



REPUBLIC OF KENYA

TWELFTH PARLIAMENT - (THIRD SESSION)

THE SENATE

ORDER PAPER

WEDNESDAY, FEBRUARY 13, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers (as listed in the Appendix)
6. Notices of Motion (as listed in the Appendix)
7. Statements

8. PROCEDURAL MOTION - LIMITATION OF DEBATE ON MOTIONS

(The Senate Majority Leader)

THAT, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

9. PROCEDURAL MOTION - LIMITATION OF DEBATE ON ADJOURNMENT MOTION

(The Senate Majority Leader)

THAT, notwithstanding the provisions of Standing Order 106 (4), the debate on any Motion for the adjournment of the Senate to a day other than the next normal sitting day in accordance with the calendar of the Senate shall be limited to a maximum of two hours with not more than fifteen minutes for each Senator speaking after which the Senate shall adjourn without question put;

Provided that when the period of recess proposed by any such Motion does not exceed nine calendar days, the debate shall be limited to a maximum of thirty (30) minutes, and shall be confined to the question of adjournment.

...../Procedural Motion

10. **PROCEDURAL MOTION – LIMITATION OF DEBATE ON MOTION ON THE ADDRESS BY THE PRESIDENT**
(The Senate Majority Leader)
- THAT**, pursuant to Standing Order 106 (1), the Senate resolves that the debate on the Motion on the Presidential Address shall be limited to a maximum of three sitting days with not more than fifteen minutes for each Senator speaking, excluding the Mover in moving and replying who shall be limited to thirty minutes in either case and that the Senate Majority Leader and the Senate Minority Leader shall be limited to thirty minutes each.
11. ***THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS NO. 35 OF 2018)**
(Sen. Judith Pareno, MP)
(First Reading)
12. ***THE ELECTION LAWS (AMENDMENT) (NO. 2) BILL (SENATE BILLS NO. 37 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(First Reading)
13. ***THE CONSTITUTION OF KENYA (AMENDMENT) BILL (SENATE BILLS NO. 40 OF 2018)**
(Sen. Aaron Cheruiyot, MP)
(First Reading)
14. *****THE GOVERNMENT CONTRACTS BILL (NATIONAL ASSEMBLY BILLS NO.9 OF 2018)**
(The Senate Majority Leader)
(First Reading)
15. **COMMITTEE OF THE WHOLE**
*****THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2017)**
(The Senate Majority Leader)
16. **COMMITTEE OF THE WHOLE**
*****THE LAND VALUE INDEX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 3 OF 2018)**
(The Senate Majority Leader)
17. **COMMITTEE OF THE WHOLE**
*****THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILLS NO. 47 OF 2017)**
(The Senate Majority Leader)
18. **COMMITTEE OF THE WHOLE**
*****THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO. 50 OF 2017)**
(The Senate Majority Leader)

19. COMMITTEE OF THE WHOLE

******* THE PETROLEUM BILL (NATIONAL ASSEMBLY BILLS NO. 48 OF 2017)
(The Senate Majority Leader)

20. ******* THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL (NATIONAL ASSEMBLY BILLS NO. 10 OF 2018)
(The Senate Majority Leader)

(Second Reading)

(Resumption of debate interrupted on Wednesday, 5th December, 2018)

KEY

- ****** - Denotes a Majority /Minority Party Bill
- ***** - Denotes a National Assembly Bill
- **** - Denotes a Committee Bill
- *** - Denotes any other Bill

A. *THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILLS NO. 34 OF 2017)**

(The Senate Majority Leader)

(i) NOTICE is given that Sen. Paul Mwangi Githiomi, the Chairperson to the Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Physical Planning Bill, National Assembly Bills No. 34 of 2017, at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended by—

- (a) inserting the words “with respect to land use planning” immediately after the words “for dispute resolution” in paragraph (e); and
- (b) inserting the following new paragraphs immediately after paragraph (g) —
 - (h) a robust, comprehensive and responsive system of land use planning and regulation; and
 - (i) provide a framework to ensure that investments in property benefit local communities and their economies.

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting the marginal note and substituting therefor the following new marginal note—

Values and principles.

PART II

THAT the title to PART II of the Bill be amended by deleting the word “**PHYSICAL**” and substituting therefor the words “**LAND USE**”.

CLAUSE 5

THAT clause 5 of the Bill be amended —

- (a) by deleting the word “Physical” appearing immediately after the words “established the National” in subclause (1) and substituting therefor the words “Land Use”;
- (b) in subclause (2) by—
 - (i) deleting the word “physical” appearing immediately after the words “matters related to” in paragraph (a) and substituting therefor the words “land use”
 - (ii) deleting paragraph (b) and substituting therefor the following new paragraph—

- (b) the Director General of land use planning;
- (iii) deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) three Governors appointed by the Council of Governors or their respective designated representatives;
- (iv) deleting paragraph (e);
- (v) inserting the words “or a designated member of the Commission” immediately after the words “National Land Commission” in paragraph (d);
- (vi) inserting the words “or a designated principal secretary” immediately after the words “to economic planning” in paragraph (f);
- (vii) inserting the words “or a designated principal secretary” immediately after the words “to the environment” in paragraph (g);
- (viii) inserting the words “or a designated principal secretary” immediately after the words “roads and infrastructure” in paragraph (h);
- (ix) inserting the words “or a designated principal secretary” immediately after the words “and community development” in paragraph (i);
- (x) inserting the words “or a designated principal secretary” immediately after the words “related to culture” in paragraph (j);
- (xi) inserting the words “or a designated principal secretary” immediately after the words “related to defence” in paragraph (k);
- (xii) deleting paragraph (o) and substituting therefor the following new paragraph—
 - (o) a person nominated by a registered association representing the largest number of entities in the private sector in Kenya; and
- (xiii) deleting paragraph (p) and substituting therefor the following new paragraph—
 - (p) a person nominated by a registered national association representing the largest number of residents in Kenya;
- (c) by deleting subclause (3) and substituting therefor the following new subclause—

(3) The Cabinet Secretary shall appoint members nominated under subsection (2)(l), (m), (n), (o), (p) and (q) by notice in the *Gazette*.

(d) by deleting the word "Physical" appearing immediately after the word "National" in the marginal note and substituting therefor the words "Land Use".

CLAUSE 6

THAT clause 6 of the Bill be amended by—

(a) by deleting the word "Physical" appearing immediately after the words "of the National" in the introductory clause and substituting therefor the words "Land Use";

(b) deleting the word "physical" appearing immediately after the words "on the national" in paragraph (a) and substituting therefor the words "land use";

(c) deleting the word "physical" appearing immediately after the words "and integration of" in paragraph (b) and substituting therefor the words "land use";

(d) deleting the word "physical" appearing immediately after the words "and implementation of" in paragraph (c) and substituting therefor the words "land use"; and

(e) deleting the word "Physical" appearing immediately after the words "of the National" in the marginal note and substituting therefor the words "Land Use".

CLAUSE 7

THAT clause 7 of the Bill be amended—

(a) in subclause (1) by deleting the word "Physical" appearing immediately after the words "The National" and substituting therefor the words "Land Use";

(b) in subclause (2) by deleting the word "Physical" appearing immediately after the words "Act, the National" and substituting therefor the words "Land Use";

(c) in subclause (3) by deleting the word "Physical" appearing immediately after the words "The National" and substituting therefor the words "Land Use"; and

(d) by deleting the word "Physical" appearing immediately after the word "National" in the marginal note and substituting therefor the words "Land Use".

...../ *Amendments*

CLAUSE 8

THAT clause 8 of the Bill be amended in paragraph (c) by deleting the word “physical” appearing immediately after the words “parameters relating to” and substituting therefor the words “land use”.

CLAUSE 9

THAT clause 9 of the Bill be amended—

- (a) in paragraph (a) by deleting the word “physical” appearing immediately after the words “national policy on” and substituting therefor the words “land use”;
- (b) in paragraph (b) by deleting the word “physical” appearing immediately after the words “specific aspects of” and substituting therefor the words “land use”;
- (c) by deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) approval and oversight over the preparation of national land use development plans;
- (d) by deleting paragraph (d); and
- (e) in paragraph (e) by inserting the words “land use” immediately after the words “county levels of”.

CLAUSE 10

THAT clause 10 of the Bill be amended—

- (a) in subclause (1) by deleting the words “National Director of Physical” appearing immediately after the words “office of the” and substituting therefor the words “Director General of Land Use”;
- (b) in subclause (2) by deleting the words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Land Use”;
- (c) in subclause (3) by deleting words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Land Use”; and
- (d) by deleting the marginal note and substituting therefor the following new marginal note —

Director General of Land Use Planning.

CLAUSE 11

THAT clause 11 of the Bill be amended—

- (a) in the introductory clause by deleting the words “National Director of Physical” appearing immediately after the words “appointment as the” and substituting therefor the words “Director General of Land Use”;
- (b) in paragraph (b) by deleting word “bachelor’s” appearing immediately after the words “holds a” and substituting therefor the word “master’s”;
- (c) by deleting paragraph (c) and substituting therefor the following new paragraph—
 - (c) is registered as a professional planner and is in good standing with the relevant professional body;
- (d) by deleting paragraph (d) and substituting therefor the following new paragraph—
 - (d) has the relevant post-qualification professional experience in land use planning; and
- (e) by deleting the marginal note and substituting therefor the following new marginal note —

Qualifications of the Director General of Land Use Planning.

CLAUSE 12

THAT clause 12 of the Bill be amended —

- (a) in the introductory clause by deleting the words “National Director of Physical” appearing immediately after the word “The” and substituting therefor the words “Director General of Land Use”;
- (b) in paragraph (a) by —
 - (i) deleting the word “physical” appearing immediately after the words “government on strategic” and substituting therefor the words “land use”; and
 - (ii) deleting the word “on” appearing immediately after the words “matters that impact”;
- (c) in paragraph (b) by deleting the word “physical” appearing immediately after the words “formulating national” and substituting therefor the words “land use”;
- (d) in paragraph (c) by deleting the word “physical” appearing immediately after the words “preparation of national” and substituting therefor the words “land use”;

- (e) in paragraph (d) by deleting the word “physical” appearing immediately after the words “preparation of inter-county” and substituting therefor the words “land use”;
- (f) by inserting the following new paragraphs immediately after paragraph (e) —
 - (f) undertaking research related to land use planning and development and making appropriate recommendations to relevant bodies; and
 - (g) the preparation of development plans for strategic national installations and projects; and
- (g) by deleting the marginal note and substituting therefor the following new marginal note —

Responsibilities of the Director General of Land Use Planning.

CLAUSE 13

THAT clause 13 of the Bill be amended—

- (a) in the introductory clause by deleting the words “responsible for physical planning” appearing immediately after the words “executive committee member”;
- (b) in paragraph (a) by deleting the word “physical” appearing immediately after the words “county policy on” and substituting therefor the words “land use”;
- (c) by deleting paragraph (b);
- (d) in paragraph (c) by deleting the word “physical” appearing immediately after the words “integration of county” and substituting therefor the words “land use”;
- (e) by deleting the marginal note and substituting therefor the following new marginal note —

Responsibilities of the County Executive Committee Member.

CLAUSE 14

THAT clause 14 of the Bill be amended—

- (a) in subclause (1) by deleting the word “Physical” appearing immediately after the words “County Director of” and substituting therefor the words “Land Use”;
- (b) by deleting subclause (2) and substituting therefor the following new subclause—

(2) The County Director of Land Use Planning shall advise and be responsible to the county executive committee member.

(c) by deleting the marginal note and substituting therefor the following new marginal note—

County Director of Land Use Planning.

CLAUSE 15

THAT clause 15 of the Bill be amended—

(a) in the introductory clause by deleting the word “Physical” appearing immediately after the words “County Director of” and substituting therefor the words “Land Use”;

(b) by deleting paragraph (c) and substituting therefor the following new paragraph—

(c) is registered as a professional planner and is in good standing with the relevant professional body;

(c) by deleting paragraph (d) and substituting therefor the following new paragraph—

(d) has the relevant post-qualification professional experience in land use planning; and

(d) by deleting the marginal note and substituting therefor the following new marginal note—

Qualifications of a County Director of Land Use Planning.

CLAUSE 16

THAT clause 16 of the Bill be amended—

(a) in the introductory clause by deleting the word “Physical” appearing immediately after the words “County Director of” and substituting therefor the words “Land Use”;

(b) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) advising the county government on land use planning matters that impact the county;

deleting the word “physical” appearing immediately after the words “county government on” and substituting therefor the words “land use”; and

deleting the words "on the whole country" appearing immediately after the words "matters that impact" and substituting therefor the words "the county";

(c) in paragraph (b) by deleting the word "physical" appearing immediately after the words "formulating county" and substituting therefor the words "land use";

(d) in paragraph (c) by deleting the word "physical" appearing immediately after the words "preparation of county" and substituting therefor the words "land use";

(e) in paragraph (d) by deleting the word "physical" appearing immediately after the words "preparation of local" and substituting therefor the words "land use";

(f) in paragraph (e) by deleting the word "physical" appearing immediately after the words "preparation of inter-county" and substituting therefor the words "land use";

(g) in paragraph (f) by deleting the word "physical" appearing immediately after the words "matters relating to" and substituting therefor the words "land use";

(h) by inserting the following new paragraphs immediately after paragraph (g) —

(h) maintaining a land information system to guide land use planning;

(i) communicating decisions of the county government on development applications; and

(j) issuance of development permission and other development control instruments under this Act with the approval of the county executive committee member responsible for land use planning;

(i) by deleting the marginal note and substituting therefor the following new marginal note —

Responsibilities of a County Director of Land Use Planning.

PART III

THAT the title to PART III of the Bill be amended by deleting the words "**TYPES OF PHYSICAL**" and substituting therefor the words "**LAND USE**".

CLAUSE 17

THAT clause 17 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) The Cabinet Secretary shall cause the National Land Use Development Plan to be prepared for approval and publication in accordance with this Part;

(b) in subclause (2) by deleting the word “Physical” appearing immediately after the words “The National” in the introductory clause and substituting therefor the words “Land Use”; and

(c) by deleting the marginal note and substituting therefor the following new marginal note —

The National Land Use Development Plan.

CLAUSE 18

THAT clause 18 of the Bill be amended—

(a) by deleting subclause (1) and substituting therefor the following new subclause—

(1) The National Land Use Development Plan shall define strategic policies for the determination of the general direction and trends of land use development and sectoral development in Kenya and provide a framework for the use and development of land.

(b) in subclause (2) by—

(i) deleting the word “Physical” appearing immediately after the words “The National” in the introductory clause and substituting therefor the words “Land Use”;

(ii) deleting the word “physical” appearing immediately after the words “formulation of national” in paragraph (e) and substituting therefor the words “land use”; and

(c) by deleting the marginal note and substituting therefor the following new marginal note—

Purpose and objects of the National Land Use Development Plan.

CLAUSE 19

THAT clause 19 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the in the introductory clause and substituting therefor the following new introductory clause—

(1) In preparing a National Land Use Development Plan, the Director General of Land Use Planning shall—;

(ii) deleting the words “National Director of Physical” appearing immediately after the words “Development Plan the” in the introductory clause and substituting therefor the words “Director General of Land Use”;

(iii) deleting paragraph (d) and substituting therefor the following new paragraph—

(d) consult the National Land Use Planning Consultative Forum prior to the initiation of the National Land Use Development Plan and submit the proposed plan to the National Land Use Planning Consultative Forum for consideration and input before its final approval;

(b) in subclause (2) by—

(i) deleting the word “Physical” appearing immediately after the words “consult the National” and substituting therefor the words “Land Use”;

(ii) deleting the word “Physical” appearing immediately after the words “prepare a National” and substituting therefor the words “Land Use”; and

(c) by deleting subclause (3) and substituting therefor the following new subclause—

(3) A notice published in accordance with this section shall state the objectives of National Land Use Development Plan, the purpose of the National Land Use Development Plan, the information to be set out in the plan, and the places where members of the public may provide written comments on the National Land Use Development Plan;

(d) by deleting the marginal note and substituting therefor the following new marginal note—

Procedure for preparation of the National Land Use Development Plan.

