

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

**SECOND ASSEMBLY
(FIFTH SESSION)**

NCCA/TJ/PL/2021(29)

5th October 2021

PAPER LAID

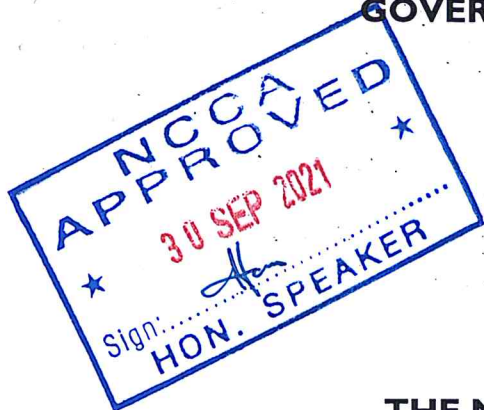
Hon. Speaker, Pursuant to Standing Order 131(4), I beg to lay the following Paper on the Table of the Assembly today, Tuesday 5th October 2021:

— **THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY PLASTIC CONTROL (AMENDMENT) BILL, 2021.**

(Chairperson, Sectoral Committee on Environment and Natural Resources)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press

GOVERNMENT OF NAIROBI CITY COUNTY



THE NAIROBI CITY COUNTY ASSEMBLY

OFFICE OF THE CLERK

**SECOND ASSEMBLY
(FIFTH SESSION)**

NCCA/TJ/PL/2021(29)

30th September 2021

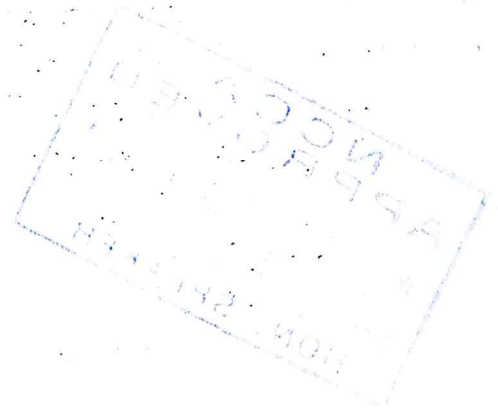
PAPER LAID

Hon. Speaker, Pursuant to Standing Order 131(4), I beg to lay the following Paper on the Table of the Assembly today, Thursday 30th September 2021:

- **THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY PLASTIC CONTROL (AMENDMENT) BILL, 2021.**

(Chairperson, Sectoral Committee on Environment and Natural Resources)

Copies to:
The Speaker
The Clerk
Hansard Editor
Hansard Reporters
The Press



THE NAIROBI CITY COUNTY GOVERNMENT



**NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY - (FIFTH SESSION)**

INTERNAL MEMO

TO : PRINCIPAL CLERK ASSISTANT (L&P)
FROM : PRINCIPAL CLERK ASSISTANT (C)
DATE : 30TH SEPTEMBER, 2021

**RE: THE REPORT OF THE SECTORAL COMMITTEE ON ENVIRONMENT
AND NATURAL RESOURCES ON THE CONSIDERATION OF THE NAIROBI
CITY COUNTY PLASTIC CONTROL (AMENDMENT) BILL, 2021**

The above subject refers.

The Sectoral Committee on Environment and Natural Resources has considered and adopted the report on the Consideration of Nairobi City County Plastic Control (Amendment) Bill, 2021.

This is therefore to forward to you as adopted by the Committee for further your action.

A handwritten signature in blue ink, appearing to read 'Guyo Sama', with a long horizontal stroke extending to the right.

Mr. Guyo Sama

FOR: Ag. Principal Clerk Assistant (C)



**NAIROBI CITY COUNTY ASSEMBLY
SECOND ASSEMBLY - FIFTH SESSION**

*Paper laid
by Hon.
Wangari
on 5/12/2021
Venerable
5/12/2021*

**THE REPORT OF THE SECTORAL
COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES
ON THE CONSIDERATION OF THE NAIROBI CITY COUNTY PLASTIC
CONTROL (AMENDMENT) BILL, 2021**

**Clerks Chambers
Nairobi City County Assembly
City Hall Buildings
Nairobi**

SEPTEMBER, 2021

TABLE OF CONTENTS

1.0.	PREFACE.....	4
1.1.	Committee Mandates.....	4
1.2.	Committee Members.....	5
2.0.	EXECUTIVE SUMMARY	6
2.1.	Background	6
2.2.	Introduction of the Bill in the Assembly	8
2.3.	Legislative powers of the County Assembly.....	8
2.4.	Public participation and the legal Underpinning	9
2.5.	Acknowledgement	11
3.0.	THE CONTENTS OF THE NAIROBI CITY COUNTY PLASTIC CONTROL (AMENDMENT), 2021	12
3.1.	The Summary of the provisions and the Salient features of the Bill.....	12
3.1.1.	Object and purpose of the Bill	12
3.1.2.	Constitutional Provisions:-.....	12
4.1.	Introduction.....	15
5.0.	KEY COMMITTEE OBSERVATIONS.....	16
6.0.	KEY COMMITTEE RECOMMENDATIONS	17
7.0.	ANNEXE 1: PROPOSED COMMITTEE STAGE AMENDMENTS.....	18

APPENDICES

1. Annexe 1: Proposed Committee Stage Amendments
2. Memoranda from the Stakeholders
 - i) Kenya Association of Manufacturers;
 - ii) Victoria Mutai;
 - iii) Kenya National Chamber of Commerce and Industry;
 - iv) Nature Kenya;
 - v) Just Now Limited;
 - vi) Packaging Industries Limited;
 - vii) Fresh Produce Exporters Association of Kenya
 - viii) Tower Gold packaging Ventures
 - ix) Towesta Ventures Limited
 - x) Asami Kenya Limited; and
 - xi) Water Bottlers Association of Kenya.
3. Matrix containing proposed amendments of stakeholders and the justifications
4. Minutes

1.0. PREFACE

1.1. Committee Mandates

Mr. Speaker Sir,

The Sectoral Committee on Environment and Natural Resources is established under Standing Order No. 203. Its mandate pursuant to Standing Order 203(6) is to: -

