (b) to arrest and search any person found, or suspected of being, in possession or charge or control of livestock or produce; and
- (c) may seize the stock and produce and any documents relating to it.

(2) A warrant issued under subsection (1) shall not authorise the retention of livestock for longer than –

- (a) twenty - one days; or
- (b) if, before the expiry of twenty - one days, a person has been charged with the theft of such livestock or with receiving or retaining of such livestock or of being an accessory after the fact to the theft, receiving or retaining, fourteen days after the conclusion of the trial of that person or after the determination of any appeal against any order or sentence made or imposed as a result of the trial or against any order made on appeal, whichever is later.

(2) Any livestock and documents relating to the livestock seized under subsection (1), may, for the safe custody of such livestock and for the period of the seizure, be removed from the place of seizure to the nearest livestock centre.

28. (1) Upon an application made by a law enforcement officer to the court, the court may make an order for the investigation by the law enforcement into the dealings and assets of any person reasonably suspected of being engaged in the business of receiving or stealing livestock or produce, or dealing in stolen livestock or produce, or any other fraudulent activities in relation to livestock or produce.

Forfeiture of assets derived from livestock theft.

(2) If, upon such investigation, it is found that any assets of such person have been derived from or are attributable to any of the activities referred to in subsection (1), the court shall make an order the forfeiture of such assets to the Government.

(3) For the purposes of subsections (1) and (2), the court may make an order-

- (a) authorizing the law enforcement officer to search for and seize any assets of the person concerned, pending the investigation;
- (b) requiring any person to make available to the law enforcement officer any document relevant to the location or identification of any assets of such person;
- (c) prohibiting any dealing in any assets of such person without an order of the court; or
- (d) requiring any bank or other financial institution to produce to the law enforcement officer, any information relevant to any assets of such person.

(4) A person who has any interest in any assets seized or forfeited under this section may apply to the court to have such assets released.

(5) A person who deals with any assets, which are subject to an order of the court under this section, contrary to the terms of such order commits an offence and is liable, on conviction to imprisonment for a term of five years or to a fine of one million shillings or to both.

29. (1) Any livestock or produce seized in relation to an offence committed under this Act shall be released to the owner within seventy-two hours from the time of seizure.

Detention of livestock.

(2) Notwithstanding the provisions of subsection (1), where livestock or produce seized in relation to an offence committed under this Act and ownership of such livestock or produce is in dispute, or the owner is not known or cannot be found such livestock or produce shall be dealt with as may be directed by a court of competent jurisdiction.

PART V — MISCELLANEOUS PROVISIONS

30. The county executive committee member shall, in consultation with the relevant security agencies –

Public awareness and sensitization.

- (a) develop and implement public education and awareness programmes on the prevention and eradication of livestock and produce theft;
- (b) promote the disarmament of members of livestock owners;
- (c) sensitise the members of livestock keeping communities on the negative socio-economic development and security consequences of livestock theft and the need to respect the property and livelihood of other persons;
- (d) develop programmes aimed at affording the concerned communities with additional means of livelihood; and
- (e) facilitate the formation of cross-border committees with a focus on preventing and addressing the consequences of livestock.

31. The county executive committee member shall collaborate with the elders and gate keepers of communities in promoting the use of community dispute resolution mechanisms including mediation in the determination of any disputes regarding livestock theft, the identification of livestock or any other dispute arising under this Act.

Dispute resolution.

32. (1) Offences under this Act or under any rules made there under shall be tried by any subordinate court.

Trial of offences.

(2) A court of law shall have jurisdiction in any case brought before it under this Act against any person being at the time within its jurisdiction, whether the offence is alleged to have been committed within such area or not, or whether the person accused of the offence is in the accused person's usual place of abode or residence within that area or not.

33. If a person contravenes any provisions of this Act where no penalty is provided for, that person shall, on conviction and notwithstanding the provisions of any other written law, be liable, in the case of a misdemeanour to a

General penalty.

fine of not less than five hundred years or to imprisonment for a term not exceeding two years or to both, and in the case of a felony to a fine of not less than one million or imprisonment for a term of not less than five years or to both.

34. Each county government shall, with respect to implementation of the provisions of this Act, enact county specific legislation or put in place such administrative measures and policies for better carrying into effect the provision of this Act within the respective county.

Legislation by county government.

35. (1) The Cabinet Secretary may make regulations generally for the better carrying out of the provisions of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make regulations —

- (a) for the registration and identification of livestock;
- (b) for the removal or conveyance of livestock or produce under this Act;
- (c) for the management of livestock centres under this Act;
- (d) the conduct of sensitization programmes and the publication and dissemination of information under this Act; and
- (e) for charges and fees to be paid to the Registrar under this Act.

Cap. 2.

No. 23 of 2013.

(3) For the purposes of Article 94(6) of the Constitution —

- (a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013 in relation to subsidiary legislation shall apply to regulations made under this Act.

- 36.** The Penal Code is amended by repealing section 278. Amendment to Cap. 63.
- 37.** The Branding of Stock Act is repealed. Repeal of Cap. 357.
- 38.** The Stock and Produce Theft Act is repealed. Repeal of Cap. 355.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principle object of the Bill is to provide a framework for the establishment of mechanisms for preventing, combating and eventually eradicating livestock and produce theft.

Livestock theft is a problem that has continued to persist over time and has often lead to the loss of life and destruction of property and therefore the livelihoods of the affected communities. Despite the existence of the Stock and Produce Theft Act and provisions under the Penal Code prohibiting livestock and produce theft, the practice has continued unabated and it has therefore become necessary to address this issue comprehensively through a number of interventions including legislation.

The Bill also provides a framework for the branding of livestock and the requirement to obtain a removal permit when livestock is to be moved from one premises to another. This is geared towards facilitating tracing and recovery of livestock. The Bill also creates a number of offences relating to livestock and produce theft and imposes stiffer penalties on commission of the offences.

The Bill imposes an obligation on the National and county governments to put in place measures that not only protect livestock keeping communities from livestock theft but also enhance the socio-economic welfare of these communities through education and the promotion of alternative means of livelihoods. The Bill also confers on the Cabinet Secretary, powers to make Regulations and penalties for offences not provided for under the Act.

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

Clause 35 of the Bill delegates legislative powers to the Cabinet Secretary, who is required to make regulations for the better carrying out of the purposes and provisions of this Act. The Bill does not, however, limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The theft of livestock and produce is a matter that has predominantly affected the pastoralist communities, particularly in counties found along the Kenyan border. The effect of livestock and produce theft has an impact on the socio-economic development of the respective counties. This is particularly due to the fact that the economy of these communities is principally driven by livestock keeping.

In turn, the county governments are compelled to divert their resources in order to address these issues hence, denying the county governments the resources that they need to address other issues affecting the county. This has a direct impact on manner in which the county governments function and the manner in which they perform their functions under the Constitution.

Paragraph 1 of Part 2 of the Fourth Schedule to the Constitution confers on county governments, the functions relating to animal husbandry. The Bill therefore concerns county governments in terms of Article 110(a) of the Constitution as it affects the functions and powers of County Governments set out in the Fourth Schedule.

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

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

Dated the 6th March, 2023.

SAMSON CHERARKEY,
Senator, Nandi County.