CLAUSE 20

THAT clause 20 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “a National” in the introductory clause and substituting therefor the words “Land Use”;

- (ii) deleting the word "Physical" appearing immediately after the words "the state of" in paragraph (b)(i) and substituting therefor the words "land use";
- (iii) deleting the word "physical" appearing immediately after the words "and reports concerning" in paragraph (b)(ii) and substituting therefor the words "land use";
- (iii) deleting the word "physical" appearing immediately after the words "challenges relating to" in paragraph (c) and substituting therefor the words "land use";
- (b) in subclause (2) by deleting the words "National Director of Physical" appearing immediately after the word "The" and substituting therefor the words "Director General of Land Use";
- (c) in subclause (3) by deleting the word "Physical" appearing immediately after the words "of the National" and substituting therefor the words "Land Use";
- (d) in subclause (4) by deleting the word "Physical" appearing immediately after the words "which a National" and substituting therefor the words "Land Use"; and
- (e) by deleting the marginal note and substituting therefor the following new marginal note—

Content of National Land Use Development Plan.

CLAUSE 21

THAT clause 21 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclause—

- (1) Within thirty days of the preparation of the National Land Use Development Plan, the Cabinet Secretary shall publish a notice in the *Gazette*, in at least two newspapers of national circulation and through electronic media informing the public that the draft National Land Use Development Plan is available at the place and time specified in the notice for inspection and that any interested person may, within fourteen days, comment on the content of the draft National Land Use Development Plan.

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

- (2) The Cabinet Secretary shall, within twenty one days of the expiry of the period for making comments under subsection (1), consider the comments made on the National Land Use Development Plan and may incorporate the comments in the plan.

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

(2A) Within seven days of making a decision under subsection (2), the Cabinet Secretary shall publish a notice in the Gazette, in at least two newspapers of national circulation and through electronic media informing the public that a decision on the comments received by the Cabinet Secretary has been made and that the reviewed draft National Land Use Development Plan is available at the places and times designated in the notice for perusal.

(d) by inserting the words “within fourteen days of the publication of the notice under subsection (2A)” immediately after the words “Cabinet Secretary may” in subclause (3); and

(e) by deleting the marginal note and substituting therefor the following new marginal note—

Notice of preparation of National Land Use Development Plan.

CLAUSE 22

THAT clause 22 of the Bill be amended—

(a) in subclause (1) by deleting the words “Physical Development Plan to the National Physical” appearing immediately after the words “the draft National” and substituting therefor the words “Land Use Development Plan to the National Land Use”;

(b) in subclause (2) by deleting the word “Physical” appearing immediately after the word “The National” and substituting therefor the words “Land Use”;

(c) in subclause (3) deleting the word “Physical” appearing immediately after the words “by the National” and substituting therefor the words “Land Use”; and

(d) in subclause (5) deleting the word “Physical” appearing immediately after the words “of the National” and substituting therefor the words “Land Use”;

(e) deleting the marginal note and substituting therefor the following new marginal note—

Approval of the National Land Use Development Plan.

CLAUSE 23

THAT clause 23 of the Bill be amended by—

(a) deleting subclause (1) and substituting therefor the following new subclause—

(1) Planning authorities shall base the preparation of inter-county land use development plans, integrated county land use development plans, city land use development plans, urban area land use development plans and sectoral plans on the National Land Use Development Plan.

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

(2) Notwithstanding the lack of a National Land Use Development Plan, planning authorities at the county level shall prepare County and Local Land Use Development Plans.

(c) deleting the marginal note and substituting therefor the following new marginal note—

Implementation of a National Land Use Development Plan.

CLAUSE 24

THAT clause 24 of the Bill be amended—

(a) in subclause (1) by deleting subclause (1) and substituting therefor the following new subclause—

(1) At least three months before the end of the financial year, each public institution of a government that is responsible for the application or the implementation of a National Land Use Development Plan shall prepare and submit a status report on the implementation of the National Land Use Development Plan to the Cabinet Secretary or the county executive committee member and the Commission for their purposes.

(b) in subclause (2) by inserting the word “be” immediately after the words “this section shall”.

CLAUSE 25

THAT the Bill be amended by deleting clause 25 and substituting therefor the following new clause—

Establishment of Inter-County Joint Land Use Planning Development Committees. **25.** (1) Two or more counties may, by mutual agreement or out of compelling necessity, formulate an inter-county land use development plan.

(3) In the preparation of a inter-county land use development plan, the counties shall form an inter-county land use planning joint committee.

(3)The inter-county land use planning joint committee shall consist of—

- (a) the county executive committee member of the respective counties;
- (b) two other relevant county executive committee members from the respective counties nominated by the relevant county governor; and
- (c) the Director General of Land Use Planning who shall be an *ex-officio* member of the Committee;.

(4) The inter-county joint land use planning joint committee may co-opt such other persons as may be necessary to assist it in performance of its duties.

(5) The members of the inter-county joint land use planning joint committee appointed under subsection (3)(a) and (b) shall, during the first meeting of the Committee, elect from amongst themselves a chairperson and a vice chairperson provided that the chairperson and the vice chairperson shall not be county executive committee members from the same county.

(6) The Director General of Land Use Planning shall, in consultation with other members of the Committee, convene the first meeting.

(7) The Director General of Land Use Planning shall co-ordinate meetings of the inter-county joint land use planning joint committee and provide it with secretariat services.

CLAUSE 26

THAT clause 26 of the Bill be amended—

- (a) in the introductory clause by deleting the word “Physical” appearing immediately after the words “An Inter-County” and substituting therefor the words “Land Use”; and
- (b) by deleting the marginal note and substituting therefor the following new marginal note—

...../ **Amendments**

Scope of the Inter-County Land Use Development Plan.

CLAUSE 27

THAT clause 27 of the Bill be amended—

- (a) in subclause (1) by deleting the words “Physical Planning Joint Committee preparing an Inter-County Physical” appearing immediately after the words “The Inter-County” and substituting therefor the words “Land Use Planning Joint Committee preparing an Inter-County Land Use”; and
- (b) in subclause (2) by deleting the word “Physical” appearing immediately after the words “of the Inter-County” and substituting therefor the words “Land Use”;
- (c) in subclause (3) by deleting the word “Physical” appearing immediately after the words “complete the Inter-County” and substituting therefor the words “Land Use”;
- (d) in subclause (4) by deleting the word “Physical” appearing immediately after the words “of the Inter-County” and substituting therefor the words “Land Use”; and
- (e) by deleting the marginal note and substituting therefor the following new marginal note—

Commencement of Inter-County Land Use Planning Process.

CLAUSE 28

THAT clause 28 of the Bill be amended by—

- (a) deleting subclause (1) and substituting therefor the following new subclause—
 - (1) Within thirty days of the completion of an Inter-County Physical Development Plan, the Inter-County Physical Planning Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that the plan is available at the place and time specified in the notice for inspection and that any interested person may, within fourteen days, comment on the content of the plan.
- (b) deleting subclause (1) and substituting therefor the following new subclause—
 - (2) The Inter-County Land Use Planning Joint Committee shall, within twenty one days of the expiry of the period for making comments under subsection (1), consider the comments made about the plan and may or may not incorporate the comments in the plan.

(c) inserting the following new subclause immediately after subclause (2)—

(2A) Within seven days of making a decision under subclause (2), the Inter-County Physical Planning Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that a decision on the comments received by the joint committee has been made and that the reviewed draft Inter-County Physical Development Plan is available for perusal at the place and time specified in the notice.

(d) deleting subclause (3);

(e) deleting subclause (4); and

(f) deleting the marginal note and substituting therefor the following new marginal note—

Notice of and objections to an Inter-County Land Use Development Plan.

CLAUSE 29

THAT clause 29 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the word “physical” appearing immediately after the words “in the Inter-County” and substituting therefor the words “land use”; and

(ii) deleting the words “and thereafter submit the same to the National Director of Physical Planning for processing and certification” appearing immediately after the words “Assemblies for approval”;

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

(2) Within thirty days of the completion of an Inter-County Land Use Development Plan or if comments on the plan have been heard and determined, the Inter-County Physical Planning Joint Committee shall publish a notice in the *Gazette* and in at least two newspapers of national circulation informing the public that the Inter-County Physical Development Plan is available for perusal at the place and time specified in the notice.

(c) in subclause (3) by—

(i) deleting the word “Physical” appearing immediately after the words “Before the Inter-County” and substituting therefor the words “Land Use”; and

(ii) deleting the word "Physical" appearing immediately after the words "by the Inter-County" and substituting therefor the words "Land Use";

(d) by deleting subclause (4) and substituting therefor the following new subclause—

(4) The approved Inter-County Land Use Development Plan shall be deposited with the relevant County Director of Land Use Planning who shall submit certified copies of the plan to the Director General of Land Use Planning and the National Land Commission.

(e) by deleting the marginal note and substituting therefor the following new marginal note—

Approval of an Inter-County Land Use Development Plan.

CLAUSE 30

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

Implementation of the Inter-County Land Use Development Plan.

30. (1) In addition to the National Land Use Development Plan, the Inter-County Land Use Development Plan shall inform the preparation of a county land use development plan, a local land use development plan or an urban area land use development plan for the county governments within the planning area covered by the Inter-County Land Use Development Plan.

(2) Where a National Land Use Development Plan and an Inter-County Land Use Development Plan have not been prepared or approved, a county government may prepare other land use development plans which will be incorporated into the National Land Use Development Plan or the relevant Inter-County Land Use Development Plan after they have been prepared and approved in accordance with this Act.

CLAUSE 31

THAT the Bill be amended by deleting clause 31 and substituting therefor the following new clause—

Status Reports on an Inter-County Land Use Development Plan.

31. At least three months before the end of each financial year, every county executive committee member in a county covered by an Inter-County Land Use Development Plan shall submit a report on the implementation of the respective Inter-County Land Use Development Plan to the Commission and the Cabinet Secretary for their purposes.

CLAUSE 32

THAT clause 32 of the Bill be amended—

- (a) in subclause (1) by deleting the word “physical” appearing immediately after the words “ten years a” and substituting therefor the words “land use”;
- (b) by deleting subclause (2) and substituting therefor the following new subclause—
 - (2) Each county land use development plan shall be in conformity with the National Land Use Development Plan and any relevant Inter-County Land Use Development Plan.
- (c) in subclause (3) by—
 - (i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and
 - (ii) deleting the word “physical” appearing immediately after the words “ensure the county” and substituting therefor the words “land use”;
- (d) by deleting subclause (4); and
- (e) by deleting the marginal note and substituting therefor the following new marginal note—

County Land Use Development Plan.

CLAUSE 33

THAT clause 33 of the Bill be amended—

- (i) in the introductory clause by deleting the word “physical” appearing immediately after the words “of a county” and substituting therefor the words “land use”;
- (ii) in paragraph (a) by deleting the word “physical” appearing immediately after the words “provide an overall” and substituting therefor the words “land use”; and

- (iii) by deleting the marginal note and substituting therefor the following new marginal note—

Purpose and objects of a county land use development plan.

CLAUSE 34

THAT clause 34 of the Bill be amended—

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

- (1) At least twenty-one days before commencing the preparation of a county land use development plan, the county executive committee member shall publish a notice in the Gazette and the notice shall include the intention to prepare a county land use development plan, the objects of the plan and the matters to be considered in the plan and the address to which any views on the plan may be sent.

- (b) in subclause (3) by deleting the word “physical” appearing immediately after the words “of the county” and substituting therefor the words “land use”;

- (c) by deleting the marginal note and substituting therefor the following new marginal note—

Notice of intention to prepare a county land use development plan.

CLAUSE 35

THAT clause 35 of the Bill be amended—

- (i) in the introductory clause by deleting the word “physical” appearing immediately after the words “A county” and substituting therefor the words “land use”;

- (ii) by deleting the marginal note and substituting therefor the following new marginal note—

Contents of a county land use development plan.

CLAUSE 36

THAT clause 36 of the Bill be amended—

- (a) in subclause (1) by—

- (i) deleting the word “physical” appearing immediately after the words “of a county” and substituting therefor the words “land use”; and

- (ii) deleting the word "physical" appearing immediately after the words "the draft county" and substituting therefor the words "land use";
- (b) in subclause (2) by deleting the words "in charge of physical planning" appearing immediately after the words "executive committee member";
- (c) in subclause (3) by—
 - (i) deleting the words "in charge of physical planning" appearing immediately after the words "executive committee member"; and
 - (ii) deleting the word "physical" appearing immediately after the words "the draft county" and substituting therefor the words "land use";
- (d) in subclause (4) by—
 - (i) deleting the word "physical" appearing immediately after the words "concerning the county" and substituting therefor the words "land use"; and
 - (ii) deleting the word "physical" appearing immediately after the words "to the county" and substituting therefor the words "land use";
- (e) in subclause (5) by deleting the word "physical" appearing immediately after the words "(4) the county" and substituting therefor the words "land use";
- (f) in subclause (6) by deleting the word "physical" appearing immediately after the words "by the county" and substituting therefor the words "land use";
- (g) in subclause (7) by deleting the word "Physical" appearing immediately after the words "of the County" and substituting therefor the words "Land Use"; and
- (h) by deleting the marginal note and substituting therefor the following new marginal note—

Public participation in the preparation of a county land use development plan.

CLAUSE 37

THAT the Bill be amended by deleting clause 37 and substituting therefor the following new clause—

Completion and approval of a county land use development plan.

37. (1) If there are no applications for the review of a county land use development plan or if all applications for review have been heard and determined, the county executive committee member shall submit the draft county land use development plan to the County Land Use Planning Consultative Forum for comments.

(2) The County Land Use Planning Consultative Forum shall consider the plan and may propose changes which shall be incorporated in the plan.

(3) Upon incorporation of the proposed changes by the County Land Use Planning Consultative Forum, the county executive committee member shall submit the completed county land use development plan to the county governor who shall cause it to be placed before the county assembly for approval.

(4) On the approval of the county land use development plan by the respective county assembly, the county executive committee member shall publish the approved plan in the *Gazette* and in at least two newspapers with a national circulation within fourteen days of the approval and no development shall take place on any land unless it is in conformity with the approved plan

(5) A county land use development plan shall be the basis for the preparation of sectoral programmes and projects in the county and sub-county levels.

CLAUSE 38

THAT clause 38 of the Bill be amended—

(a) in subclause (1) by—

- (i) deleting the words “in charge of spatial planning” appearing immediately after the words “executive committee member” in the introductory clause;
- (ii) deleting the word “physical” appearing immediately after the words “of a county” in the introductory clause and substituting therefor the words “land use”;
- (iii) deleting the word “physical” appearing immediately after the words “of that county” in paragraph (a) and substituting therefor the words “land use”; and

(iv) deleting the word "physical" appearing immediately after the words "since the county" in paragraph (b) and substituting therefor the words "land use";

(b) in subclause (2) by—

(i) deleting the words "in charge of physical planning" appearing immediately after the words "Executive Committee member"; and

(ii) deleting the word "physical" appearing immediately after the words "to the county" and substituting therefor the words "land use";

(c) in subclause (3) by—

(i) deleting the word "physical" appearing immediately after the words "amending a county" in the introductory clause and substituting therefor the words "land use"; and

(ii) deleting paragraph (c) and substituting therefor the following new paragraph—

(c) be in conformity with the National Land Use Development Plan and all relevant Inter-County Land Use Development Plans;

(d) by deleting subclause (4) and substituting therefor the following new subclause—

(4) Where a county executive committee member determines that a proposed amendment to the county land use development plan shall affect other counties, the county executive committee member shall consult the county executive committee members in the counties that are likely to be affected and shall take into account their comments before incorporating the amendment to the county land use development plan.

(e) in subclause (5) by deleting the word "physical" appearing immediately after the words "amending a county" and substituting therefor the words "land use";

(f) in subclause (6) by deleting the word "physical" appearing immediately after the words "The amended county" and substituting therefor the words "land use";

(g) in subclause (7) by deleting the word "physical" appearing immediately after the words "to the County" and substituting therefor the words "Land Use"; and

(h) by deleting the marginal note and substituting therefor the following new marginal note—

Modification of a County Land Use Development Plan.

CLAUSE 39

THAT clause 39 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and

(ii) deleting the word “physical” appearing immediately after the words “revising a county” and substituting therefor the words “land use”;

(b) in subclause (2) by deleting the word “physical” appearing immediately after the words “of a county” and substituting therefor the words “land use”; and

(c) by deleting the marginal note and substituting therefor the following new marginal note—

Revision of a county land use development plan.