- a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned departments;*
- b) *study the programme and policy objectives of departments and the effectiveness of the implementation;*
- c) *study and review all county legislation referred to it;*
- d) *study, assess and analyse the relative success of the departments as measured by the results obtained as compared with its stated objectives;*
- e) *investigate and inquire into all matters relating to the assigned departments as they may deem necessary, and as may be referred to them by the County Assembly;*
- f) *vet and report on all appointments where the Constitution or any law requires the County Assembly to approve, except those under Standing Order 185(Committee on Appointments); and*
- g) *make reports and recommendations to the County Assembly as often as possible, including recommendation of proposed legislation.*

Mr. Speaker Sir,

In accordance with the Second Schedule of the Standing Orders, the Sectoral Committee is mandated to consider all matters relating to: - *implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry and control of air pollution, noise pollution, other public nuisances and refuse removal, refuse dumps and solid waste disposal.*

1.2. Committee Membership

The Committee comprises the following Members: -

- | | |
|--------------------------------------|-------------------------|
| 1. Hon. John Kamau, MCA | Chairperson |
| 2. Hon. Joseph Ndonji, MCA | Vice Chairperson |
| 3. Hon. Wanjiru Kariuki, MCA | |
| 4. Hon. Anthony Kimemia, MCA | |
| 5. Hon. Joseph Wambugu, MCA | |
| 6. Hon. Laura Mwendu, MCA | |
| 7. Hon. James Mwangi, MCA | |
| 8. Hon. John Kamangu, MCA | |
| 9. Hon. Solomon Magembe, MCA | |
| 10. Hon. Joyce Muthoni, MCA | |
| 11. Hon. Margaret Mbote, MCA | |
| 12. Hon. Anthony Kiragu, MCA | |
| 13. Hon. Leah Supuko, MCA | |
| 14. Hon. Jacinta Wanjiru, MCA | |
| 15. Hon. Peter Imwátok, MCA | |
| 16. Hon. Francis Ngesa, MCA | |
| 17. Hon. Rose Masitsa, MCA | |
| 18. Hon. Millicent Okatch, MCA | |
| 19. Hon. Emily Waithaka Wanjiku, MCA | |
| 20. Hon. Redson Otieno Onyango, MCA | |
| 21. Hon. Michael Ogada MCA | |
| 22. Hon. Evans Otiso, MCA | |
| 23. Hon. Fuad Hussein, MCA | |
| 24. Hon. Wahinya Njau Peter, MCA | |
| 25. Hon. Eunice Wanjiku Maribe, MCA | |
| 26. Hon. Jeremiah Themendu, MCA | |
| 27. Hon. Wilson Ochola, MCA | |

2.0. EXECUTIVE SUMMARY

2.1. Background

Mr. Speaker Sir,

Quite a good number of consumer products used today comprised of plastic materials. Plastics are one of the most widely used materials in the world. Billions of plastic materials that are being produced annually end up in landfills and oceans.

Mr. Speaker Sir,

Evidently, this phenomenon has a direct correlation with ever expanding global population. Plastics do not decompose as opposed to other biodegradable waste; thus, the accumulation of these plastic products has led to increasing amounts of plastic pollution around the world. As plastic is composed of major toxic pollutants, it has the potential to cause significant harm to the environment in the form of air, water, and land pollution.

Mr. Speaker Sir,

Pollution as a result plastic material usually occur when Plastic pollution occurs when plastic a heap of plastics is accumulated in any given area. Such accumulation negatively affects the natural environment and create problems for plants, wildlife, and even the human population. Oftentimes, this includes killing plant life and posing dangers to animals. Plastic is an incredibly useful material, but it is also made from toxic compounds known to cause illness, and since it is meant for durability, it is not biodegradable.

Mr. Speaker Sir,

In spite of all the efforts aimed banning single use plastics, people have not embraced the Culture of having clean and safe environment. In Nairobi alone, Hundreds of tons of plastic waste are created every day. Whether in a heap of garbage in Eastleigh, clogged open sewer in Kibra Slum or the infamous Dandora Dumpsite, plastic bags

and food containers now constitute the biggest challenge in the management of solid waste in Nairobi.

Mr. Speaker Sir,

In view of the foregoing therefore, the Nairobi City County Plastic Control (Amendment), Bill 2021 was introduced in the Assembly. It is important to note that this is an attempt to amend the **Nairobi City County Plastic Control Act, 2016.**

Mr. Speaker Sir,

The said Act aims to provide for control on the manufacture, usage and disposal of plastic carry bags and other plastic products in order to restore and maintain a clean environment in the Nairobi City County. The Nairobi City County Plastic Control (Amendment), Bill 2021, provides a legal framework for the total prohibition/ban of packaging of food in all plastic material by amending the Parent Act, which had provided partial prohibition of packaging food products in plastic carry bags and containers.

Mr. Speaker Sir,

It is worth noting that the proposed legislation provides for enhanced penalties for persons convicted of packaging food in all plastic carry bags and containers. In addition, it does not limit fundamental rights and freedoms.

Mr. Speaker Sir,

The Sectoral Committee is therefore mandated to critically consider the provisions of the said Bill taking into account the provisions of Article 196 (b) of the Constitution and standing orders 131(3) before submitting its report to the Assembly for enactment into a law. The Committee hopes that the enacted law would provide panacea to the entire gamut of challenges as elicited by Plastic Pollution.

2.2. Introduction of the Bill in the Assembly

Mr. Speaker Sir,

The Nairobi City County Plastic Control (Amendment) Bill, 2021 was read a First Time on **Tuesday, 15th June 2021** and thereafter committed to the Sectoral Committee on Environment and Natural Resources for consideration pursuant to Standing Order 131. Hon. Charles Thuo Wakarindi sponsored the Bill.

2.3. Legislative powers of the County Assembly

Mr. Speaker Sir,

Article 185 of the Kenya's Constitution state that; -

- 1) The legislative authority of a county is vested in, and exercised by, its county assembly.
- 2) A county assembly may make any laws that are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.
- 3) A county assembly, while respecting the principle of the separation of powers, may exercise oversight over the county executive committee and any other county executive organs.

Mr. Speaker Sir,

Further, the County Governments Act, 2012 provides that; -

- 1) A county assembly shall exercise its legislative power through Bills passed by the county assembly and assented to by the governor.
A Bill may be introduced by any member or committee of the county assembly, but a money Bill may be introduced only in accordance with subsection (4).

