



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS
(Bill No. 43 of 2015)

**THE SEEDS AND PLANT VARIETIES
(AMENDMENT) BILL, 2015**

(A Bill published in the Kenya Gazette Supplement No. 127 of 11th August, 2015
and passed by the National Assembly, with amendments, on 5th May, 2016)

**THE SEEDS AND PLANT VARIETIES
(AMENDMENT) BILL, 2015**

A Bill for

**AN ACT of Parliament to amend the Seeds and Plant
Varieties Act and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Seeds and Plant Varieties (Amendment) Act, 2015. Short title.
2. The long title to the Seeds and Plant Varieties Act, in this Act referred to as “the principal Act”, is amended by— Amendment of the long title of Cap. 326.
 - (a) deleting the word “national” appearing immediately after the words “rights to persons”; and
 - (b) inserting the words “for food and agriculture, including indigenous seeds and plant varieties” immediately after the words “genetic resources”.
3. Section 2 of the principal Act is amended by inserting the following new definition in proper alphabetical sequence— Amendment of section 2 of Cap. 326.

“plant genetic resources for food and agriculture” means any genetic material of plant origin of actual or potential value for food and agriculture including indigenous seeds and plant varieties”.
4. Section 27A of the principal Act is amended— Amendment of section 27A of Cap. 326.
 - (a) by deleting subsection (1) and substituting therefor the following subsection

“(1) There is established a Plant Genetic Resources Research Centre which shall be a Centre under the Genetic Resources Research Institute established under by section 31 of the Kenya Agricultural and Livestock Research Act, 2013 as read with paragraph (i) of the Second Schedule to the Act.”
 - (b) by deleting the marginal note and substituting therefor the following new marginal note—

“Establishment of Plant Genetic Resources Research Centre”;

(c) in subsection (2) by—

(i) deleting the words “National Plant Genetic Resources Centre” and substituting therefor the words “Plant Genetic Resources Research Centre”;

(ii) by inserting the following new paragraph immediately after paragraph (i)—

“(j) undertake the collection of all plant genetic resources for food and agriculture including wild crop varieties and the relevant intangible knowledge.”

(d) by deleting subsection (3) and substituting therefor the following new subsection—

“(3) There shall be a Plant Genetic Resources Advisory Committee which shall be responsible for providing guidelines on matters relating to plant genetic resources for food and agriculture.”

(e) by inserting the following new subsection immediately after subsection 3

“(3A) The management of the Centre shall comprise of the Director of the Centre and the Plant Genetic Resources Advisory Committee.”

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and Reasons for the Bill

The principal object of the Bill is to amend the Seeds and Plant Varieties Act (Cap. 326) to facilitate the implementation of Article 11(3) (b) and 69 (1) of the Constitution. Both Articles require Parliament to enact legislation to recognize and protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics and their use by Kenyan communities and the protection of genetic resources and biodiversity for equitable sharing of the accruing benefits.

The Bill seeks to amend the long title of the Act to put it in accord with the devolved state of agriculture and expand the scope of the Act to include indigenous seeds and plant varieties.

The Bill also seeks to amend the Act to make provision for the definition of the term “plant genetic resources for food and agriculture” which applies to genetic materials of seed or plant origin.

The Bill further seeks to amend section 27A of the Seeds and Plant Varieties Act to provide for establishment of a Plant Genetic Resources Centre which shall be responsible for conservation and regulation of access and benefits sharing of genetic resources for food and agriculture.

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

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in terms of Article 110(1) (a) of the Constitution as it contains provisions that affect the functions and powers of county governments as set out in the Fourth Schedule to the Constitution.

Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 5th August, 2015.

ADEN DUALE,
Leader of the Majority Party.

Section 27A of Cap. 326 which it is proposed to amend—

27A. (1) There is established a National Plant Genetic Resources Centre which shall be responsible for the conservation and sustainable utilization of plant biodiversity in Kenya.

(2) The functions of the National Plant Genetic Resources Centre shall be to—

- (a) protect the ownership of indigenous seeds and plant varieties, their genetic and diverse characteristics, associated indigenous knowledge and its use by the communities of Kenya;
 - (b) carry out inventories by evaluating and mapping plant genetic resources distribution in the country;
 - (c) conserve plant genetic diversity by devising and implementing management procedure, including ex-situ and in-situ maintenance;
 - (d) co-operate with international institutions on matters relating to plant genetic resources, including the administration of material transfer agreements;
 - (e) ensure safe custody and accessibility of all plant bred and naturally occurring germplasm;
 - (f) document and disseminate plant genetic resources data and information to users;
 - (g) collaborate with and institutions of higher learning to address adaptive, applied and strategic research;
 - (h) enhance capacity for the effective conservation of plant genetic resources; and
 - (i) advise the Government on policies governing the conservation and use of plant genetic resources.
- (3) There shall be a National Plant Genetic Resources Centre Committee which shall provide oversight on matters relating to the centre.
- (4) The Minister may make regulations to provide for the membership and functions of the Committee.