CLAUSE 40

THAT clause 40 of the Bill be amended by—

(a) deleting the word “Physical” appearing immediately after the words “and the County” and substituting therefor the words “Land Use”; and

(b) deleting the marginal note and substituting therefor the following new marginal note—

Contents of the National, Inter-County and County Land Use Development Plans.

CLAUSE 41

THAT clause 41 of the Bill be amended—

(a) in subclause (1) by deleting the word “physical” appearing immediately after the words “prepare a local” and substituting therefor the words “land use”;

(b) in subclause (2) by deleting the words “physical development plan may be for long-term physical development, short-term physical” appearing immediately after the words “A local” and substituting therefor the words “land use physical development plan may be for long-term land use development, short-term land use”.

(c) by deleting subclause (3) and substituting therefor the following new subclause—

(3) A local land use development plan shall be consistent with an Integrated City or Urban Development Plan formulated under Part V of the Urban Areas and Cities Act.

(i) deleting the words “physical development plan shall be consistent with” appearing immediately after the words “A local” in the introductory phrase and substituting therefor the words “land use development plan shall not cover an area covered by”; and

(ii) deleting the words “as contemplated” appearing immediately after the words “Urban Development Plan” and substituting therefor the word “formulated”; and

(d) by deleting the marginal note and substituting therefor the following new marginal note—

Local Land Use Development Plan.

CLAUSE 42

THAT clause 42 of the Bill be amended—

(i) in the introductory clause by deleting the word “physical” appearing immediately after the words “prepare a local” and substituting therefor the words “land use”;

(ii) by deleting paragraph (e); and

(iii) by deleting the marginal note and substituting therefor the following new marginal note—

Purpose of a Local Land Use Development Plan.

CLAUSE 43

THAT clause 43 of the Bill be amended by—

(i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and

(ii) deleting the marginal note and substituting therefor the following new marginal note—

Initiation and preparation of a local land use development plan.

CLAUSE 44

THAT clause 44 of the Bill be amended—

- (a) in subclause (1) by deleting the word “physical” appearing immediately after the words “A local” and substituting therefor the words “land use”;
- (b) in subclause (2) by deleting the word “physical” appearing immediately after the words “in a local” and substituting therefor the words “land use”; and
- (c) by deleting the marginal note and substituting therefor the following new marginal note—

Contents of a Local Land Use Development Plan.

CLAUSE 45

THAT clause 45 of the Bill be amended—

- (a) in subclause (1) by deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”;
- (b) in subclause (2) by—
 - (i) deleting the word “physical” appearing immediately after the words “to the county” and substituting therefor the words “land use”; and
 - (ii) deleting the word “physical” appearing immediately after the words “committee concerning county” and substituting therefor the words “land use”;
- (c) in subclause (3) by—
 - (i) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”; and
 - (ii) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”; and
- (d) by deleting the marginal note and substituting therefor the following new marginal note—

Local Land Use Development Plan.

CLAUSE 46

THAT clause 46 of the Bill be amended by—

- (a) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”;
- (b) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”; and

...../ **Amendments**

(c) deleting the marginal note and substituting therefor the following new marginal note—

Approval of local land use development plans.

CLAUSE 47

THAT clause 47 of the Bill be amended—

(a) in subclause (1) by deleting the introductory clause and substituting therefor the following new introductory clause—

(1) A county executive committee member may amend or revise a local land use development plan where—

(b) in subclause (2) by—

(i) deleting the words “in charge of physical planning” appearing immediately after the words “executive committee member”; and

(ii) deleting the word “physical” appearing immediately after the words “revise a local” and substituting therefor the words “land use”;

(c) in subclause (3) by—

(i) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member”; and

(ii) deleting the word “physical” appearing immediately after the words “of a local” and substituting therefor the words “land use”; and

(d) by deleting the marginal note and substituting therefor the following new marginal note—

Amendment or revision of a local land use development plan.

CLAUSE 48

THAT clause 48 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “or the National” in the introductory clause and substituting therefor the words “Land Use”; and

(ii) deleting the word “and” appearing immediately after the words “has unique development” and substituting therefor the words “natural resource or”;

- (b) in subclause (2) by deleting the word “physical” appearing immediately after the words “area until a” and substituting therefor the words “land use”;
- (c) in subclause (6) by deleting the word “physical” appearing immediately after the word “A” and substituting therefor the words “land use”; and
- (d) by deleting the marginal note and substituting therefor the following new marginal note—

Local Land Use Development Plan.

CLAUSE 50

THAT clause 50 of the Bill be amended in subclause (1) by—

- (a) deleting the word “physical development” appearing immediately after the words “to ensure orderly” in paragraph (a) and substituting therefor the words “development of land”;
- (b) deleting the word “physical” appearing immediately after the words “implementation of approved” in paragraph (c) and substituting therefor the words “land use”; and
- (c) deleting the word “physical” appearing immediately after the words “public participation in” in paragraph (f) and substituting therefor the words “land use”.

CLAUSE 51

THAT clause 51 of the Bill be amended by—

- (a) deleting the words “the planning authorities” appearing immediately after the words “Governments Act 2012” in the introductory clause and substituting therefor the words “county governments”;
- (b) deleting the word “physical” appearing immediately after the words “implementation of approved” in paragraph (d) and substituting therefor the words “land use”; and
- (c) deleting the word “physical” appearing immediately after the words “with the approved” in paragraph (f) and substituting therefor the words “land use”.

CLAUSE 52

THAT clause 52 of the Bill be amended—

- (a) by deleting subclause (1) and substituting therefor the following new subclause—

...../ *Amendments*

- (1) A person shall not carry out development within a county without a development permission granted by the respective county executive committee member.
- (b) in subclause (3) by deleting the words "The planning authority" appearing in the introductory phrase and substituting therefor the words "A county executive committee member";
- (c) in subclause (4) by—
 - (i) deleting the words "planning authority" appearing immediately after the words "sub-section (3) the" and substituting therefor the words "relevant county executive committee member"; and
 - (ii) deleting the word "may" appearing immediately after the words "as required and" and substituting therefor the word "shall"; and
- (d) in subclause (5) by deleting the words "The planning authority" appearing in the introductory phrase and substituting therefor the words "A county executive committee member"; and
- (e) in subclause (6) by deleting the words "The planning authority" appearing in the introductory phrase and substituting therefor the words "A county executive committee member".

CLAUSE 53

THAT clause 53 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting the words "a planning authority" appearing immediately after the words "development permission from" and substituting therefor the words "the respective county executive committee member"; and
 - (ii) deleting the words "planning authority" appearing immediately after the words "permission from that" and substituting therefor the words "county executive committee member";
- (b) in subclause (2) by deleting the words "planning authority" appearing immediately after the words "required by the" and substituting therefor the words "respective county executive committee member";
- (c) in subclause (4) by deleting the words "planning authority" appearing immediately after the words "consent to the" and substituting therefor the words "respective county executive committee member";
- (d) in subclause (5) by deleting the words "planning authorities" appearing immediately after the words "permission granted by" and substituting therefor the words "a county executive committee member";
- (e) in subclause (8) by deleting the words "planning authorities" appearing immediately after the words "to the relevant" and substituting therefor the words "county executive committee member".

CLAUSE 54

THAT clause 54 of the Bill be amended—

- (a) by deleting the words “planning authority” appearing immediately after the words “provided to the” in subclause (1) and substituting therefor the words “respective county executive committee member”;
- (b) in subclause (2) by—
 - (i) deleting the words “the planning authority” appearing immediately after the words “do so by” and substituting therefor the words “a county executive committee member”; and
 - (ii) deleting the words “planning authority” appearing immediately after the words “provided to the” and substituting therefor the words “county executive committee member”.

CLAUSE 55

THAT clause 55 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting the words “a county government” appearing immediately after the words “for development permission,” and substituting therefor the words “the county executive committee member”; and
 - (ii) inserting the following new paragraph immediately after paragraph (f)—
 - (fa) urban development;
- (b) by deleting subclause (2) and substituting therefor the following new subclause—
 - (2) Within fourteen days of receiving the copy of the application for development permission from a county executive committee member, the relevant authorities or agencies shall submit their comments to the respective county executive committee member within twenty one days.

CLAUSE 56

THAT clause 56 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting the words “planning authority” appearing immediately after the words “development permission a” in the introductory clause and substituting therefor the words “county executive committee member”; and

- (ii) deleting the word “physical development plan” appearing immediately after the words “the relevant approved” in paragraph (a) and substituting therefor the words “national, county, local, city, urban, town and special area plans”;
- (b) in subclause (2) by deleting the words “planning authority” appearing immediately after the words “for development permission” and substituting therefor the words “county executive committee member”;
- (c) in subclause (3) by—
 - (i) deleting the words “the planning authority” appearing immediately after the words “the decision of” and substituting therefor the words “a county executive committee member”; and
 - (ii) deleting the word “authority” appearing immediately after the words “decision by the” and substituting therefor the word “county executive committee member”.

CLAUSE 57

THAT clause 57 of the Bill be amended—

- (a) by deleting the words “A planning authority” appearing in the introductory phrase in subclause (1) and substituting therefor the words “Each county executive committee member”;
- (b) by deleting the words “A planning authority” appearing in the introductory phrase in subclause (2) and substituting therefor the words “Each county executive committee member”;
- (c) in subclause (3) by—
 - (i) deleting the words “the planning authority” appearing immediately after the words “register maintained by” and substituting therefor the words “a county executive committee member”; and
 - (ii) deleting the words “planning authority” appearing immediately after the words “scrutiny and the” and substituting therefor the words “Cabinet Secretary”.

CLAUSE 58

THAT clause 58 of the Bill be amended—

- (a) by deleting the words “planning authority” appearing immediately after the word “A” in the introductory phrase in subclause (1) and substituting therefor the words “county executive committee member”; and
- (b) by deleting the words “the planning authority” appearing immediately after the words “for development permission” in subclause (3) and substituting therefor the words “a county executive committee member”.

CLAUSE 59

THAT clause 59 of the Bill be amended—

(a) in subclause (2) by—

- (i) deleting the words “the planning authority” appearing immediately after the words “despite sub-section (1)” and substituting therefor the words “a county executive committee member”; and
- (ii) deleting the words “planning authority” appearing immediately after the words “year if the” and substituting therefor the words “county executive committee member”;

(b) in subclause (3) by deleting the words “the planning authority” appearing immediately after the word “Where” and substituting therefor the words “a county executive committee member”.

CLAUSE 60

THAT clause 60 of the Bill be amended by deleting the words “The planning authority” appearing at the beginning of the clause and substituting therefor the words “A county executive committee member”.

CLAUSE 61

THAT clause 61 of the Bill be amended by deleting the words “planning authority” appearing immediately after the words “by the relevant” and substituting therefor the words “county executive committee member”.

CLAUSE 62

THAT clause 62 of the Bill be amended in subclause (1) by—

- (i) deleting the words “planning authority” appearing immediately after the words “imposed by a” in paragraph (a) and substituting therefor the words “county executive committee member”;
- (ii) deleting the words “planning authority” appearing immediately after the words “approved by the” in paragraph (b)(iii) and substituting therefor the words “county executive committee member”;
- (iii) deleting the words “planning authority” appearing immediately after the words “apply to the” in paragraph (c) and substituting therefor the words “county executive committee member”; and
- (iv) inserting the following new subclauses immediately after subclause (1) —

(1A) A county government may require a person who commences, undertakes or carries out a development in contravention of this section to restore the land on which the development is taking place to its original condition or as near to its original condition as is possible and that such restoration shall take place within ninety days.

(1B) Where a person who is required to do so fails to comply with the provisions of paragraph (d), the relevant county government may undertake to restore the land as required and shall recover the cost of the restoration from the person required to undertake the restoration.

CLAUSE 63

THAT clause 63 of the Bill be amended—

(a) in subclause (1)—

- (i) by deleting the words “planning authority” appearing immediately after the word “A” in the introductory phrase and substituting therefor the words “county executive committee member”; and
- (ii) by deleting the word “physical” appearing immediately after the words “by the relevant” and substituting therefor the words “land use”; and

(b) in subclause (2) by deleting the words “planning authority” appearing immediately after the words “obtained by a” and substituting therefor the words “county executive committee member”.

CLAUSE 64

THAT clause 64 of the Bill be amended in subclause (2) by deleting the word “physical” appearing immediately after the words “Any inter-county” and substituting therefor the words “land use”.

CLAUSE 66

THAT clause 66 of the Bill be amended—

- (a) in subclause (1) by deleting the word “the” appearing immediately after the words “Heritage Act 2006” and substituting therefor the word “a”; and
- (b) in subclause (2) by deleting the word “physical” appearing immediately after the word “All” and substituting therefor the words “land use”.

CLAUSE 67

THAT clause 67 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the introductory clause and substituting therefor the following new introductory clause—

(1) A county executive committee member shall serve the owner, occupier, agent or developer of property or land with an enforcement notice if it comes to the notice of that county executive committee member that—

(ii) deleting the words “without development permission” appearing immediately after the words “on any land” in paragraph (a);

(b) in subclause (3) by deleting the word “Physical” appearing immediately after the words “the relevant County” and substituting therefor the words “Land Use”; and

(c) in subclause (4) by deleting the word “physical” appearing immediately after the words “of the county” and substituting therefor the words “land use”.

CLAUSE 68

THAT clause 68 of the Bill be amended by—

(a) deleting the word “Physical” appearing immediately after the words “established the National” and substituting therefor the words “Land Use”; and

(b) deleting the marginal note and substituting therefor the following new marginal note—

Establishment of the National Land Use Planning Liaison Committee.

CLAUSE 69

THAT clause 69 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “The National” in the introductory clause and substituting therefor the words “Land Use”;

(ii) inserting the following new paragraph immediately after paragraph (f)—

(fa) the National Director of Urban Development;

(iii) deleting the words “a representative” appearing in paragraph (g) and substituting therefor the words “two representatives”;

(iv) deleting paragraph (h) and substituting therefore the following new paragraph—

- (h) a person nominated by a registered association representing the largest number of entities in the private sector in Kenya and appointed by the Cabinet Secretary;
- (v) deleting the words "an association of architects in" appearing immediately after the words "architect nominated by" in paragraph (i) and substituting therefor the words "the Architectural Association of"; and
- (vi) deleting the word "physical" appearing immediately after the words "a registered" in paragraph (j);
- (b) in subclause (3) by deleting the word "Physical" appearing immediately after the words "of the National" and substituting therefor the words "Land Use";
- (c) in subclause (5) by deleting the word "Physical" appearing immediately after the words "The National" and substituting therefor the words "Land Use";
- (d) in subclause (6) by—
 - (i) deleting the word "Physical" appearing immediately after the words "members of the National" and substituting therefor the words "Land Use"; and
 - (ii) deleting the word "Physical" appearing immediately after the words "quorum of the National" and substituting therefor the words "Land Use"; and
- (e) by deleting the marginal note and substituting therefor the following new marginal note—
 Composition of National Land Use Planning Liaison Committee.

CLAUSE 70

THAT clause 70 of the Bill be amended—

- (a) in subclause (1) by—
 - (i) deleting the word "Physical" appearing immediately after the words "The National" in the introductory clause and substituting therefor the words "Land Use"; and
 - (ii) deleting the word "physical" appearing immediately after the words "Secretary on broad" in paragraph (a) and substituting therefor the words "land use";
- (b) in subclause (2) by—

- (i) deleting the word "Physical" appearing immediately after the words "The National" in the introductory clause and substituting therefor the words "Land Use"; and
 - (ii) deleting the word "physical" appearing immediately after the words "national or inter-county" in paragraph (c) and substituting therefor the words "land use"; and
- (c) deleting the marginal note and substituting therefor the following new marginal note—

Functions of the National Land Use Planning Liaison Committee.

CLAUSE 71

THAT clause 71 of the Bill be amended by—

- (i) deleting the word "Physical" appearing immediately after the words "established a County" and substituting therefor the words "Land Use"; and
- (ii) deleting the marginal note and substituting therefor the following new marginal note—

Establishment of County Land Use Planning Liaison Committees.