2.4. Public participation and the legal Underpinning

Mr. Speaker Sir,

Article 196(b) of the Constitution of Kenya states that;

- *'The County Assembly shall facilitate public participation and involvement in the legislative and other business of the assembly and its committees'.*

Mr. Speaker Sir,

Further, Standing Order 131(3) provides that; -

'The sectoral Committee to which a bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its report to the County Assembly'

In view of the above, Mr. Speaker Sir, the Assembly placed a notice in the Daily Nation and Standard on Wednesday, 7th July, 2020 calling for any representations and amendments from the public on the Bill. The Committee also identified key stakeholders to the Bill and invited them to either submit their comments or attend Committee meetings where they could give their views on the Bill.

Mr. Speaker Sir,

Following the notice and the invitations, the Committee received written memoranda from the following stakeholders; -

01. Kenya Association of Manufacturers;
02. Kenya National Chamber of Commerce and Industry;
03. Nature Kenya;
04. Just Now Limited;
05. Packaging Industries Limited;
06. Fresh Produce Exporters Association of Kenya
07. Tower Gold packaging Ventures
08. Victoria Mutai;

09. Towesta Ventures Limited;
10. Asami Kenya Limited; and
11. Water Bottlers Association of Kenya.

Mr. Speaker,

The Committee together with the sector held a two (2) day workshop and a number of meetings in deliberation on the contents of the said Bill where Members were briefed on the content and objectives of the Bill.

Mr. Speaker, Sir,

The proposed amendments are aimed at ensuring that all aspects of Plastic Pollution and Controls in the County are covered, execution of the Bill is easily attained and the concerns of the stakeholders are catered for.

Mr. Speaker Sir,

This report contains committee observations, proposed amendments by key stakeholders and the committee as outlined in the attached Bill Matrix. The Committee report also contains sound and actionable recommendations.

Mr. Speaker Sir,

Further, pursuant to Standing Order 131(4) of the Nairobi City County Standing Orders, the Committee is required to submit its report to the County Assembly within twenty (20) Calendar days of the committal of the Bill to the Committee.

Mr. Speaker Sir,

However, due to unforeseen circumstances the Committee sought for an extension of time so that the Committee makes adequate consideration of the provisions of the aforementioned Bill.

2.5. Acknowledgement

Mr. Speaker Sir,

I wish to acknowledge with gratitude the offices of the Speaker and the Clerk of the County Assembly for the support extended to the Committee in the consideration of this crucial Bill.

Mr. Speaker Sir,

I also wish to extend my gratitude to members of the Public and the Key stakeholders who had submitted their views on this piece of legislation in order to enrich it in line with the spirit of Public Participation.

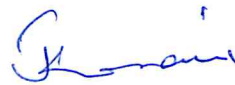
Mr. Speaker Sir,

Finally, much thanks to the Members of the Committee, and the Secretariat particularly the Senior Clerk Assistant in charge of the Committee and the Senior Legal Counsel for their dedication, untiring commitment and valuable contributions during the consideration of this Bill.

Mr. Speaker Sir,

On behalf of the Committee, I now have the honour and pleasure to present the Report of the Committee on Consideration of the Nairobi City County Plastic Control Amendment Bill, 2021 for consideration and adoption.

Signature



 **Hon. John Kamau Muthiga, MCA (Chairperson)**

Date



3.0. THE CONTENTS OF THE NAIROBI CITY COUNTY PLASTIC CONTROL (AMENDMENT), 2021

3.1. The Summary of the provisions and the Salient features of the Bill

3.1.1. Object and purpose of the Bill

Mr. Speaker Sir,

01. The main purpose of the Bill when enacted will provide a legal framework for the total prohibition/ban of packaging of food in all plastic material by amending the Parent Act, which had provided partial prohibition of packaging food products in plastic carry bags and containers.

3.1.2. Constitutional Provisions: -

Mr. Speaker Sir,

02. The Committee observed that legal authority of the Bill is premised in Article 185 of the Constitution which provides that;
 - a) The legislative authority of a county is vested in, and exercised by, its county assembly.
 - b) A county assembly may make any laws that are necessary for or incidental to, the effective performance of the functions and exercise of the powers of the county government under the Fourth Schedule.

Mr. Speaker Sir,

03. Article 185 of the Constitution provides that the power to make county laws vests exclusively in the county assemblies. However, it is a well-established principle in law making that a legislature may be unable to enact a law that would be responsive to every present and future circumstance. It is in this context that the implementers of legislation such as the Executive arm of government are usually given the power to make subsidiary legislation. The legislature delegates its law-making power to the Executive or any other body charged with implementing the law.

04. The Nairobi City County Plastic Control (Amendment) Bill 2021 seeks to amend the Plastic Control Act, 2016.
05. In essence, therefore, the Nairobi City County Plastic Control (Amendment) Bill seeks to improve the implementation of Paragraph 3 and 10 of Part 2 of the Fourth Schedule of the Constitution of Kenya, 2010. Specifically, the function of and power of the County government to control public nuisances and implementation of national government policies on natural resources and environmental conservation.

3.1.3. Salient provisions of the Bill; -

Mr. Speaker Sir,

06. Clause 2 of the Bill seeks to add definitions and interpretation of words as used in the Bill and the Act. This clause defines the words “authority”, “carrier bag”, “flat bag”, “gussets” “plastic material” and “polythene”.

Mr. Speaker Sir,

07. Clause 3 amends the heading of Part II of the Principal Act by deleting the words carry bags and inserting thereof the words plastic material as defined in clause 2.

Mr. Speaker Sir,

08. Clause 4 amends Section 5 of the Act by deleting sub-section (1) (2) and (3) and substituting with new sub-clauses that *inter-alia* the clause prohibits the manufacture, sale or import or export of plastic carrier bags or plastic flat bags.

Mr. Speaker Sir,

09. Clause 5 repeals section 6 and substitutes it with a new clause 6 which *inter-alia* provides that no person shall package food or food products in plastic material.

It also imposes a punishment of not less than one (1) year or a fine of not less than Kshs. 2 million.

Mr. Speaker Sir,

10. **Clause 6** amends the Principal Act by deleting Section 7, which provides for printing of manufacturers details on plastic carry bags.

Mr. Speaker Sir,

11. **Clause 7** amends the Principal Act by deleting Part III, which provides for the usage of plastic carry bags.

Mr. Speaker Sir,

12. **Clause 8** amends the Principal Act in Part IV by renaming the heading Part III and by deleting the words "plastic carrier bags" and substituting therefor with the words "plastic material".