CLAUSE 72

THAT clause 72 of the Bill be amended—

(a) in subclause (1) by—

- (i) deleting the word "Physical" appearing immediately after the words "The County" in the introductory clause and substituting therefor the words "Land Use";
- (ii) deleting the words "in charge of physical planning" appearing immediately after the words "Executive Committee member" in paragraph (a);
- (iii) inserting the following new paragraph immediately after paragraph (b)—
 - (ba) a representative of the National Construction Authority;
- (iv) deleting the words "in charge of physical planning" appearing immediately after the words "Executive Committee member" in paragraph (b);
- (v) deleting the words "in charge of physical planning" appearing immediately after the words "Executive Committee member" in paragraph (ac);

- (vi) deleting paragraph (d) and substituting therefore the following new paragraph—
 - (d) a registered architect with seven years’ post-qualification experience nominated by the Architectural Association of Kenya and appointed by the County Executive Committee member;
- (vii) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member” in paragraph (e); and
- (viii) deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member” in paragraph (f);

(b) in subclause (2) by deleting the word “physical” appearing immediately after the words “The county” and substituting therefor the words “land use”;

(c) in subclause (3) by deleting the words “in charge of physical planning” appearing immediately after the words “Executive Committee member”;

(d) in subclause (4) by deleting the word “Physical” appearing immediately after the words “of the County” and substituting therefor the words “Land Use”; and

(e) by deleting the marginal note and substituting therefor the following new marginal note—

Composition of the County Land Use Planning Liaison Committee.

CLAUSE 73

THAT clause 73 of the Bill be amended by—

- (i) deleting the word “Physical” appearing immediately after the words “of the County” in the introductory clause and substituting therefor the words “Land Use”;
- (ii) by deleting the word “physical” appearing immediately after the words “with respect to” in paragraph (b) and substituting therefor the words “land use”; and
- (iii) by deleting the word “physical” appearing immediately after the words “member on broad” in paragraph (c) and substituting therefor the words “land use”; and
- (iv) deleting the marginal note and substituting therefor the following new marginal note—

...../ *Amendments*

Functions of the County Land Use Planning Liaison Committee.

CLAUSE 74

THAT clause 74 of the Bill be amended—

- (a) in subclause (1) by deleting the word “Physical” appearing immediately after the words “The County” and substituting therefor the words “Land Use”;
- (b) in subclause (2) by deleting the words “Physical” appearing immediately after the words “of the County” and substituting therefor the words “Land Use”;
- (c) in subclause (3) by deleting the words “Physical” appearing immediately after the words “of the County” and substituting therefor the words “Land Use”;
- (d) in subclause (4) by deleting the words “Physical” appearing immediately after the words “of a County” and substituting therefor the words “Land Use”;
- (e) in subclause (5) by deleting the word “Physical” appearing immediately after the words “of a County” and substituting therefor the words “Land Use”;
- (f) in subclause (6) by deleting the words “Physical” appearing immediately after the words “A County” and substituting therefor the words “Land Use”; and
- (g) by deleting the marginal note and substituting therefor the following new marginal note—

Procedure of the County Land Use Planning Liaison Committees.

CLAUSE 75

THAT clause 75 of the Bill be amended by—

- (a) deleting the words “County Physical” appearing immediately after the words “who appeals to” in subclause (1) and substituting therefor the words “a County Land Use”;
- (b) deleting the word “Physical” appearing immediately after the words “A County” in the introductory phrase in subclause (2) and substituting therefor the words “Land Use”;
- (c) deleting the word “Physical” appearing immediately after the words “of a County” in subclause (3) and substituting therefor the words “Land Use”; and

...../ *Amendments*

(d) deleting the marginal note and substituting therefor the following new marginal note—

Appeal to a County Land Use Planning Liaison Committee.

CLAUSE 76

THAT clause 76 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the word “Physical” appearing immediately after the words “before a County” and substituting therefor the words “Land Use”; and

(ii) deleting the word “or” appearing immediately after the words “Planning Liaison Committee”; and

(b) by deleting the marginal note and substituting therefor the following new marginal note—

Duty to appear before a County Land Use Planning Liaison Committee.

CLAUSE 77

THAT clause 77 of the Bill be amended by deleting the word “Physical” appearing immediately after the words “by a County” and substituting therefor the words “Land Use”.

CLAUSE 78

THAT clause 78 of the Bill be amended—

(a) in subclause (1) by deleting the word “Physical” appearing immediately after the words “before a County” and substituting therefor the words “Land Use”;

(b) in subclause (2) by deleting the word “Physical” appearing immediately after the words “The County” and substituting therefor the words “Land Use”;

(c) in subclause (3) by deleting the word “Physical” appearing immediately after the words “Where a County” and substituting therefor the words “Land Use”;

(d) in subclause (4) by deleting the word “Physical” appearing immediately after the words “The County” and substituting therefor the words “Land Use”; and

(e) in subclause (5) by deleting the word “Physical” appearing immediately after the words “Every County” and substituting therefor the words “Land Use”.

CLAUSE 79

THAT clause 79 of the Bill be amended by—

- (i) deleting the word “Physical” appearing immediately after the words “to the National” and substituting therefor the words “Land Use”; and
- (ii) deleting the marginal note and substituting therefor the following new marginal note—

Appeals to National Land Use Planning Liaison Committee.

CLAUSE 80

THAT clause 80 of the Bill be amended—

(a) in subclause (1) by—

- (i) deleting the word “Physical” appearing immediately after the words “of the National” and substituting therefor the words “Land Use”; and
- (ii) deleting the word “Physical” appearing immediately after the words “or a County” and substituting therefor the words “Land Use”;

(b) in subclause (2) by deleting the word “Physical” appearing immediately after the words “member of a” and substituting therefor the words “Land Use”; and

(c) in subclause (3) by deleting the word “physical” appearing immediately after the words “member of a” and substituting therefor the words “land use”.

CLAUSE 81

THAT clause 81 of the Bill be amended—

(a) in subclause (1) by deleting the introductory clause and substituting therefor the following new introductory clause—

(1) A person shall not disclose, without the consent of the National Land Use Planning Liaison Committee or a County Land Use Planning Liaison Committee, as the case may be—

(b) in subclause (3) by deleting the words “Physical Planning Liaison Committee or a County Physical” appearing immediately after the words “on the National” and substituting therefor the words “Land Use Planning Liaison Committee or a County Land Use”.

CLAUSE 82

THAT clause 82 of the Bill be amended—

- (a) subclause (1) by deleting the word “Physical” appearing immediately after the word “Each” in the introductory phrase in and substituting therefor the words “Land Use”;
- (b) in subclause (2) by deleting the word “Physical” appearing immediately after the words “register maintained by” and substituting therefor the words “Land Use”;
- (c) in subclause (3) by deleting the word “Physical” appearing immediately after the words “apply to a” and substituting therefor the words “Land Use”; and
- (d) by deleting the marginal note and substituting therefor the following new marginal note—

Land Use Planning Liaison Committees to keep registers.

CLAUSE 83

THAT clause 83 of the Bill be amended by deleting the word “Physical” appearing immediately after the words “members of the” and substituting therefor the words “Land Use”.

CLAUSE 85

THAT clause 85 of the Bill be amended in subclause (2) by—

- (i) deleting the word “physical” appearing immediately after the words “for delivery of” in paragraph (b) and substituting therefor the words “land use”;
- (ii) deleting the word “Physical” appearing immediately after the words “operations of Inter-County” in paragraph (c) and substituting therefor the words “Land Use”; and
- (iii) deleting the word “Physical” appearing immediately after the words “the conduct of” in paragraph (d) and substituting therefor the words “Land Use”.

CLAUSE 88

THAT clause 88 of the Bill be amended by—

- (i) deleting the word “physical” appearing immediately after the words “disputes relating to” and substituting therefor the words “land use”; and

- (ii) deleting the word “physical” appearing immediately after the words “national and county” and substituting therefor the words “land use”.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clause immediately after clause 4—

Principles and norms of land use planning. **4A.** Every person engaged in land use planning and regulation shall adhere to the following principles and norms of land use planning—

- (a) land use planning shall promote sustainable land use and liveable communities which integrates human needs in any locality.
- (b) development activities shall be planned in a manner that integrates economic, social and environmental needs of present and future generations;
- (c) land use planning shall be comprehensive, sustainable and integrated at all levels of government, taking into consideration the interests of all parties concerned;
- (d) land use planning shall take into consideration long-term optimum utilization of land and conservation of scarce land resource including preservation of land with important functions;
- (e) land use planning shall be inclusive and must take into consideration culture and heritage of people concerned; and
- (f) land use planning should take into account new approaches such as transit-oriented development, mixed land-uses, planning for public transport and non-motorized transport among others to achieve sustainable development and more efficient use of natural resources.

THAT the Bill be amended by inserting the following new clauses immediately after clause 12—

County
Land Use
Planning
Consultative
Forum.

12A. (1) There is established a County Land Use Planning Consultative Forum in each county.

(2) Each County Land Use Planning Consultative Forum shall comprise of—

- (a) the respective County Executive Committee Member responsible for matters related to land use, who shall be the chairperson and shall provide the secretariat;
- (b) the County Director of land use Planning;
- (c) the Chairperson of the committee responsible for matters related to land use in the respective county assembly;
- (d) the County Executive Committee Member responsible for matters related to economic planning;
- (e) the County Executive Committee Member responsible for matters related to the environment;
- (f) the County Executive Committee Member responsible for matters related to roads and infrastructure;
- (g) the County Executive Committee Member responsible for matters related to social and community development;
- (h) a person nominated by the Commission;
- (i) a person nominated by the Director General of Land Use Planning;
- (j) a person residing and working or conducting business in the respective county nominated by the Kenya Institute of Planners;

- (k) a person residing and working or conducting business in the respective county nominated by the Institution of Surveyors of Kenya;
- (l) a person residing and working or conducting business in the respective county nominated by the Architectural Association of Kenya;
- (m) a person residing and working or conducting business in the respective county nominated by a registered association representing the largest number of entities in the private sector in Kenya;
- (n) a person residing and working or conducting business in the respective county nominated by a registered national association representing the largest number of residents in Kenya;
- (o) a person residing and working or conducting business in the respective county nominated by the National Council for Persons with Disability; and
- (p) any person co-opted by the County Land Use Planning Consultative Forum for that person’s special skills, interest and knowledge.

(3) The respective County Executive Committee Member responsible for matters related to land use shall appoint members nominated under subsection (2)(i), (k), (l), (m), (n), (o), (p) and (q) by notice in the *Gazette*.

Functions of the County Land Use Planning Consultative Forum.

12B. The functions of the National Physical Planning Consultative Forum shall be to—

- (a) provide a forum for consultation on County and Inter-County Land Use Development Plans;

...../ **Amendments**

- (b) promote effective coordination and integration of land use development and sector planning; and
- (c) advise on the mobilization of adequate resources for the preparation and implementation of land use development plans and strategies.

County
Land Use
Planning
Consultative
Forum
Meetings.

- 12C.** (1) The County Land Use Planning Consultative Forum shall meet at least four times in a year.
- (2) Subject to this Act and any relevant county legislation, the County Land Use Planning Consultative Forum may regulate its procedure.
- (3) The County Land Use Planning Consultative Forum may establish committees for the effective performance of its functions.

THAT the Bill be amended by inserting the following new clause immediately after clause 49—

Plans to be made in Areas and Cities Act shall, with necessary accordance with this Act.

49A. All plans formulated under the Urban Areas and Cities Act shall, with necessary accordance with this Act.

THAT the Bill be amended by inserting the following new clause immediately after clause 60—

Registration of documents at the Lands Registry.

60A. (1) A registrar shall not register a transaction in respect of any premises or land whose development permission as required under this Act has not been granted by the relevant county government.

(2) A registration entered in contravention of sub-section (1) shall not be valid.

FIRST SCHEDULE

THAT the Bill be amended by deleting the First Schedule.

SECOND SCHEDULE

THAT the Second Schedule to the Bill be amended—

- (a) in the title by deleting the word "PHYSICAL" appearing immediately after the words "INTER-COUNTY AND COUNTY" and substituting therefor the words "LAND USE";
- (b) in paragraph 3 by—
 - (i) inserting the following new subparagraph immediately after subparagraph (1)—
 - (1a) human rights, poverty eradication, gender and vulnerable groups;
 - (ii) inserting the following new subparagraph immediately after subparagraph (10)—
 - (10a) climate change;
- (c) in paragraph 12 by deleting the words "Executive Committee" appearing immediately after the words "report to the" in subparagraph (1) and substituting therefor the words "relevant county assembly".

THIRD SCHEDULE

THAT the Third Schedule to the Bill be amended—

- (a) deleting the word "PHYSICAL" appearing immediately after the words "CONTENTS OF LOCAL" in the title to the Schedule and substituting therefor the words "LAND USE";
- (b) by deleting the word "PHYSICAL" appearing immediately after the words "IN A LOCAL" in the title to the Part A of the Schedule and substituting therefor the words "LAND USE";
- (c) in paragraph 3 by inserting the following new subparagraph immediately after subparagraph (2)—
 - (c) addressing human rights challenges, poverty eradication, gender and vulnerable groups;
 - (d) combating climate change;
- (d) in paragraph 5 by deleting the word "physical" appearing immediately after the words "analysis accompanied by" in the introductory clause in subparagraph (a) and substituting therefor the words "land use"; and

- (e) in paragraph 7 by deleting the word "physical" appearing immediately after the words "maps of the" in subparagraph (b) and substituting therefor the words "land use".

FOURTH SCHEDULE

THAT the Fourth Schedule to the Bill be amended—

- (a) by deleting the words "MATTERS WHICH MAY BE DEALT WITH UNDER" in the title to the Schedule;
- (b) in paragraph 2 by—
 - (i) deleting the words "The Planning Authority" appearing in the introductory clause and substituting therefor the words "A county government";
 - (ii) deleting the word "physical" appearing immediately after the words "bound by approved" in subparagraph (a) and substituting therefor the words "land use";
- (c) in paragraph 3 by deleting the words "Planning Authority" appearing immediately after the words "agricultural land the" and substituting therefor the words "county government";
- (d) by deleting paragraph 4 and substituting therefor the following new paragraph—

4. Planning authorities shall require applications for major developments to be subjected to environmental and social impact assessment

- (e) in paragraph 5 by deleting the word "physical" appearing immediately after the words "of an approved" in subparagraph (a) and substituting therefor the words "land use";
- (f) in paragraph 6 by deleting the word "physical" appearing immediately after the words "of relevant approved" in subparagraph (d) and substituting therefor the words "land use";
- (g) in paragraph 7 by deleting the word "physical" appearing immediately after the words "of relevant approved" in subparagraph (b) and substituting therefor the words "land use".
- (h) in paragraph 8 by—
 - (i) deleting the words "the Planning authority" appearing in the introductory clause and substituting therefor the words "a county government";
 - (ii) deleting the words "planning authority" appearing immediately after the words "the required standard" in subparagraph (p) and substituting therefor the words "county government";

- (i) in paragraph 9 by deleting the words “the planning authority” appearing immediately after the words “the required standard” and substituting therefor the words “a county government”;
- (j) in paragraph 10 by deleting the words “planning authority” appearing immediately after the words “period as the” and substituting therefor the words “county government”;
- (k) by deleting paragraph 14;
- (l) in paragraph 16 by—
 - (i) deleting the words “the Planning authority” appearing immediately after the words “permission from the” in the introductory clause and substituting therefor the words “relevant county government”;
 - (ii) deleting the words “Planning authority” appearing immediately after the words “factor that the” in subparagraph (9) and substituting therefor the words “county government”;
- (m) in paragraph 17 by deleting the words “Planning authority” appearing immediately after the word “A” in the introductory phrase and substituting therefor the words “county government”; and
- (n) in paragraph 18 by deleting the words “Planning authority” appearing immediately after the words “from the relevant” and substituting therefor the words “county government”.