4.0. COMMITTEE CONSIDERATION OF THE NAIROBI CITY COUNTY PLASTIC CONTROL (AMENDMENT), 2021

4.1. Introduction

01. **Mr. Speaker Sir**, the Nairobi City County Plastic Control Amendment Bill, 2021 was read a First Time on **Tuesday 15th June, 2021** and thereafter committed to the Sectoral Committee on Environment and Natural Resources for consideration pursuant to Standing Order 131. Further, it is important to note that Hon. Charles Thuo Wakarindi sponsored the Bill.
02. **Mr. Speaker Sir**, in processing the Bill, the Committee invited comments from the public and the stakeholders by placing advertisement in Daily Nation and Standard on **Wednesday, 7th July, 2020**. The Committee received and considered at least eleven (11) written views from various stakeholders with regards to the Bill.
03. **Mr. Speaker Sir**, in consideration of the aforementioned Bill, the Committee was taken through the provisions of each clause whereby the Members were expected to outline whether to agree or to propose amendments on any given provisions. Here, the Committee was further advised to look into written submissions from the stakeholders who forwarded their considered proposed amendments.

5.0. KEY COMMITTEE OBSERVATIONS

My speaker Sir, while examining the said Bill, the Committee observed the following amongst others; -

That,

- a) The Bill was developed as a response to various persistent challenges of solid waste management facing the County and Members of the Public in particular that threaten the health, safety, comfort, of not only the present welfare of residents of Nairobi but also of the future generations;
- b) The single use of plastics in particular should be banned due to its inorganic nature. The plastics could not decompose but litter the environment for eternity;
- c) The Bill will enhance the achievement of regional and national efforts on tackling plastic pollution in addition to the East African Community (EAC) polythene materials Bill, 2017;
- d) The Bill will enhance the achievement of a ban on single use plastic bags by Kenyan Government in 2017 and the 2020 ban on single use of plastic items in protected areas in Kenya;
- e) There is need for the County to develop Extended Producer Responsibility (EPR) regulations which aims to make plastic material producers responsible for the environmental impacts their products have throughout the value chain;
- f) The Bill is essential on ensuring that the *Nairobi Beautification Initiative* is achieved. That Nairobi was once a clean and green city and it is through enactment of this legislation that it would regain its lost glory;
- g) Most stakeholders submitted contrary views and suggested that the ban on plastic food containers would elicit unemployment. However, the Committee view this perspective as skewed and that the long run cost of plastics on environment outweighs the benefits that come with their use; and
- h) The Bill will help develop a workable framework to bridge the perceived gap between legislation, regulation and industry realities within Nairobi County.

6.0. KEY COMMITTEE RECOMMENDATIONS

Mr. Speaker sir,

The Committee recommends that in accordance with provisions of Standing Order 191(6): -

That;

This Assembly approves the Nairobi City County Plastic Control (Amendment) Bill, 2021 with the following recommendations; -

1. That past, present and future undertakings in regard to Plastic Control be done within the framework of the **Nairobi City County Plastic Control (Amendment) Bill, 2021** and the recommendations of this report;
2. That the County Government submits to the Assembly within 60 days of adopting this report, Regulations on the same, amongst other proposal contained in the Bill; and
3. That the Bill be enacted with the amendments as adopted by the Committee as shown in the Committee Stage amendments (the next page).

7.0. ANNEXE 1: PROPOSED COMMITTEE STAGE AMENDMENTS

NOTICE is given that the Chairperson of the Sectoral Committee on Environment and Natural Resources intends to move the following amendments to the Nairobi City County Plastic Control (amendments) Bill, 2021, at the Committee Stage.

SHORT TITLE (CLAUSE 1)

THAT Short Title of the Bill be amended; -

- i. By deleting the words 'operation from the date of its publication' and replacing therefore, the words 'force on 15th March, 2022.'

ii.

INTERPRETATION SECTION-CLAUSE 2

THAT the Interpretation Section of the Bill be amended; -

- i. By adding the following new definitions in the proper alphabetic sequence-

"Disposal" means the final placement of plastics in a designated site without intention of retrieval"

"Industrial primary packaging" means packaging of raw materials for the next point of production.

"Single use plastic material" means disposable plastics that are intended to be used once only before they are disposed or recycled and they include plastic bags, food packaging, beverage bottles, take away food containers, plastic punnets, plastic cups and plastic drinking bottles.

"Plastic" means a synthetic or semi synthetic material made from polymers as their main ingredient and includes single use plastic material.

“packaging” means material in which product is wrapped or covered around a consumer item that serves to contain, identify, describe, protect, display, prevent it from being contaminated, transport, promote and otherwise make the product marketable and to keep it clean.”

ii. By deleting the definition of the word “polythene” and substituting therefor the following new definition-

“Polythene” means synthetic industrial product with variable crystalline structure and is a polymer of the gas ethane (C₂H₄)

iii. By deleting the definition of “plastic material” in its entirety.

NEW CLAUSE

THAT the amendment Bill be amended by inserting the following new clause immediately after Clause 2-

2A- section 3 of the Principal Act is amended by inserting the following new paragraph after paragraph f as follows-

(fa) prohibiting the manufacture, use, import of single use plastic material for packaging of food and food products.

CLAUSE 3

THAT clause 3 of the Amendment Bill is amended by deleting the proposed heading and replacing therefor the following new heading-

“Manufacture and use of plastic carrier bags, flat bags and single use plastic material”CLAUSE 4

THAT Clause 4 of the Amendment Bill be amended as follows-

- i. In paragraph (a) by deleting the proposed new subsection 1 and 2 and substituting therefor the following new subsections-

Prohibition of plastic carrier bags, flat bags and single use plastic material.	(1) No person shall manufacture for local use, import, improperly dispose, use, purchase or offer for sale plastic carrier bags, plastic flat bags and single use plastic material. (2) A person who contravenes the provisions of subsection (1) commits an offence. (3) No person from another county shall improperly dispose or offer for sale single use plastic material within Nairobi County or transport single use plastic material destined for Nairobi County. (4) Any person who engages in the activities described in clause 5(3) is liable upon conviction for a term of not less than two (2) years and not more than five (5) years and not more than four (4) years or a fine of not less than Kshs. 3 million and not more than Kshs. 4 million, or both. (5) Notwithstanding section 5(1), the Authority may authorize the manufacture, import, use, or sale of plastic flat bags for industrial primary
---	---

packaging or for use as garbage and hazardous (i.e medical waste and chemicals) waste liners.