CLAUSE 2

THAT clause 2 of the Bill be amended by—

- (a) deleting the word “planning” appearing immediately after the words “matter related to” in the definition of the term “Cabinet Secretary” and substituting therefor the words “land use”; and
- (b) deleting the definition of the term “land use planning” and substituting therefor the following new definition—

“land use planning” refers to the interdisciplinary process of evaluating, organising and controlling the present and the future development and use of land and its resources to secure the physical, economic and social efficiency, health and well-being of urban and rural communities;
- (c) deleting the definition of the term “local physical planning development plan” and substituting therefor the following new definition—

“local land use development plan” means a plan for the area or part thereof of a city, municipality, town or urban council and includes a plan with reference to any trading or marketing centre;

(d) deleting the definition of the term “National Director of Physical Planning” and substituting therefor the following new definition in its proper alphabetical sequence—

“Director General of Land Use Planning” means the Director General of Land Use Planning appointed under section 10 of this Act;

(e) deleting the definition of the term “physical planning” and substituting therefor the following new definition—

“physical planning” refers to a form of land use planning which attempts to achieve an optimal spatial coordination of different human activities for the enhancement of the quality of life;

(f) deleting the words “responsible for matters relating to physical planning” appearing immediately after the words “Executive Committee Member” in paragraph (b) in the definition of the term “planning authority”;

(g) deleting the definition of the term “Inter-County physical development plan” and substituting therefor the following new definition—

“Inter-County Land Use Development Plan” means a plan for an area covering two or more counties or parts thereof;

(h) deleting the definition of the term “spatial planning” and substituting therefor the following new definition—

“spatial planning” means the methodology and approach used to influence the distribution of people and activities to achieve optimal utilisation of physical, economic and socio cultural resources;

(i) inserting the following new definitions in their proper alphabetical sequence—

“county executive committee member” means the county executive committee member responsible for matters relating to land use planning in the respective county;

“registrar” has the same meaning assigned it under section 2 of the Land Registration Act

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the word "Physical" appearing immediately after the words "cited as the" and substituting therefor the words "Land Use".

(ii) NOTICE is given that Sen. Mary Seneta intends to move the following amendments to the Physical Planning Bill (National Assembly Bills No. 34 of 2017) at the Committee Stage –

CLAUSE 62

THAT clause 62 of the Bill be amended –

(a) in sub-clause (1) by inserting the following new paragraph immediately after paragraph (b) –

(c) being a public officer, grants development permission or comments on an application for development permission contrary to this Act or any other law.

(b) deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) A person who commits an offence under this section is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both.

B. *THE LAND VALUE INDEX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 3 OF 2018)**

(The Senate Majority Leader)

NOTICE is given that Sen. Paul Mwangi Githiomi, the Chairperson to the Standing Committee on Land, Environment and Natural Resources, intends to move the following amendments to the Land Value Index Laws (Amendment) Bill, N.A. Bills No. 3 of 2018, at the Committee Stage—

CLAUSE 2

THAT clause 2 of the Bill be amended by—

(a) deleting the proposed definition of the term “prompt” and substituting therefor the following new definition—

“prompt” means within a reasonable time of, and in any case not more than one year after, the taking of possession of the land by the Commission;

(b) deleting the proposed definition of the term “full” and substituting therefor the following new definition—

“full” in relation to compensation for compulsorily acquired land or creation of wayleaves, easements and public rights of way means the restoration of the value of the land, including improvements thereon, as at the date of the notice of intention to acquire the land and any other matter provided for in this Act;

CLAUSE 3

THAT the Bill be amended by deleting clause 3.

CLAUSE 4

THAT the Bill be amended by deleting clause 4.

CLAUSE 5

THAT clause 5 of the Bill be amended —

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

(a) by inserting the following new subsection immediately after subsection (3)—

(3A) Where the Commission rejects a request of an acquiring body in accordance with subsection (3), the Commission shall inform the relevant acquiring body within seven days of the decision to reject the request.;

...../ *Amendments*

(b) in paragraph (b) by deleting the proposed new subsection (4)(b) and substituting therefor the following new paragraph—

(b) establish that the acquiring authority has identified the number and maintains a register of persons in actual occupation of the land, confirming for each such occupation how much time they have been in uninterrupted occupation or ownership of interest in the land prior to the date of the request for acquisition of the land, and the improvements thereon;

(c) in paragraph (c) by deleting the word “body” appearing immediately after the words “in the acquiring” in the proposed subsection 107(5B) and substituting therefor the word “authority”.

CLAUSE 6

THAT clause 6 of the Bill be amended—

(a) in the proposed new section 107A—

(i) by deleting subsection (1) and substituting therefor the following new subsection—

(1) Valuation of freehold land and community land for purposes of compensation under this Act shall be based on the provisions of this Part and the land value index developed for that purpose by the Cabinet Secretary in consultation with county governments and approved by the National Assembly and the Senate;

(ii) in subsection (4) by deleting the word “apparent” appearing immediately after the words “increase in the” in the introductory clause in paragraph (c);

(iii) in subsection (4) by inserting the words “and are not capital improvements” immediately after the words “state of repair” in paragraph (c)(ii)

(iv) in subsection (8) by deleting the word “twelve” appearing immediately after the words “uninterrupted period of” in paragraph (a) and substituting therefor the word “six”;

(b) in the proposed new subsection 107B(2)—

(i) by deleting paragraph (a) and substituting therefor the following new paragraph—

- (a) the value of the land based on the unexpired term of the lease calculated on the basis of a land value index developed for that purpose by the Cabinet Secretary in consultation with county governments and approved by the National Assembly and the Senate;
- (ii) by deleting the word "cost" appearing immediately after the word "the" in paragraph (b) and substituting therefor the word "value"; and
- (iii) by inserting the words "in consultation with the Cabinet Secretary and county governments and with the approval of the National Assembly and the Senate" immediately after the words "prescribe in Regulations" in paragraph (c).

CLAUSE 7

THAT clause 7 of the Bill be amended—

- (a) in the proposed new subsection (1A) by inserting the following proviso immediately after paragraph (f)—

Provided that regardless of the form of compensation under this section, where an acquisition process is not completed within twenty four months from the date of publication of the notice of intention to acquire, the acquisition shall lapse.;

- (b) by renumbering the existing clause as subclause (1) and inserting the following new subclause immediately after subclause (1)—

(2) Section 111 of the Land Act is amended in subsection (1A) by deleting the word "body" appearing immediately after the words "The acquiring" and substituting therefor the word "authority".

CLAUSE 12

THAT clause 12 of the Bill be amended by—

- (a) deleting paragraph (a);
- (b) by deleting paragraph (b) and substituting therefor the following new paragraph—

- (b) by deleting subsection (1) and substituting therefor the following new subsection—

(1) After an award has been made, the Commission may take possession of the respective land by serving on every person interested in the land a notice that on a specified day possession of the land and the title to the land will vest in the national or county government as the case may be, provided that such taking of possession will not result in persons being rendered homeless.

CLAUSE 13

THAT the Bill be amended by deleting clause 13.

CLAUSE 14

THAT the Bill be amended by deleting clause 14.

CLAUSE 16

THAT clause 16 of the Bill be amended by deleting paragraph (b).

CLAUSE 17

THAT clause 17 of the Bill be amended in the proposed new section 133A by deleting subsection (2) and substituting therefor the following new subsection—

- (2) The members of the Tribunal shall consist of —
 - (a) one person nominated by the Judicial Service Commission, who shall serve as the chairperson;
 - (b) one person nominated by the Cabinet Secretary;
 - (c) one person nominated by the Valuers Registration Board
 - (d) one person nominated by Land Surveyors' Board; and
 - (e) one person nominated by Attorney General.

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the words "Value Index" appearing immediately after the words "as the Land".

A. *THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILLS NO. 47 OF 2017)**

(The Senate Majority Leader)

(i) NOTICE is given that Sen. Wamatangi Kimani Paul, Chairperson to the Standing Committee on Roads and Transportation, intends to move the following amendments to the Kenya Roads Bill (National Assembly Bills No. 47 of 2017) at the Committee Stage—

CLAUSE 7

THAT clause 7 of the Bill be amended in sub-clause(1)—

- (a) by deleting the word “and” appearing immediately after the words “research on roads”;
- (b) by inserting the word “and” immediately after the words “the National Transport and Safety Authority” and;
- (c) by inserting the following new paragraph—
“(k) the Council of Governors.”

CLAUSE 9

THAT clause 9 of the Bill be amended in sub-clause (1) by inserting the words “in consultation with the Council of Governors” immediately after the words “Cabinet Secretary”.

CLAUSE 10

THAT clause 10 of the Bill be amended—

- (a) in sub-clause (2)
 - (i) by deleting the word “and” appearing immediately after the word road in paragraph(a);
 - (ii) by inserting the words “;and” immediately after the words “county road”
 - (iii) by inserting the following paragraph immediately after paragraph (b)—

‘(c) there is uniformity in the classification of roads.’
- (b) in sub-clause (3) by inserting the words, “in consultation with the relevant county government” immediately after the words “Cabinet Secretary” in the introductory phrase.

CLAUSE 12

THAT clause 12 of the Bill be amended—

- (a) in sub-clause (3) by deleting the words “in each county” appearing immediately after the words “administrative offices”.

CLAUSE 44

THAT clause 44 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) —

“(3) The Authority in exercising its powers under this section shall seek consultation and approval of the relevant county government.”

CLAUSE 47

THAT clause 47 of the Bill be deleted and substituted therefor with the following new clause:

...../ *Amendments*

Power to take water

47. An Authority may for its purposes and in consultation with the relevant county government, take water from any watercourse subject to the Water Act.

CLAUSE 48

THAT clause 48 of the Bill be amended—

(a) in sub-clause(5) by inserting the words 'or any court of law' appearing immediately after the words 'National Lands Commission', and

(b) by inserting the following new sub-clauses appearing immediately after sub-clause (12)—

(13) Roads referred to in sub-section (1) shall not be carried out where they may endanger any rare or threatened species, wildlife migration, water sources or springs or sites of cultural or natural importance

(14)All contemplated roads or road-works in sensitive areas of cultural or natural importance such as wetlands, indigenous forests and historic or prehistoric sites shall require approval from the National Environment Management Authority as per section 42 of the Environmental Management and Co-ordination Act, 1999.

(15) In the event that the proposed road works cannot avoid passing through a protected area, the Authority shall construct overpasses or underpasses to allow wildlife movement at frequent intervals.

(16) With reference to sub-section 15, where overpasses or underpasses cannot be constructed, the Authority shall ensure that fences are erected on both sides of the road.

CLAUSE 52

THAT clause 52 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4)—

“(5) Any matter brought to the Intergovernmental Relations Technical Committee under subsection (4) shall be determined expeditiously.”

CLAUSE 56

THAT clause 56 of the Bill be amended in sub-clause (1) and substituting therefor with the following new sub-clause—

Road user charges

56. (1) The Cabinet Secretary responsible for finance may, in consultation with the Cabinet Secretary, make Regulations in accordance with this section authorizing the imposition and collection of road user charges by the Authority in respect of national roads.

CLAUSE 67

THAT clause 67 of the Bill be amended in sub-clause(1) by deleting the words 'or for the use of road reserves' appearing immediately after the word 'services'

CLAUSE 101

THAT clause 101 of the Bill be amended—

- (a) by renumbering the existing clause as sub-clause (1), and ;
- (b) by inserting the following new sub-clause under sub-clause (1)—
 ‘(b) In the exercise of the powers under subsection (1), each county government through their County Roads Agency shall classify and assign the roads under their jurisdiction and submit the proposed classification to the Cabinet Secretary for approval and inventory purposes.’

THIRD SCHEDULE

THAT the Third Schedule of the Bill be amended—

- (a) in the marginal note by deleting the words ‘sec 6(2)(i)’ and substituting therefor with the numeration ‘Sec 6(2)(1)’.

CLAUSE 2

THAT clause 2 of the Bill be amended—

- (a) by deleting the definition of public roads and substituting therefor the new definition-
 “Public Road” means all roads falling under the classifications under Schedule I and any other subsequently classified roads”.

(ii) NOTICE is given that Sen. Irungu Kang’ata intends to move the following amendments to the Kenya Roads Bill (National Assembly Bills No. 47 of 2017) at the Committee Stage -

CLAUSE 67

THAT clause 67 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) —

- (3) Subsection (1) shall not apply to the imposition of a levy charge or fee for use of a road reserve for the purpose of outdoor advertising.

(iii) NOTICE is given that Sen. Erick Okong’o Mogeni intends to move the following amendments to the Kenya Roads Bill (National Assembly Bills No. 47 of 2017) at the Committee Stage —

CLAUSE 7

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

- (a) deleting paragraph (c) and substituting therefor the following new paragraph -
 (c) the council of governors;
- (b) inserting the following new paragraph immediately after paragraph (j)
 (k) the Law Society of Kenya.

CLAUSE 14

THAT clause 14 of the Bill be amended in sub-clause (2) by —

- (a) inserting the words “from amongst the members appointed under paragraphs (f) and (g)” immediately after the words “by the President” in paragraph (a);
- (b) deleting the word “two” appearing at the beginning of paragraph (f) and substituting therefor the word “three”;
- (c) inserting the following new subparagraph immediately after subparagraph (ii) in paragraph (f).

(iii) the Law Society of Kenya.

CLAUSE 17

THAT clause 17 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “from amongst the members appointed under paragraphs (f) and (g)” immediately after the words “by the President” in paragraph (a);
- (b) deleting the word “two” appearing at the beginning of paragraph (f) and substituting therefor the word “three”;
- (c) inserting the following new subparagraph immediately after subparagraph (ii) in paragraph (f).

(iii) the Law Society of Kenya.

CLAUSE 20

THAT clause 20 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “from amongst the members appointed under paragraphs (f) and (g)” immediately after the words “by the President” in paragraph (a);
- (b) deleting the word “two” appearing at the beginning of paragraph (f) and substituting therefor the word “three”;
- (c) inserting the following new subparagraph immediately after subparagraph (ii) in paragraph (f).

(iii) the Law Society of Kenya.

THIRD SCHEDULE

THAT the Third Schedule to the Bill be amended in the proposed amendments to the Kenya Roads Board Act, No. 7 of 1999 by –

- (a) inserting the following amendment immediately after the proposed amendment to section 17 -

s.17(2) Delete and substitute therefor the following new subsection –

(2) The Constituency Roads Committee shall comprise of —

- (a) two members from the respective Constituency Development Fund Committee;

- (b) two officers serving in the office of the county Senator;
- (c) the county Senator;
- (d) the Member of Parliament for the Constituency;
- (e) a representative of the Kenya National Secondary Roads Authority in the region, who shall be the Secretary to the Committee;
- (f) a representative from the Ministry responsible for planning;
- (g) the respective County Commissioner or his representative; and
- (h) two members co-opted by the Committee to represent such special interests with regard to roads as the committee may determine from time to time, and who shall not have voting rights;

- (b) deleting the proposed amendment to section 17(2)(c);
- (c) deleting the proposed amendment to section 17(2)(e);
- (d) deleting the proposed amendment to section 17(3) and (4) and substituting therefor –

s. 17(3) Delete and substitute therefor the following new subsection –

(3) The Constituency Roads Committee shall designate two of the members appointed under subsection (2)(a) and (b) to be the Chairman and Vice Chairman of the Committee respectively, and any two members from subsection (2)(a) and (b) designated by the Committee and the Kenya Rural Roads Authority accountant shall be the signatories to the Constituency Roads Fund account established by the constituency.

s.17(4) Delete the words “Kenya Rural Roads Authority” whenever it appears and substitute therefor with “Kenya National Secondary Roads Authority”

- (e) inserting the following amendment immediately after the proposed amendment to section 17A -

Delete paragraph (a) and substitute therefor s.17A(2) the following new paragraphs -

- (a) one representative of the Constituency Development Fund Committee who is a member of the Constituency Roads Committee

- (aa) two officers serving in the office of the county Senator who are members of the Constituency Roads Committee.

D. *THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO. 50 OF 2017)**

(The Senate Majority Leader)

NOTICE is hereby given that Sen. Ledama Ole Kina intends to move the following amendments to the Energy Bill, National Assembly Bills No. 50 of 2017, at the Committee Stage-

CLAUSE 4

THAT clause 4 of the Bill be amended in sub-clause (1) by inserting the words "Council of County Governors and other" immediately after the words "consultation with the".

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (1) by inserting the words "Council of County Governors and other" immediately after the words "consultation with the".

CLAUSE 9

THAT clause 9 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause

–

(1) There is established the Energy Regulatory Commission hereinafter referred to as the Commission.