CLAUSE 5

THAT Clause 5 of the Amendment Bill be amended as follows-

- i. By deleting the sub clause (1) in its entirety and substituting therefor the following new sub clause-

Prohibition of packaging of food with single use plastic material.	(1) No person shall package food and food products in any single use plastic material.
--	--

CLAUSE 8

THAT Clause 8 of the Amendment Bill be amended as follows-

- i. By deleting the words "plastic material" and substituting therefor the words "plastic"

NEW CLAUSES

THAT the amendment Bill be amended by inserting new clauses immediately after Clause 8as follows-

8A- section 11 of the Principal Act is amended in the marginal notes by deleting the words "carry bag"

8B- The principal Act is amended by deleting the words "carry bags" wherever they appear and substituting therefor the words "carrier bags"

8C- The principal Act is amended by deleting the words “carry bag” wherever they appear and substituting therefor the words “carrier bag” respectively.

8D- section 15 of the Principal Act is amended by inserting the following new paragraph after paragraph e as follows-

(ea) Support initiatives by other stakeholders that aim to support government programmes and efforts towards plastic pollution control and regulation.

The Acting Clerk
Nairobi City County Assembly
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE NAIROBI CITY COUNTY PLASTIC
CONTROL (AMENDMENT) BILL 2021

NOTICE is given that the Chairperson of the Sectoral Committee on Environment and Natural Resources intends to move the following amendments to the Nairobi City County Plastic Control (Amendment) Bill, 2021, at the Committee Stage.

SHORT TITLE (CLAUSE 1)

○ THAT Short Title of the Bill be amended; -

i. By deleting the words ‘operation from the date of its publication’ and replacing therefor the words ‘force on 15th March, 2022.’

‘ INTERPRETATION SECTION-CLAUSE 2 ‘

‘ THAT the Interpretation Section of the Bill be amended; - ‘

i. By adding the following new definitions in the proper alphabetic sequence-

“Disposal” means the final placement of plastics in a designated site without intention of retrieval”

○ “Industrial primary packaging” means packaging of raw materials for the next point of production.

“Single use plastic material” means disposable plastics that are intended to be used once only before they are disposed or recycled and they include plastic bags, food packaging, beverage bottles, take away food containers, plastic punnets, plastic cups and plastic drinking bottles.

“Plastic” means a synthetic or semi synthetic material made from polymers as their main ingredient and includes single use plastic material.

“packaging” means material in which product is wrapped or covered around a consumer item that serves to contain, identify, describe, protect, display, prevent

it from being contaminated, transport, promote and otherwise make the product marketable and to keep it clean.”

ii. By deleting the definition of the word “polythene” and substituting therefor the following new definition-

“Polythene” means synthetic industrial product with variable crystalline structure and is a polymer of the gas ethane (C₂H₄)

iii. By deleting the definition of “plastic material” in its entirety.

NEW CLAUSE

THAT the amendment Bill be amended by inserting the following new clause immediately after Clause 2-

2A- section 3 of the Principal Act is amended by inserting the following new paragraph after paragraph f as follows-

(fa) prohibiting the manufacture, use, import of single use plastic material for packaging of food and food products.

CLAUSE 3

THAT clause 3 of the Amendment Bill is amended by deleting the proposed heading and replacing therefor the following new heading-

“Manufacture and use of plastic carrier bags, flat bags and single use plastic material”

CLAUSE 4

THAT Clause 4 of the Amendment Bill be amended as follows-

i. In paragraph (a) by deleting the proposed new subsection 1 and 2 and substituting therefor the following new subsections-

Prohibition of plastic carrier bags, flat bags and single use plastic material.

(1) No person shall manufacture for local use, import, improperly dispose, use, purchase or offer for sale plastic carrier bags, plastic flat bags and single use plastic material.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

(3) No person from another county shall improperly dispose or offer for sale single use plastic material within Nairobi County or transport single use plastic material destined for Nairobi County.

(4) Any person who engages in the activities described in clause 5(3) is liable upon conviction for a term of not less than two (2) years and not more than five (5) years and not more than four (4) years or a fine of not less than Kshs. 3 million and not more than Kshs. 4 million, or both.

(5) Notwithstanding section 5(1), the Authority may authorize the manufacture, import, use, or sale of plastic flat bags for industrial primary packaging or for use as garbage and hazardous (i.e medical waste and chemicals) waste liners.

CLAUSE 5

THAT Clause 5 of the Amendment Bill be amended as follows-

- i. By deleting the sub clause (1) in its entirety and substituting therefor the following new sub clause-

Prohibition
of packaging
of food with
single use
plastic
material.

(1) No person shall package food and food products in any single use plastic material.

CLAUSE 8

THAT Clause 8 of the Amendment Bill be amended as follows-

- i. By deleting the words “plastic material” and substituting therefor the words “plastic”

NEW CLAUSES

THAT the amendment Bill be amended by inserting new clauses immediately after Clause 8as follows-

8A- section 11 of the Principal Act is amended in the marginal notes by deleting the words "carry bag"

8B- The principal Act is amended by deleting the words "carry bags" wherever they appear and substituting therefor the words "carrier bags"

8C- The principal Act is amended by deleting the words "carry bag" wherever they appear and substituting therefor the words "carrier bag" respectively.

8D- section 15 of the Principal Act is amended by inserting the following new paragraph after paragraph e as follows-

(ea) Support initiatives by other stakeholders that aim to support government programmes and efforts towards plastic pollution control and regulation.

 SIGNED.....DATE 29/09/2021.....



HON. JOHN KAMAU, MCA
CHAIRPERSON

SECTORAL COMMITTEE ON ENVIRONMENT AND NATURAL RESOURCES

MATRIX OF STAKEHOLDER COMMENTS AND FINAL COMMITTEE PROPOSED AMENDMENTS TO THE NAIROBI CITY COUNTY PLASTIC CONTROL (AMENDMENT) BILL 2021

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
Entire Bill	Victoria Mutai	Opposition to the proposed amendments to the Act.	The amendment is likely to cause job losses, loss of revenue and is ineffective in the effort to reduce pollution in Nairobi. (water bottling companies, restaurants offering delivery and takeaway due to Covid_19 restrictions, food deliveries, dairy processing companies)	The proposal for amendment must be specific to clauses.	Disagreed. Introduce the definition of "single use plastic material" in the interpretation section as this Bill is focused on regulating the use of single use plastic material. To also amend section 3 of the Act to provide for an additional objective of the Act which shall be to prohibit the manufacture, use and import of single use plastic material"
Entire Bill	Kenya National Chamber of Commerce & Industry	Drop parts of the amendment Bill that seek to include ban on their items apart from polythene carrier bags. Consider views from stakeholders and offer alternative ways of handling and disposal of plastics first.	The amendment Bill will be detrimental to smooth business operations. It is not realistic to completely eradicate all plastic packaging as this will introduce other logistical hurdles in safe	The purpose of the Bill is to ban single use plastic material. It is also important to specify when the amendment Bill, once passed will come into force.	Disagreed. Amend clause 1 of the Bill by specifying that the Bill shall come into force on 15 th March, 2022.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
6	Fresh Produce Exporters Association of Kenya	Exempt the manufacture and use of plastic materials for fruits, vegetables, herbs and spices destined for export.	<p>storage, packaging and distribution of many products in the market.</p> <p>Vide Gazette Notice 2334 of 2017 by NEMA, the horticulture industry players have continued to adhere to the requirements of the said notice.</p> <p>Due to food safety issues and maintenance of the integrity and quality of the fruits and vegetables destined for export markets, the importers require that these food products are so packaged.</p> <p>No feasible and viable ecofriendly alternatives to plastic packaging have been found for packaging food destined for export.</p>	<p>International Trade is a function of the National government under Part 1 of the Fourth Schedule of the Constitution. The County government will be <i>ultra vires</i> its power if it seeks to regulate exports.</p>	<p>Agreed.</p> <p>Delete the word export in this clause, elsewhere in this amendment Bill as well as the Principal Act.</p>

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
Clause 2 Interpretation	National Museums of Kenya	Add and define the term "Disposal;" means the final placement of plastic materials in the designated site without intention of retrieval.	.	Agreed. The word disposal is used in the principal Act and it is important to define its meaning.	Introduce the definition of "disposal" in the interpretation section.
5 (1)		Amend the Clause to read "No person shall manufacture, import, export, poorly dispose, use or offer for sale plastic materials."	Consistently replace "plastic carrier bags and plastic flat bags" with "plastic material" as proposed in Clause 1 of the Bill which is more inclusive and will address all plastics threatening the ecosystem.	Disagreed as there is no need to replace. We can add single use plastic materials. Consistency of adding the words single use plastic material as the bill is banning and not just flat and carrier bags.	1. Add "single use plastic material." And amend the clause as follows- "No person shall manufacture for local use, import, improperly dispose, use, purchase or offer for sale plastic carrier bags, plastic flat bags and single use plastic material." 2. Add a new clause on transboundary relations and impose a hefty fine for persons transporting plastic materials from other counties to Nairobi or selling the same.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
15-part V of the Principal Act		Add the functions of the relevant department to include- Support initiatives by other stakeholders that aim to support government programmes and efforts towards plastic pollution control and regulation.		Agreed.	Amend section 15 of the Principal Act to add additional functions of the relevant department.
2 Interpret ation	Just Now Limited; Asami Kenya Limited; Towesta Ventures Limited; Tower Gold Packaging Ventures	Provide a better, clear and specific definition for Plastic Material. Confirm that food take away containers, food serving products like plates &, yoghurt and ice cream cups, water bottles etc.	The definition is inclusive and leaves open multiple, wrong interpretations and unnecessary confusion.	However, for clarity, only single use plastic material are being banned and the Bill needs to be clear on this.	Disagreed. To replace the definition of plastic material with single use plastic material and to also define "plastic" The ban is on single use plastics used for packaging food and food products and this objective needs to be included in the amendment Bill.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
Entire Bill		Intention of the Bill should be to provide for proper disposal & recycle of plastic, rather than banning its use.	Removing plastics and using paper & glass will result in serious negative impact on the environment. Plastic punnets & Container's packaging is not only safer and hygienic for food but it also gives longer shelf life as compared to paper packaging.	The intention of the Bill is to ban single use plastic material for packaging food and food products and this clarity needs to be provided in the Bill and ultimately the Principal Act.	Disagreed
3	Packaging Industries Limited (PIL)	3. Part II of the Principal Act is amended in the heading by deleting the words "plastic carry bags" and replacing with the words "plastic packaging".		The amendment should read single plastic material because this is exactly what we are prohibiting.	Disagreed. Define the words "Single use plastic material"
8		8. The Principal Act is amended in Part IV of the Principal Act by renaming the heading Part III and by deleting the words "Plastic carry Bags" and substituting therefore the words "plastic packaging".		The amendment should read single use plastic material because this is exactly what we are prohibiting.	Disagreed. Single use plastic material to be defined.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL PROPOSED COMMITTEE AMENDMENT
2		Delete the definition of "plastic material" and replace with "Plastic material" means materials made from polymers as their main ingredient. Most of these polymers are formed from chains of carbon atoms, with or without the attachment of oxygen, nitrogen or sulfur atoms. Examples of plastic furniture or plastic toys"	This is to ensure an elaborate understanding of the broad categories of plastic items used.	Definitions should be as simple as possible and the definition provided by the stakeholder is complex. The Bill should be easily understood even by the common mwanachi. Since we are banning single use plastic material, we should define the words "Single use Plastic material" and "Packaging"	Disagreed. Define the words "single use plastic material" and the word "packaging"
		Delete the definition of Polythene and replace with "Polythene" means a thermoplastic which is a polymer of the gas ethane (C ₂ H ₄) with multiple uses.	The definition of polythene is erroneous and should be defined by stating it is a polymer of the gas ethane.	Agreed to use proper definition.	Replace the definition of Polythene as follows- "Polythene" means a thermoplastic with variable crystalline structure and is a polymer of the gas ethane (C ₂ H ₄).