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

(c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "this Act the" and substituting therefor the word "Commission"

CLAUSE 10

THAT the Bill be amended by deleting clause 10 and substituting therefor the following new clause –

Functions of the Commission. **10.** The functions of the Commission shall be to—
the Commission. (a) regulate—

(i) generation, importation, exportation, transmission, distribution, supply and use of electrical energy with the exception of licensing of nuclear facilities;

(iii) production, conversion, distribution, supply, marketing and use of renewable energy;

...../ **Amendments**

- (iv) exploration, extraction, production, processing, transportation, storage exportation, importation and sale of coal bed methane gas and other energy forms;
- (b) protect consumer, investor and other stakeholder interests;
- (c) provide such information and statistics to the Cabinet Secretary as the Cabinet Secretary may from time to time require;
- (d) collect and maintain energy data;
- (e) develop guidelines on applicable treaties, conventions and protocols affecting the energy sector in consultation with other statutory authorities except those relating to nuclear energy;
- (f) coordinate the development and implementation of a national energy efficiency and conservation action plan, in consultation with relevant statutory authorities and other stakeholders;
- (g) develop testing and certification procedures, in conjunction with relevant statutory agencies, for certification and testing for energy consumption of equipment and appliances;
- (h) ensure, in collaboration the Kenya Bureau of Standards, that only energy efficient and cost effective appliances and equipment are imported into the country;
- (i) certify energy managers and license energy auditors;
- (j) promote, in consultation with the Kenya National Accreditation Service, the establishment of accredited laboratories for energy efficiency; and
- (k) perform any other function that is incidental or consequential to its functions under this Act or any other written law.

CLAUSE 11

THAT clause 11 be amended by –

...../ *Amendments*

(a) deleting the introductory clause and substituting therefor the following new clause –

11. The Commission shall have all the powers necessary for the performance of its functions under this Act and in particular, the Commission shall have the power to –

- (b) deleting paragraph (m);
- (c) deleting paragraph (n);
- (d) deleting paragraph (o);
- (e) deleting paragraph (p); and
- (f) deleting paragraph (q).

CLAUSE 12

THAT clause 12 be amended in sub-clause (1) by–

(a) deleting the introductory clause and substituting therefor the following new clause –

12. The management of the Commission shall vest in a Board of Directors of the Commission consisting of –

- (b) deleting paragraph (c); and
- (c) deleting paragraph (e) and substituting therefor the following new paragraph –
 - (e) three county executive committee members responsible for energy nominated by the Council of County Governors;
- (d) deleting the word “five” appearing at the beginning of paragraph (g) and substituting therefor the word “three”.

CLAUSE 13

THAT clause 13 of the Bill be amended by –

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) The Board shall, subject to the approval of the Cabinet Secretary, appoint a Director General who shall be the chief executive officer of the Commission and shall, subject to the directions of the Board, be responsible for the day to day management of the Commission.

(b) by deleting sub-clause (5) and substituting the following new sub-clause –

...../ **Amendments**

(5) The Director General shall be an *ex-officio* member of the Commission but shall have no right to vote at any meetings of the Commission.

CLAUSE 15

THAT clause 15 of the Bill be amended by deleting the word "Authority" appearing immediately after the words "reports of the" and substituting therefor the word "Commission".

CLAUSE 16

THAT the Bill be amended by deleting clause 16 and substituting therefor the following new clause –

Staff of the Commission. **16.** The Commission may in consultation with the Public Service Commission, appoint such staff as it may require for the proper discharge of its functions under this Act, on such terms and conditions of service as the Commission may determine.

CLAUSE 17

THAT clause 17 of the Bill be amended by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission".

CLAUSE 18

THAT the Bill be amended by deleting clause 18 and substituting therefor the following new clause –

Protection from personal liability. **16.** A matter or thing or an act done by a member of the Board or an officer, employee or agent of the Commission shall not, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Commission, render the members of the Board, officer, employee or agent or any person acting on lawful directions of the Commission personally liable to any action, claim or demand whatsoever.

CLAUSE 19

THAT clause 19 of the Bill be amended by deleting the word "Authority" appearing immediately after the words "not relieve the" and substituting therefor the word "Commission".

CLAUSE 20

THAT the Bill be amended by deleting clause 20 and substituting therefor the following new clause –

Funds of the Commission.

- 20. (1) The funds of the Commission shall consist of—
 - (a) levies not exceeding one half of a percent on the sales of electricity products;
 - (b) licence fees;
 - (c) such monies or assets as may accrue to or vest in the Commission in the course of the exercise of its powers or the performance of its functions under this Act;
 - (d) such monies as may be provided by Parliament for the purposes of the Commission;
 - (e) any revenues generated from any proprietary interest held by the Commission whether movable or immovable;
 - (f) interest from bank deposits; and
 - (g) all monies from any other source provided for or donated or lent to the Commission:

(2) Any monies collected by the Commission including levies, fines and penalties in exercise of its functions shall be paid into the Consolidated Fund.

(3) Any funds retained by the Commission shall make part of the funds of the Commission by way of appropriation.

(4) There shall be paid out of the funds of the Commission, all expenditure incurred by the Commission in the exercise of its powers or the performance of its functions under this Act.

CLAUSE 21

THAT clause 21 of the Bill be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) The Commission may, by resolution either generally or in any particular case delegate to any committee of the Commission or to any member, officer, employee, self-regulated organization or agent of the Commission, the exercise of any of the powers or the performance of any of its functions or duties.

- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "appointed by the" and substituting therefor the word "Commission";
- (c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";
- (d) in sub-clause (4) by deleting the word "Authority" appearing immediately after the words "not prevent the" and substituting therefor the word "Commission";
- (e) in sub-clause (5) by deleting the word "Authority" appearing immediately after the words "such by the" and substituting therefor the word "Commission".

CLAUSE 23

THAT clause 23 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "decision of the" and substituting therefor the word "Commission";
- (c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";
- (d) in sub-clause (4) by deleting the word "Authority" appearing immediately after the words "orders of the" and substituting therefor the word "Commission";
- (e) in sub-clause (5) by deleting the word "Authority" appearing immediately after the words "Where the" and substituting therefor the word "Commission".

CLAUSE 24

THAT clause 24 of the Bill be amended in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "decision of the" and substituting therefor the word "Commission".

CLAUSE 26

THAT clause 26 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "possessing" appearing immediately after the words "other persons" and substituting therefor the words "appointed by the Cabinet Secretary and who possess";
- (b) in sub-clause (4) by deleting the words "Vice Chairperson" appearing immediately after the words "The Chairperson";
- (c) by deleting sub-clause (11) and substituting therefor the following new sub-clause –

...../ *Amendments*

(11) After carrying out the interviews, the selection panel shall select three persons qualified to be appointed as members of the Tribunal for each vacant position and shall –

(a) in the case of appointment to the position of chairperson, submit the names to the President; and

(b) in the case of appointment to the position of a member appointed under (1)(b), submit the names to the Cabinet Secretary.

(d) in sub-clause (12) by deleting the words “The Cabinet Secretary” appearing at the beginning of the sub-clause and substituting therefor the words “The President or the Cabinet Secretary, as the case may be”;

(e) in sub-clause (13) by deleting the words “the Cabinet Secretary” appearing immediately after the word “Where” and substituting therefor the words “The President or the Cabinet Secretary, as the case may be”;

(f) in sub-clause (15) by deleting the words “the Cabinet Secretary” appearing immediately after the words “in this section” and substituting therefor the words “the President or the Cabinet Secretary, as the case may be”.

CLAUSE 27

THAT clause 27 of the Bill be amended in paragraph (d) by inserting the words “by notice in writing to the appointing authority” immediately after the words “resigns from office”.

CLAUSE 36

THAT the Bill be amended by deleting sub -clause (4) and substituting therefor the following new sub-clause –

(4) The Tribunal shall have appellate jurisdiction over the decisions of the Commission and any licensing authority and in exercise of its functions may refer any matter back to the Commission or any licensing authority for re-consideration.

CLAUSE 40

THAT clause 40 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “decisions of the” and substituting therefor the word “Commission”.

CLAUSE 42

THAT clause 42 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “decisions of the” and substituting therefor the word “Commission”.

CLAUSE 58

THAT clause 58 of the Bill be amended in sub-clause (1) by –

- (a) deleting the words “not more than four other” appearing at the beginning of the introductory clause of paragraph (e) and substituting therefor the words “two”;
- (b) by inserting the following new paragraph immediately after paragraph (e) –
 - (f) two persons with knowledge and experience in matters relating to energy nominated by the Council of County Governors.

CLAUSE 75

THAT clause 75 of the Bill be amended –

- (a) in sub-clause (1) by inserting the words “in collaboration with the Council of County Governors” immediately after the words “Cabinet Secretary shall”;
- (b) by inserting the following new sub-clause immediately after sub-clause (2) –
 - (3) The Cabinet Secretary shall, in the carrying out of the functions and exercise of powers under subsection (2), consult with, and collaborate with the respective county governments.

CLAUSE 76

THAT clause 76 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (g) –

- (h) two persons with knowledge and experience in matter relating to renewable energy nominated by the Council of County Governors.

CLAUSE 79

THAT clause 79 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –

- (2) A person granted authority under subsection (1) shall –
 - (i) comply with the provisions of Part VII of this Act; and
 - (ii) before commencing with the activities, hold an informational meeting with the local community to sensitize the community on the activities to be undertaken pursuant to the authorization.

CLAUSE 82

THAT clause 82 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “advice of the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 85

THAT clause 85 of the Bill be amended –

(a) by deleting sub-clause (3) and substituting therefor the following new sub-clause

–

(3) Any royalty received by the National Government from geothermal energy produced under this section shall be paid into the Treasury of the national Government and apportioned between the National Government, county government and the local community as follows –

(a) the county government’s share shall be equivalent to twenty percent of the royalties;

(b) the local community’s share shall be equivalent to ten percent of the royalties and shall be payable through a trust fund managed by a board of trustees established by the local community in accordance with regulations under this Act; and

(c) the remaining seventy percent shall be treated as National revenue to be dealt with in accordance with Article 203 of the Constitution.

(b) in sub-clause (4) by inserting the words “county governments in whose county the resource is to be exploited and” immediately after the words “consultation with the”;

(c) in sub-clause (5) by inserting the words “upon consultation with the Council of County Governors and the Renewable Energy Resource Advisory Committee” immediately after the words “Cabinet Secretary shall”.

CLAUSE 89

THAT clause 89 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “recommendation of the” in sub-clause (1) and substituting therefor the word “Commission”.

CLAUSE 92

THAT clause 92 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “recommendation of the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 93

THAT clause 93 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “recommendation of the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 95

THAT clause 95 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) A person who intends to obtain a licence or permit under this Act shall –

(a) make an application to the Commission in the prescribed form; and

(b) submit to the Commission an environmental impact assessment licence obtained under section 63 of the Environmental Management and Co-ordination Act.

(b) in sub-clause (2) by -

(i) deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";

(ii) deleting the word "Authority" appearing immediately after the words "conditions as the" in paragraph (a) and substituting therefor the word "Commission";

(c) in sub-clause (2) by -

(i) deleting the word "Authority" appearing immediately after the words "Where the" in the introductory clause and substituting therefor the word "Commission";

(ii) deleting the word "Authority" appearing immediately after the words "or permit the" in paragraph (b) and substituting therefor the word "Commission";

(d) by deleting sub-clause (5) and substituting therefor the following new sub-clause –

(5) If the Commission is satisfied that the applicant continues to meet the requirements for the issue of the licence or permit, the Commission shall renew the licence or permit.

(e) in sub-clause (6) deleting the word "Authority" appearing immediately after the words "with by the" and substituting therefor the word "Commission";

CLAUSE 96

THAT clause 96 of the Bill be amended -

(h) in sub-clause (1) by –

...../ **Amendments**

- (i) deleting the word "Authority" appearing immediately after the words "The" in the introductory clause and substituting therefor the word "Commission";
- (ii) deleting the word "Authority" appearing immediately after the words "recommended by the" in paragraph (c) and substituting therefor the word "Commission";
- (iii) inserting the following new paragraph immediately after paragraph (d) –
 - (da) the need and level of public participation undertaken by an applicant for a licence to generate electricity using coal under section 94(2)(a);
 - (ii) deleting the word "Authority" appearing immediately after the words "opinion of the" in paragraph (e) and substituting therefor the word "Commission";
- (i) by inserting the following new sub-clause immediately after sub-clause (1) –
 - (1A) The Commission shall not grant a licence or permit to an applicant unless the applicant has applied for, and obtained, an environmental impact assessment licence in accordance with section 63 of the Environmental Management and Co-ordination Act.
- (j) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "conditions as the" in introductory clause and substituting therefor the word "Commission";
- (k) by deleting sub-clause (3) and substituting therefor the following new sub-clause –
 - (3) Where a permit contains conditions prescribed in subsection (2) (d), no person shall, before the conditions are satisfied, use any works the execution of which was authorised by the permit, except to the extent specified in a notice given by the Commission to the licensee specifying the extent to which the works may be used, notwithstanding that some of the conditions have not been satisfied and such permit may, at any time, be revoked by the Commission in a subsequent notice in the Gazette.
- (l) in sub-clause (4) by deleting the word "Authority" appearing immediately after the words "given by the" and substituting therefor the word "Commission".

CLAUSE 97

THAT clause 97 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "permit and the" and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "Where the" and substituting therefor the word "Commission".

...../ *Amendments*

CLAUSE 98

THAT clause 98 of the Bill be amended –

- (a) in the introductory clause by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (b) in paragraph (b) by deleting the word “Authority” appearing immediately after the words “developed by the” and substituting therefor the word “Commission”;
- (c) in paragraph (c) by deleting the word “Authority” appearing immediately after the words “recommended by the” and substituting therefor the word “Commission”;
- (d) in paragraph (d) by deleting the word “Authority” appearing immediately after the words “recommended by the” and substituting therefor the word “Commission”;
- (e) in paragraph (j) by deleting the word “Authority” appearing immediately after the words “matter that the” and substituting therefor the word “Commission”.

CLAUSE 100

THAT clause 100 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “form as the” in the introductory clause and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “issued by the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 101

THAT clause 101 be amended by deleting the word “Authority” appearing immediately after the word “lodged with the” in sub-clause (1) and substituting therefor the word “Commission”;

CLAUSE 102

THAT clause 102 of the Bill be amended –

- (a) in sub-clause (1) by –

...../ **Amendments**

- (i) deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";
- (ii) deleting the word "Authority" appearing immediately after the words "period which the" in paragraph (a) and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "or permit the" and substituting therefor the word "Commission";
- (c) in sub-clause (3) by deleting paragraph (b) and substituting therefor the following new paragraph –
 - (b) specify the acts, omissions or other facts which, in the opinion of the Commission or the licensing agent, constitute a contravention of the conditions of the licence or permit or requirements of the Act, and the reasons why the Commission is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and
- (d) in sub-clause (4) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

CLAUSE 103

THAT the Bill be amended by deleting clause 103 and substituting therefor the following new sub-clause –

103. Where, upon application, it is shown to the satisfaction of the Commission that a licence or permit has been lost, destroyed or defaced, the Commission shall, upon payment of the prescribed fee, issue a duplicate licence or permit to the licensee.

CLAUSE 104

THAT clause 104 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "consent of the" in the introductory clause and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";
- (c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

- (d) in sub-clause (5) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

CLAUSE 105

THAT clause 105 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";
- (b) in sub-clause (3) by deleting paragraph (b) and substituting therefor the following new paragraph –
 - (b) an employee of the Commission or person authorised in writing by the Commission;

CLAUSE 106

THAT clause 106 of the Bill be amended by deleting the word "Authority" appearing immediately after the words "action of the" in the introductory clause and substituting therefor the word "Commission";

CLAUSE 107

THAT clause 107 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "writing to the" and substituting therefor the word "Commission";
- (b) in sub-clause (3) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";
- (c) in sub-clause (5) by deleting the word "Authority" appearing immediately after the words "Where the" and substituting therefor the word "Commission";

CLAUSE 108

THAT clause 108 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "to subsection (2) the" and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "Where the" and substituting therefor the word "Commission";

...../ *Amendments*

- (c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "the" and substituting therefor the word "Commission";

CLAUSE 109

THAT clause 109 of the Bill be amended by deleting the word "Authority" appearing immediately after the words "period which the" and substituting therefor the word "Commission".

CLAUSE 110

THAT clause 110 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "a permit the" and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "the works the" and substituting therefor the word "Commission".

CLAUSE 111

THAT clause 111 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) Where any licensee wilfully delays to comply with the terms of the contract pursuant to sub-section (1), the Commission may compel the licensee to evacuate the coal products when appropriate and in the event of the licensee failing to comply with such direction the Commission may order disposal of such products held by a common user logistic facility and impose such penalties and fines as may be prescribed in regulations.

CLAUSE 112

THAT clause 112 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "approved by the" and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "under subsection (1) the" in the introductory clause and substituting therefor the word "Commission".

CLAUSE 114

THAT clause 114 of the Bill be amended –

...../ *Amendments*

(a) by deleting sub-clause (2) and substituting therefor the following new sub-clause

–

(2) In the event of a fire, explosion, injury or fatality occurring in the course of operating a facility for energy production using coal, either by accident or through negligence, the operator of the facility shall forthwith clean up the polluted or damaged environment, at the operator’s own expense, to the satisfaction of Commission and the National Environment Management Authority established under section 7 of the Environmental Management and Co-ordination Act.

(b) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “in subsection (2) the” and substituting therefor the word “Commission”;

(c) in sub-clause (5) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

CLAUSE 116

THAT clause 116 of the Bill be amended by deleting the introductory clause and substituting therefor the following new clause –

116. Without limiting the generality of section 208, the Cabinet Secretary in consultation with the Council of County Governors may, on the recommendation of the Commission, make regulations for the use of coal for energy production relating to—

CLAUSE 117

THAT clause 117 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “may be to the” and substituting therefor the word “Commission”.

CLAUSE 119

THAT clause 119 of the Bill be amended –

(a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “made to the” and substituting therefor the word “Commission”;

(b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

(c) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “addressed to the” in the introductory clause and substituting therefor the word “Commission”;

(d) in sub-clause (5) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

CLAUSE 120

THAT the Bill be amended by deleting clause 120 and substituting therefor the following new clause –

120. The Commission may hear any objections in public, at a time and place of which not less than fifteen days’ notice shall be given to the applicant and to every objector and the Commission shall make known its decision regarding any objection within thirty days after the hearing.

CLAUSE 121

THAT clause 121 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (d) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “decision of the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 122

THAT clause 122 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “form as the” in the introductory clause and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “issued by the” in the introductory clause and substituting therefor the word “Commission”;
- (c) in sub-clause (4) by
 - (i) deleting the word “Authority” appearing immediately after the words “approved by the” in in paragraph (a) and substituting therefor the word “Commission”;
 - (ii) deleting the word “Authority” appearing immediately after the words “specified by the” in paragraph (b) and substituting therefor the word “Commission”.

CLAUSE 123

THAT clause 123 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "consent of the" in the introductory clause and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "action as the" and substituting therefor the word "Commission".

CLAUSE 124

THAT clause 124 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "consent of the" in the introductory clause and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";
- (c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";
- (d) in sub-clause (5) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission".

CLAUSE 125

THAT clause 125 of the Bill be amended –

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –
 - (1) If a licensee fails to meet his obligations under this Act, the Commission shall serve upon him a notice in writing to meet those obligations within fourteen days or such longer period but not exceeding sixty days as the Commission may determine.
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "the notice the" in the introductory clause and substituting therefor the word "Commission";
- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause –
 - (3) The appointment of a statutory manager under subsection (2) shall be for such period, not exceeding twelve months, as the Commission may specify in the instrument of appointment and may be extended upon the application of the Commission if such extension appears to the court to be justified and such extension shall be notified to all interested parties.

- (d) in sub-clause (4) by deleting the word "Authority" appearing immediately after the words "subsection (2) the" and substituting therefor the word "Commission";
- (e) in subsection (5) by deleting the word "Authority" appearing immediately after the words "consultation with the" in paragraph (b) and substituting therefor the word "Commission".

CLAUSE 126

THAT clause 126 of the Bill be amended –

- (a) in sub-clause (1) by –
 - (i) deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";
 - (ii) deleting the word "Authority" appearing immediately after the words "period which the" in paragraph (a) and substituting therefor the word "Commission";
 - (iii) deleting the word "Authority" appearing immediately after the words "upon inquiry the" in paragraph (d) and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "this section the" and substituting therefor the word "Commission";
- (c) in sub-clause (3) by deleting paragraph (b) and substituting therefor the following new paragraph –
 - (b) specify the acts, omissions or other facts which, in the opinion of the Commission, constitute a contravention of the conditions or the Act, and the reasons why the Commission is of the opinion that any of the circumstances mentioned under subsection (1) have occurred or arisen; and
- (d) in sub-clause (4) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";
- (e) in sub-clause (5) by deleting the word "Authority" appearing immediately after the words "or revoked the" and substituting therefor the word "Commission".

CLAUSE 127

THAT clause 127 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause –

...../ *Amendments*

(1) Where, upon application, it is shown to the satisfaction of the Commission that a licence has been lost, destroyed or defaced, the Commission shall issue a duplicate licence.

CLAUSE 128

THAT clause 128 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";

(ii) deleting the word "Authority" appearing immediately after the words "information as the" in paragraph (e) and substituting therefor the word "Commission";

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) In entering any provision in the register, the Commission shall have regard to the need for excluding, so far as is practicable any matter which relates to the affairs of any person, where publication of that matter would or might, in the opinion of the Commission, be prejudicial to the interests of that person or the public interest.

(c) By deleting sub-clause (3) and substituting therefor the following new sub-clause –

(3) The contents of the register shall be published on the website of the Commission and shall be available for inspection by the public, during such hours and subject to the payment of such fee as may be prescribed by the Commission.

(d) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "prescribed by the" and substituting therefor the word "Commission";

(e) by deleting sub-clause (4) and substituting therefor the following new sub-clause –

(4) A person may, on the payment of such fee as may be prescribed, require the Commission to supply him with a copy of, or extract of, any part of the register, being a copy or extract which is certified by the Commission to be a true copy or extract.

CLAUSE 129

THAT clause 129 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting the introductory clause and substituting therefor the following new clause -

(1) For the purposes of this Act, where a person holds a licence or licences, the accounts of each undertaking under each licence shall, unless specifically exempted by the Commission, be subject to the provisions of this Act, and be kept separate and distinct and in the manner and form prescribed by the Commission:

(ii) in paragraph (a) of the proviso by deleting the word "Authority" appearing immediately after the word "the" and substituting therefor the word "Commission"

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "accounts to the" and substituting therefor the word "Commission";

(c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "request of the" and substituting therefor the word "Commission";

(d) in sub-clause (4) by deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission".

CLAUSE 130

THAT clause 130 of the Bill be amended –

(a) in sub-clause (1) by –

(i) deleting the word "Authority" appearing immediately after the word "The" in the introductory clause and substituting therefor the word "Commission";

(ii) deleting paragraph (b) and substituting therefor the following new paragraph -

(b) require a licensee to furnish to the Commission, books, accounts, records and other documents in such form as the Commission may demand.

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

(c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "authorized by the" and substituting therefor the word "Commission".

CLAUSE 131

THAT clause 131 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “recommendation of the” and substituting therefor the word “Commission”.

CLAUSE 132

THAT clause 132 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “proposal to the” and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 136

THAT clause 136 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “to enable the” and substituting therefor the word “Commission”.

CLAUSE 137

THAT clause 137 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “report to the” and substituting therefor the word “Commission”.

CLAUSE 138

THAT clause 138 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (b) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “recommendation of the” in the introductory clause and substituting therefor the word “Commission”;
- (c) in sub-clause (7) by –
 - (i) deleting the word “Authority” appearing immediately after the words “referred to the” in the introductory clause and substituting therefor the word “Commission”;

- (ii) deleting the word "Authority" appearing immediately after the words "decision of the" and substituting therefor the word "Commission".

CLAUSE 141

THAT clause 141 of the Bill be amended by deleting the word "Authority" appearing immediately after the words "report to the" and substituting therefor the word "Commission".

CLAUSE 142

THAT clause 142 of the Bill be amended in sub-clause (6) by deleting the word "Authority" appearing immediately after the words "determined by the" and substituting therefor the word "Commission".

CLAUSE 145

THAT clause 145 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";
- (b) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "specified by the" and substituting therefor the word "Commission".

CLAUSE 146

THAT clause 146 of the Bill be amended in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission".

CLAUSE 147

THAT clause 147 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "approved by the" and substituting therefor the word "Commission";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "under subsection (1) the" and substituting therefor the word "Commission".

CLAUSE 148

THAT clause 148 of the Bill be amended in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "contractor by the" and substituting therefor the word "Commission".

CLAUSE 149

THAT clause 149 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “application to the” and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 150

THAT clause 150 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “application to the” and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”.

CLAUSE 151

THAT clause 151 of the Bill be amended in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “authorized by the” and substituting therefor the word “Commission”.

CLAUSE 159

THAT clause 159 of the Bill be amended –

- (a) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “referred to the” and substituting therefor the word “Commission”;
- (b) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “referred to the” and substituting therefor the word “Commission”.

CLAUSE 160

THAT clause 160 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “approved by the” in the proviso and substituting therefor the word “Commission”;
- (b) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “referred to the” and substituting therefor the word “Commission”.

CLAUSE 161

THAT clause 161 of the Bill be amended by –

...../ *Amendments*

- (a) renumbering the existing provision as sub-clause (1);
- (b) inserting the following new sub-clause immediately after the new sub-clause (1)

–

(3) Parliament may, as a condition for, or in addition to any appropriation it may make under subsection (1), impose such conditions as it may consider necessary to avoid the recurrence of the default.

CLAUSE 163

THAT clause 163 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “submitted to the” and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “submitted to the” and substituting therefor the word “Commission”;
- (c) in sub-clause (3) by deleting the word “Authority” appearing immediately after the words “under subsection (1) the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 164

THAT clause 164 of the Bill be amended by deleting the word “Authority” appearing immediately after the words “submitted to the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 165

THAT clause 165 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the words “prescribed by the” and substituting therefor the word “Commission”;
- (b) in sub-clause (3) by –
 - (i) deleting the word “Authority” appearing immediately after the words “filed with the” in the introductory clause and substituting therefor the word “Commission”;
 - (ii) deleting the word “Authority” appearing immediately after the words “Provided that the” in the proviso and substituting therefor the word “Commission”;
- (c) in sub-clause (4) by deleting the word “Authority” appearing immediately after the words “filed with the” and substituting therefor the word “Commission”;

(d) in sub-clause (7) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission".

CLAUSE 166

THAT clause 166 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clause –

(4) The Cabinet Secretary shall –

(a) sensitize consumers on the compensation mechanism provided under this section; and

(b) make regulations to give effect to this section within six months of the coming into force of this Act.

CLAUSE 167

THAT clause 167 of the Bill be amended in sub-clause (1) –

(a) by deleting the word "Authority" appearing immediately after the words "recommendation of the" in the introductory clause and substituting therefor the word "Commission";

(b) by deleting the word "Authority" appearing immediately after the words "proceedings before the" in paragraph (m) and substituting therefor the word "Commission".

CLAUSE 168

THAT clause 168 of the Bill be amended in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "period as the" and substituting therefor the word "Commission".

CLAUSE 171

THAT clause 171 of the Bill be amended –

(a) in sub-clause (1) by deleting the proviso; and

(b) inserting the following new sub-clause immediately after sub-clause (1) –

(1A) Where the owner of a property cannot be traced, the applicant shall –

(a) carry out a search in the Ministry responsible for matters relating to land with respect to the land in order to determine the name of the person in whom the land is registered;

(b) send a notice by registered post to the last known address of the said person; and

- (c) issue a thirty notice in the Gazette and through an advertisement in at least two newspapers of nationwide circulation and an announcement in a vernacular radio station of local coverage for a period of two weeks.

CLAUSE 178

THAT clause 178 of the Bill be amended in sub-clause (1) by inserting the words “the Environmental Management and Co-ordination Act” immediately after the words “provided in this Act”.

CLAUSE 180

THAT clause 180 of the Bill be amended in sub-clause (2) by –

- (a) deleting the phrase “Authority for determination and the Authority” appearing immediately after the words “referred to the” and substituting therefor the phrase “Commission for determination and the Commission”;
- (b) deleting the word “Authority” appearing immediately after the words “decision of the” and substituting therefor the word “Commission”.

CLAUSE 187

THAT clause 187 of the Bill be amended by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the words “Commission in collaboration with county governments”.

CLAUSE 188

THAT clause 188 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing at the beginning of the sub-clause and substituting therefor the word “Commission”;
- (b) by deleting sub-clause (4) and substituting therefor the following new sub-clause –

(4) If the Commission determines that the owner of the building is not able to comply without financial or technical assistance and that the activities required to be in compliance may be eligible for assistance from an identified source, the Commission may decide to give additional grace period to allow the owner to access assistance from the identified source.

CLAUSE 190

THAT clause 190 of the Bill be amended–

- (a) by deleting the word "Authority" appearing immediately after the words "recommendation by the" in the introductory clause and substituting therefor the word "Commission";
- (b) in paragraph (f) by deleting the word "Authority" appearing immediately after the words "recommendation by the" in the proviso and substituting therefor the word "Commission";
- (c) in paragraph (i) by deleting the word "Authority" appearing immediately after the words "furnish to the" and substituting therefor the word "Commission";
- (d) in paragraph (j) by deleting the word "Authority" appearing immediately after the words "year to the" and substituting therefor the word "Commission".

CLAUSE 191

THAT clause 191 of the Bill be amended in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission".

CLAUSE 192

THAT clause 192 of the Bill be amended by deleting the word "Authority" appearing immediately after the words "recommendation by the" and substituting therefor the word "Commission".

CLAUSE 193

THAT clause 193 of the Bill be amended—

- (a) in paragraph (a) by deleting the word "Authority" appearing immediately after the words "approval of the" and substituting therefor the word "Commission";
- (b) in paragraph (g) by deleting the word "Authority" appearing immediately after the words "furnish to the" and substituting therefor the word "Commission".

CLAUSE 198

THAT clause 198 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "recommendation by the" and substituting therefor the phrase "Commission and in consultation with the Council of County Governors";
- (b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "imposed by the" in paragraph (y) and substituting therefor the word "Commission".

CLAUSE 200

THAT clause 200 of the Bill be amended–

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “under subsection (1) the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 201

THAT clause 201 of the Bill be amended–

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;
- (b) in sub-clause (2) by deleting the word “Authority” appearing immediately after the words “complied with the” in the introductory clause and substituting therefor the word “Commission”.

CLAUSE 202

THAT clause 202 of the Bill be amended–

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause

–

(1) Where the Commission is of the view that any person including any public body is consuming unacceptable levels of energy in their respective premises or installations, over and above the benchmarks established by the Commission under this Act, such person shall be called upon to submit to the Commission a detailed audit report compiled by an accredited energy auditor and a detailed remedial plan of action proposing measures to be taken by such person to reduce the energy consumption to acceptable levels.

- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause

–

(2) The failure to submit a detailed audit report and a detailed remedial plan of action when called upon to do so by the Commission under subsection (1) and the failure to implement such plan on approval by the Commission shall be an offence under this Act.

CLAUSE 203

THAT clause 203 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “Authority” appearing immediately after the word “The” and substituting therefor the word “Commission”;

...../ **Amendments**

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause

-

(2) Every person who is issued with a certificate under subsection (1) shall be required to sit for such examinations at such periods as the Commission may prescribe and where the Commission so requests, submit performance reviews at such intervals as specified by the Commission.

(c) in sub-clause (3) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission".

CLAUSE 204

THAT clause 204 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "report to the" and substituting therefor the word "Commission".

CLAUSE 205

THAT clause 205 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "under subsection (1) the" and substituting therefor the word "Commission".

CLAUSE 206

THAT clause 206 of the Bill be amended-

(a) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "program to the" and substituting therefor the word "Commission";

(b) in sub-clause (3) by deleting the word "Authority" appearing immediately after the words "submitted to the" in the introductory clause and substituting therefor the word "Commission".

CLAUSE 207

THAT clause 207 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the word "The" and substituting therefor the word "Commission";

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "of subsection (1) the" in the introductory clause and substituting therefor the word "Commission".

CLAUSE 208

THAT clause 208 of the Bill be amended-

(a) in sub-clause (1) by deleting the word "Authority" appearing immediately after the words "recommendation of the" and substituting therefor the word "Commission";

(b) by deleting sub-clause (2) and substituting therefor the following new sub-clause

-

(2) The regulations to be made under this Act may be formulated by the Commission on its own motion or may be proposed to the Commission by any licensee or person.

(c) in sub-clause (4) by deleting the word "Authority" appearing immediately after the words "satisfaction of the" and substituting therefor the word "Commission".

CLAUSE 210

THAT clause 210 of the Bill be amended by deleting the phrase "Authority, committee, agent or an officer acting on behalf of the Authority" appearing immediately after the words "or to the" and substituting therefor the phrase "Commission, committee, agent or an officer acting on behalf of the Commission".