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		Introduce a new definition "Plastic packaging" means wrapping material around a consumer item that serves to contain, identify, describe, protect, display, promote and otherwise make the product marketable and keep it clean made specifically from polymers"	It is important to define the term as it is used in the Bill.	To define single use plastic material and packaging as explained above.	Disagreed.
		Introduce a new definition "primary packaging" means to packaging conceived to constitute a sales unit to the final user or consumer at the point of sale.	NEMA has exempted primary packaging in the Environmental Management and Co-ordination (Plastic Bags Control and Management) Regulations 2018, to which the proposed amendment Bill refers to.	The term used is industrial primary packaging and it should be defined.	Disagreed

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT PROPOSED AMENDMENT	FINAL PROPOSED COMMITTEE AMENDMENT
		Introduce a new definition as follows "Industrial packaging" means packaging that is used to deliver goods from producer to consumer."	NEMA has exempted industrial packaging in the Environmental Management and Co-ordination (Plastic Bags Control and Management) Regulations 2018, to which the proposed amendment Bill refers to.	The term is used under Clause 4 should be industrial primary packaging and not industrial packaging.	Add definition of the words "industrial primary packaging.
		Introduce a new definition as follows "Recyclable packaging" means packaging that can be collected, sorted, reprocessed and ultimately reused in manufacturing or making another item."		The term is not used in the Bill or Act.	Disagreed.
		Introduce a new definition as follows- "Extended producer responsibility" refers to the obligation of a producer to reduce pollution through environmentally sound practices	The Extended producer responsibility initiative is recognized under "National Sustainable Waste Management Policy" that provides for management of solid waste through a circular economy and mandatory EPR Schemes. Further,	This legislation is limiting itself to the ban of single use plastic material and does not intend to deal with EPR's as the same have been adequately addressed in the proposed and validated EMCA	Disagreed.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		in all phases of a product lifecycle including post-consumer and safe end of life stage. It includes but is not limited to design for re-use and recyclability, creation of take back schemes, recycling, composting and other suitable recovery and disposal measures.	EPR Schemes are recognized globally.	regulations on Extender Producer Responsibility Regulations. Further in future, once the regulations are passed, to consider amending the solid waste management Act.	
	KAM and PIL	Introduce a new definition as follows; "Circular Economy" refers to initiatives for designing and redesigning out waste from products, extraction of maximum value from natural resources closing of material loops and creation of new value from materials that would otherwise have been wasted.	The extended producer responsibility initiative is recognized under "National Sustainable Waste Management Policy" that provides for management of solid waste through a "circular economy" and mandatory extended producer responsibility (EPR) schemes. Also, the definition will align efforts between the two levels of government.	The term is not used anywhere in the Act or the amendment Bill.	Disagreed.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
4		<p>Elimination of the word "export" and addition of the words "local use" after manufacture to read as-</p> <ol style="list-style-type: none"> 1. No person shall manufacture for local use, import, use or offer for sale plastic carrier bags and plastic flat bags. 2. Notwithstanding section 5(1), the authority may authorize the manufacture for local use, export, import and use of plastic flat bags for industrial packaging only in accordance with the provisions of the Environmental Management and Co-ordination (plastic bags control management) Regulations 2018. 		<p>Export is a function of the National government under international trade" (Part 1 of the Fourth Schedule of the Constitution of Kenya).</p> <p>However, the ban is on single use plastic material therefore we shall delete the words plastic carrier bags and plastic flat bags and replace with single use plastic material</p>	<p>Agreed.</p> <p>To delete the word export and to add the words local use</p>
5		<p>Replace the proposed provisions of Clause 5 with</p> <ol style="list-style-type: none"> 1. Section 6 (1) No person shall package food and food 	<ul style="list-style-type: none"> Need to align the Bill to ensure food-contact packaging is used for consumer safety. Need to align the Bill between the levels of government and 	<p>Not agreeable to the amendment in 6 as our main issue is to ban packaging of any food and food product use plastic</p>	<p>Disagreed.</p>

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		<p>products in any plastic packaging that contains an inorganic or organic pigments, plasticizers, lubricants and stabilizers, which are likely to cause poisoning of food</p> <p>Section 6 (2) Notwithstanding section 6 (1) any person may manufacture, export, import, sell or use any plastic packaging that does NOT contain any inorganic or organic pigments, plasticizers, lubricants and stabilizers, which are likely to cause poisoning of food And that are food contact approved and/or Kenyan standards approved and shall bear extended producer responsibility obligation to reduce pollution and environmental impacts of the product that they introduce in the market through setting up individual enterprise- based</p>	<p>specifically the Bill to be in line with the "National Sustainable Waste Management Policy" that provides for management of solid waste through the circular economy and mandatory extended producer responsibility (EPR) Schemes to manage solid waste.</p> <ul style="list-style-type: none"> • Banning of plastic packaging without alternative will lead to economic shutdown. • It is significant to provide for the exemption of food contact approved packaging to ensure food security and safety from contaminations for all persons along the food handling value chains. • The proposal will have serious implications on food industries, restaurants, eateries etc. 	<p>material whether it contains or doesn't contain inorganic or organic pigments etc is a non-issue. The amendment of Section 6(1) of the Principal act to remain as is, but to replace plastic material with single use plastic material</p> <p>See KAM proposals and comments for section 6</p>	

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT PROPOSED AMENDMENT	ON	FINAL PROPOSED COMMITTEE AMENDMENT
		<p>extended producer responsibility compliance scheme; or collectively through a pooled compliance scheme managed by the Authority.</p> <p>3. Section 6 (3) Any person who fails to demonstrate their membership to a producer responsibility organization approved by the Authority or individual obligations commits an offence and is liable upon conviction for a term of not less than one (1) year and not more than four (4) years or a fine of not less than Kshs. 2 Million and not more than Kshs. 4 million or both.</p> <p>4. Section 6 (4) A Producer Responsibility Organization may be required to communicate with the County</p>		<p>Purpose of this Bill is mainly to ban single use plastics with no exemptions. Inclusion of this proposed new clause would mean that facilities registered to an EPR are exempted from the ban on the manufacture and sale of single use plastic material.</p>		

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		Governments to submit county specific information on quantities of waste covered and that have been collected and managed and declared in their territory. A PRO shall comply with this request.			

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
2	Water Bottlers Association of Kenya (WBAK)	Delete proposed change in the definition and retain the original definition i.e "Plastic Carry Bags".	The definition is more specific and in line with the 2016 ACT which was specific to Carry bags. Changing definition to plastic material introduces ambiguity to the law that specifically banned "carry bags". This ambiguity has huge ramifications because it seeks to put a ban on all food packages made of plastic material.	Our new definition is more inclusive and captures the main objective of the proposed amendment Bill.	Disagreed .
5		Delete the Amendment of Section 5 of the Principal Act.	The Amendment undermines the authority of Kenya Bureau of Standards by removing "the prescription of standards. The food packaging industry has specific standards to be followed and the Section is part of the legislation that makes industry players comply. The need to align the legislation with all national government legislation including; The Environmental Management and Co-ordination (Extended Producer Responsibility) Regulations, 2021 and The	To amend by adding single use plastic material to the prohibition.	Disagreed.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
			Sustainable Waste Management Bill, 2021.		
2	Kenya Association of Manufacturers (KAM)	Introduce the following definition: "packaging" refers to material in which a product is wrapped or covered with in order to protect it or prevent it from being contaminated, sold or transported.	To align definitions with the EPR Regulations 2021.	Definition to stand as earlier proposed on "packaging" above as it is wider and more inclusive	Packaging defined as above.
		Define the term "Industrial Packaging" means packaging of raw materials for the next point of production.	Term is used in the Bill but is not defined.	To amend by using the words industrial primary packaging instead of industrial packaging and to define.	To define "industrial primary packaging".
3		Introduce the following new paragraph under the Objects of the Act under Section 3 of the Act (h) provide for mandatory extended producer responsibility schemes for all products and packaging in all phases of their	To recognize the mandatory extended producer responsibility schemes.	Proposed (h) is not an objective of the Act.	Disagreed.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		<p>life cycle to enhance environmental sustainability through-</p> <p>(i) Reduction of pollution and environmental degradation</p> <p>(ii) sustainable use of natural resources</p> <p>(iii) Promotion of circular economy</p> <p>(iv) reduction of waste at source</p> <p>(v) Promotion of environmental friendly products' designs and packaging; and cleaner production processes.</p> <p>(vi) Promotion of a culture of environmental consciousness and responsibility from production to final safe disposal; and</p> <p>(vii) inclusion of the environmental costs of end-of-</p>			

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT PROPOSED
		life management of a product in the sale price of a product so as to promote adoption of designs that reduce environmental impacts of products.			
4		Delete the word "export" appearing immediately after the word "import" in sub-clause (1).	The export of goods outside Kenya is a function regulated by the National Government as part of international trade provided under Part 1 of the Fourth Schedule of the Constitution.	Delete the word export everywhere it appears.	Agreed
4		Delete the words "only in accordance with the provisions of the Environmental Management and Co-ordination (Plastic Bags Control and Management) Regulations 2018."	The Regulations referred to are not in force and reference to the same will be erroneous.	Agreed. The Legislation is not yet adopted by Parliament.	Amend as follows Notwithstanding section 5 (1), the Authority may authorize the manufacture, import, use, or sale of plastic flat bags for industrial primary packaging or for use as garbage and hazardous (i.e medical waste and chemicals) waste liners.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
5		<p>Replace the proposed provisions of Clause 5 with the following;</p> <p>Section 6(1) All manufacturers, users and importers of food and food products packaged in polythene material shall bear extended producer responsibility obligation</p> <p>to reduce pollution and environmental impacts of the product that they introduce in the market through setting up individual enterprise-based extended producer responsibility compliance scheme; or collectively through a pooled compliance scheme managed by the Authority.</p> <p>Section 6(2) Any person who fails to demonstrate their membership to a producer responsibility organization approved by the authority or individual obligations commits an offence and is liable upon</p>	<p>To align the National and County efforts and laws.</p> <p>Banning of plastic material without alternative will lead to shutdown of businesses that have a major effect on the economy.</p>	<p>Purpose of this Bill is mainly to ban single use plastics with no exemptions.</p>	Disagreed.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		conviction for a term of not less than one (1) year and not more than four (4) years or a fine of not less than Kshs. 2 Million and not more than Ksh. 4 Million or both.			
		Section 6(3) A producer Responsibility organization may be required to communicate with county governments to submit county specific information on quantities of waste covered and that have been collected and managed and declared in their territory. A PRO shall comply with this request.			
New Clause to amend Section 17 of the Act		Introduce a provision requiring production of proof of participation in extended producer responsibility schemes by affected persons as follows; All persons who manufacture, use and import food and food	For accountability.	Purpose of this Bill is mainly to ban single use plastics with no exemptions. Inclusion of this proposed new clause would mean that facilities registered to an EPR are exempted from the ban on	Disagreed.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		products from plastic material shall produce to an authorized officer, if so required the certificate issued to them by a producer responsibility organization approved by the Authority or for an individual scheme evidence of approval by the Authority.		the manufacture and sale of single use plastic material.	
New Clause on Record keeping and reporting		Introduce a new clause; (1) All individual compliance schemes shall maintain updated records of products managed, eco-design standards, contracts entered by waste service providers and recyclers, and level of performance as per the work plan. (2) All producer Responsibility Organisations shall maintain updated records of its members,	To ensure accountability on the persons manufacturing using or importing plastic food products.	Purpose of this Bill is mainly to ban single use plastics with no exemptions. Inclusion of this proposed new clause would mean that facilities registered to an EPR are exempted from the ban on the manufacture and sale of single use plastic material.	Disagreed.

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT ON PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT PROPOSED
		<p>portfolio of products managed on its members, eco-design requirements, contracts entered into by waste management collectors and recyclers and level of performance as per the work plan.</p> <p>(3) The Authority shall maintain an updated register of all registered and licensed individual compliance schemes and producer responsibility organisations.</p> <p>(4) All extended producer responsibility schemes both individual and collective shall submit up-to date annual report of the preceding year to the Authority by January 31st of every year and relevant County</p>			

CLAUSE/ SCHEDULE	STAKEHOLDER	PROPOSED AMENDMENTS BY STAKEHOLDERS	STAKEHOLDER'S JUSTIFICATION	COMMITTEE'S COMMENT PROPOSED AMENDMENT	FINAL COMMITTEE AMENDMENT
		Government where it has membership.			
New Clause Transitional clause		Section xxx will come into force immediately upon the enactment of the Environmental Management and Co-ordination (Extended Producer Responsibility) Regulations.	To support the county government to be guided by the provisions of the national Regulations.	The Bill to be specific on when it comes into force, once passed.	The Bill will come into force on 15 th March, 2022 to allow a transition period.
New Clause Transfer of waste functions to NMS		Proposed to add a clause that will ensure there is clarity of the function 45 between Nairobi County and NMS	To manage the effectiveness of enforcement of the Act.	NMS as an entity is brought to existence by a contract that will soon terminate.	Disagreed.

2-
B
B
B



2000

40