CLAUSE 211

THAT clause 211 of the Bill be amended in the proviso by deleting the word "Authority" appearing immediately after the words "manner which the" in paragraph (b) and substituting therefor the word "Commission".

CLAUSE 214

THAT clause 214 of the Bill be amended-

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause

-

(1) A person engaged in any undertaking or activity pursuant to a licence under this Act shall notify the respective licensing authority and the Commission within forty eight hours in writing, in the form and manner prescribed by the Commission, of any accident or incident causing loss of life, personal injury, explosion, oil spill, fire or any other accident or incident causing harm or damage to the environment or property which has arisen in Kenya or within Kenya's Exclusive Economic Zone or Outer Continental Shelf.

(b) in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "authority or the" and substituting therefor the word "Commission".

CLAUSE 216

THAT clause 216 of the Bill be amended in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "imposed by the" in paragraph (f) and substituting therefor the word "Commission".

CLAUSE 220

THAT the Bill be amended by deleting clause 220 and substituting therefor the following new clause –

Prosecution of offences. **220.** The Director Public Prosecutions shall, on the request of the Commission, appoint any officer of the Commission or an advocate of the High Court to be a public prosecutor for the purposes of prosecuting offences under this Act.

CLAUSE 224

THAT clause 224 of the Bill be amended in sub-clause (2) by deleting the word "Authority" appearing immediately after the words "granted by the" in paragraph (b) and substituting therefor the word "Commission".

SECOND SCHEDULE

THAT the Second Schedule to the Bill be amended –

(a) in paragraph 1 by deleting the word "Authority" appearing immediately after the words "member of the" in sub-paragraph (1) and substituting therefor the word "Commission";

(b) in paragraph 2 by deleting the word "Authority" appearing immediately after the words "composition of the" and substituting therefor the word "Commission";

(c) in paragraph 4 by –

(i) by deleting the word "Authority" appearing immediately after the words "meetings of the" in sub-paragraph (1)(d) and substituting therefor the word "Commission";

(ii) deleting sub-paragraph (1)(e) and substituting therefor the following new sub-paragraph –

(e) failure to disclose to the Commission, Tribunal or Board any interest in any contract or matter before the Commission, Tribunal or Board;

(d) in paragraph 5 by deleting the word "Authority" appearing immediately after the words "Managing Director the" in the introductory clause to sub-paragraph (1) and substituting therefor the word "Commission";

(e) in paragraph 7 by –

(i) deleting sub-paragraph (1) and substituting therefor the following new sub-paragraph -

(1) At least three months before the commencement of each financial year, the Commission, Tribunal, Corporation or Agency, as the case may be, shall cause to be prepared estimates of the revenue and expenditure of the Commission, the Tribunal or the Agency for that year.

(ii) in sub-paragraph (2) by -

(A) deleting the word "Authority" appearing immediately after the words "expenditure of the" in the introductory clause and substituting therefor the word "Commission";

(B) deleting the word "Authority" appearing immediately after the words "staff of the" in sub-sub-paragraph (a) and substituting therefor the word "Commission";

(iii) in sub-paragraph (3) by deleting the word "Authority" appearing immediately after the words "approved by the" and substituting therefor the word "Commission";

(iv) in sub-paragraph (4) by deleting the word "Authority" appearing immediately after the words "Secretary's approval the" and substituting therefor the word "Commission".

(f) in paragraph 8 by –

(i) deleting sub-paragraph (1) and substituting therefor the following new sub-paragraph –

(1) The Commission, Tribunal, Corporation or Agency as the case may be, shall keep or cause to be kept proper books of accounts recording all the income and liabilities, expenditure assets, undertakings, funds, activities, contracts, transactions and any other business of the Commission, the Tribunal, the Commission and the Agency respectively.

(ii) deleting the word "Authority" appearing immediately after the word "The" in sub-paragraph (2) and substituting therefor the word "Commission";

(iii) deleting the word "Authority" appearing immediately after the words "financial year the" in sub-paragraph (3) and substituting therefor the word "Commission";

...../ **Amendments**

- (iv) deleting the word "Authority" appearing immediately after the words "appointed by the" in sub-paragraph (4) and substituting therefor the word "Commission";
- (v) deleting the word "Authority" appearing immediately after the words "terminated by the" in sub-paragraph (5) and substituting therefor the word "Commission";
- (vi) deleting sub-paragraph (8) and substituting therefor the following new sub-paragraph –

(8) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Commission, Tribunal, Corporation or Agency, as the case may be, to the Commission, Tribunal, Corporation or Agency as the case may be, and to the Cabinet Secretary, and in the case of an auditor appointed under subsection (4), the auditor shall submit a copy of the report to the Auditor-General.

- (vii) deleting the word "Authority" appearing immediately after the words "inspection of the" in sub-paragraph (9) and substituting therefor the word "Commission";
- (viii) deleting the word "Authority" appearing immediately after the words "paid by the" in sub-paragraph (12) and substituting therefor the word "Commission";
- (ix) deleting the word "Authority" appearing immediately after the word "The" in sub-paragraph (13) and substituting therefor the word "Commission";
- (x) deleting the word "Authority" appearing immediately after the word "The" in sub-paragraph (14) and substituting therefor the word "Commission";

- (g) by deleting paragraph 9 and substituting therefor the following new paragraph –

9. (1) The common seal of the Commission, Tribunal, Corporation or Agency, as the case may be, shall be kept in such custody as the Commission, the Tribunal or the Board, as the case may be, may direct and shall not be used except on the order of the Commission, the Tribunal or the Board respectively.

(2) The common seal of the Commission, Tribunal, Corporation or Agency, as the case may be, when affixed on a document and duly authenticated shall be judicially and officially noticed unless and until the contrary is proved any necessary order or authorization by the Commission, the Tribunal or the Board, as the case may be, under this section shall be presumed to have been duly given.

(3) The affixing of the common seal of the Commission, Tribunal, Corporation or Agency, as the case may be, shall be authenticated by the signature of the Chairperson and the Chief Executive Officer and any document not required by law to be made under seal and all decisions of the Commission, the Tribunal or Board, as the case may be, may be authenticated by the signature of the Chairperson or the Chief Executive Officer:

Provided that the Commission, the Tribunal or the Board, as the case may be, shall, in the absence of either the Chairperson or the Chief Executive Officer nominate one member to authenticate the seal on behalf of the Chairperson or the Chief Executive Officer.

THIRD SCHEDULE

THAT the Third Schedule to the Bill be amended by deleting item 1 and substituting therefor the following new item –

- 1. Energy Regulatory Commission

FOURTH SCHEDULE

THAT the Fourth Schedule to the Bill be amended in paragraph 1 by –

- (a) deleting sub-paragraph (a) and substituting therefor the following new sub-paragraph –
 - (a) The Energy Regulatory Commission established under section 9 shall be the successor to the Energy Regulatory Commission established by the Energy Act (now repealed) and subject to this Act, all rights, duties, obligations, assets and liabilities of the Energy Regulatory Commission existing at the commencement of this Act shall be automatically and fully transferred to the Energy Regulatory Commission and any reference to the Energy Regulatory Commission in any contract or document shall, for all purposes, be deemed to be a reference to the Energy and Petroleum Regulatory Authority established under section 9.
- (b) deleting the word “Authority” appearing immediately after the words “be of the” in paragraph (b) and substituting therefor the word “Commission”; and
- (c) deleting the words “and Petroleum Regulatory Authority” appearing immediately after the words “employee of the” in paragraph (d) and substituting therefor the words “Energy Regulatory Commission”.

E. *THE PETROLEUM BILL (NATIONAL ASSEMBLY BILLS NO. 48 OF 2017)**

(The Senate Majority Leader)

NOTICE is hereby given that Sen. Ledama Olekina intends to move the following amendments to the Petroleum Bill, National Assembly Bills No. 48 of 2017, at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause –

(2) The Cabinet Secretary consult with the Council of County Governors and shall ensure that relevant stakeholders participate effectively in the making of the national policy on petroleum operations.

by inserting the words “shall consult with the Council of County Governors and” immediately after the words “The Cabinet Secretary”.

CLAUSE 6

THAT clause 6 of the Bill be amended in sub-clause (1) by inserting the words “in consultation with the Council of County Governors” immediately after the words “Cabinet Secretary shall”.

CLAUSE 22

THAT clause 22 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) The Authority may, where the exploration activity involves drilling or an activity that is likely to alter the land on which the exploration activity is being undertaken, require an applicant to submit, together with the application under subsection (1) an environmental impact assessment licence obtained under section 63 of the Environmental Management and Co-ordination Act.

CLAUSE 50

THAT clause 50 of the Bill be amended in sub-clause (1) by deleting the proviso appearing at the end of that sub-clause.

CLAUSE 58

THAT clause 58 of the Bill be amended in sub-clause (3) by deleting the word “five” appearing immediately after the words “be equivalent to” and substituting therefor the word “ten”.

CLAUSE 88

...../ *Amendments*

THAT clause 88 of the Bill be amended in paragraph (a) by deleting the word "construction" appearing immediately after the words "works for the" and substituting therefor the words "repair, replacement and rehabilitation".

CLAUSE 92

THAT clause 92 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3) –

(3) The licensing authority may, by notice in the *Gazette*, suspend or revoke the licence issued to a person who if found liable for an offence under subsection (2).

(4) Where the licensing authority intends to revoke or suspend a permit under this section, it may, at least twenty-one days before the date of the intended revocation or suspension, notify the holder of the permit of such intention, specifying the reasons thereof, and shall take every precaution to ensure fairness in the exercise of this power.

CLAUSE 125

THAT clause 125 of the Bill be amended –

(a) in paragraph (a) by inserting the words "including the use of local radio stations" immediately after the words "communication strategy";

(b) by inserting the following new paragraph immediately after paragraph (f) –

(fa) where compensation is payable, to immediate payment of the compensation when such compensation falls due;

CLAUSE 127

THAT clause 127 of the Bill be amended in paragraph (u) by inserting the words "and restoration" immediately after the words "safety environmental protection".

CLAUSE 2

THAT clause 2 of the Bill be amended by –

(a) deleting the definition of the term "Authority" and substituting therefor the following new definition –

"Authority" means Petroleum Regulatory Authority established under section 13A of this Act;

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 13 –

...../ *Amendments*

Establishment of the Petroleum Regulatory Authority.

13A. (1) There is established the Petroleum Regulatory Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and shall be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts for the furtherance of the provisions of the Act which may be lawfully done or performed by a body corporate.

(3) Except as otherwise provided in this Act, the Authority shall be independent in the performance of its functions and exercise of its powers and shall not be subject to the direction or control of any person or authority.

Functions of the Authority.

13B. The functions of the Authority shall be to—

- (a) regulate, monitor and supervise petroleum operations in Kenya in accordance with this Act, the regulations made thereunder and the relevant petroleum agreement;
- (b) provide such information and statistics in relation to petroleum operations in Kenya to the Cabinet Secretary as may be required from time to time;
- (c) regulate the importation, refining, exportation, transportation, storage and sale of petroleum and petroleum products with the exception of crude oil;
- (d) collect, maintain and manage petroleum data;
- (e) receive and review an application for a non-exclusive exploration and where it is satisfied that it is warranted, grant a non-exclusive exploration permit;
- (f) co-ordinate the development of petroleum infrastructure and promote capacity building in upstream petroleum operations;
- (g) enter any area, structure, vehicle, vessel, aircraft or building that has been, is being or is to be used in connection to upstream petroleum operations;

- (h) inspect and test any machinery or equipment that has been used, is used or shall be used in upstream petroleum operations;
- (i) take or remove, for analysis, testing or for use in evidence in connection with the commission of an offence under this Act, samples of petroleum or other substances from any area where any upstream petroleum operations are being carried on;
- (j) inspect, take extracts from, or make copies of any document relating to any petroleum operations;
- (k) assess field development plans and make recommendations to the Cabinet Secretary for approval, amendment or rejection of the plans;
- (l) assess tail-end production and cessation of upstream petroleum operations and oversee decommissioning by a contractor;
- (m) verify the measurements of petroleum production to allow for estimation and assessment of royalties and profits of oil and gas due to the National Government;
- (n) verify the recoverable cost of oil and gas due to the parties to a petroleum agreement;
- (o) audit contractors for cost recovery;
- (p) monitor in consultation with the Competition Authority established under the Competition Act conditions of contractors' operations and their trade practices to ensure that competition and fair practice is maintained;
- (q) provide information to the relevant authority for the collection of taxes and fees from upstream petroleum operations;
- (r) set, review and approve contracts, tariffs and charges for common user upstream petroleum facilities;
- (s) make proposals to the Cabinet Secretary in relation to regulations which may be necessary or expedient for the regulation of the petroleum sector or for carrying out the objects and purposes of this Act;

...../ **Amendments**

- (t) work with the relevant statutory authorities to formulate, enforce and review environmental, health, safety and quality standards for the petroleum sector;
- (u) develop guidelines, in consultation with other statutory authorities, in relation to the implementation of treaties, conventions or protocols affecting the upstream petroleum sector that have been ratified by Kenya;
- (v) regulate contracts on upstream petroleum operations not specifically provided for under this Act;
- (w) advice the Cabinet Secretary in the evaluation of the bids and applications made for upstream petroleum blocks; and
- (x) perform any other function that may be conferred on it under this Act.

Powers of the Authority.

13C. (1) The Authority shall have all powers necessary or expedient for the performance of its functions under this Act and in particular, the Authority shall have the power to—

- (a) ensure that contractors uphold the relevant laws, regulations and petroleum agreement terms;
- (b) ensure optimal levels of recovery of petroleum resources;
- (c) promote well planned, executed and cost-efficient operations;
- (d) ensure optimal utilization of existing and planned facilities;
- (e) ensure the establishment of a central database of persons involved in upstream petroleum operations;
- (f) manage upstream petroleum data and provide periodic updates and publication of the status of upstream petroleum operations
- (g) take such action as is necessary to enforce the requirements in a petroleum agreement or any regulations and to protect the environment, the health and safety of workers and the public;

- (h) ensure and facilitate competition, access and utilization of facilities by third parties;
- (i) prescribe the form and manner in which any application for any authority, consent or approval under this Act shall be made;
- (j) investigate complaints or disputes arising from upstream petroleum operations;
- (k) enter, inspect and search any premises at which any undertaking is carried out or an offence under this Act is being committed or is suspected to have been committed;
- (l) issue orders either requiring acts or things to be performed or done, prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled in furtherance of its powers under this Act;
- (m) impose such sanctions and civil fines not exceeding five hundred thousand shillings per violation per day, as may be prescribed in regulations to secure compliance with orders issued under this Act;
- (n) enforce local content requirements;
- (o) issue operational permits and non-exclusive exploration permits in accordance with this Act; and
- (p) ensure enforcement and compliance with the national values and principles.

(2) The Director Public Prosecutions may, on the request of the Authority, appoint any officer of the Authority or an advocate of the High Court to be a public prosecutor for the purposes of prosecuting offences under this Act.

Board of Directors of the Authority.

13D. (1) The management of the Authority shall vest in a Board of Directors which shall consist of—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for petroleum or his or her authorized representative;

- (c) the Principal Secretary in the National Treasury or his or her authorized representative;
- (d) three county executive committee members responsible for petroleum nominated by the Council of County Governors;
- (e) the Director-General appointed under section 23 of this Act; and
- (f) one person shall be nominated by the Kenya Private Sector Alliance appointed by the Cabinet Secretary;
- (g) one person with knowledge and experience in matters relating to petroleum and serving in an institution of higher education appointed by the Cabinet Secretary.

(2) A person shall be qualified for appointment as a chairperson under subsection (1)(a) or a member under subsection (1)(f) and (g) if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya in any of the following fields—
 - (i) engineering;
 - (ii) physical sciences;
 - (iii) law;
 - (iv) finance;
 - (v) economics; or
 - (vi) energy;
 - (vii) any other relevant degree.
- (c) has had at least seven years relevant professional and managerial experience;
- (d) is a member in good standing of the relevant professional association; and
- (e) meets the requirements set out in Chapter Six of the Constitution.

Terms of office of the chairperson and members of the Board.

13E. (1) The chairperson of the Board of the Authority shall be appointed for a term of four years and shall be eligible for re-appointment for one further term.

(2) A member of the Board appointed under section 13D(1)(f) and (g) shall hold office for a period of three years and shall be eligible for re-appointment for one further term.

(3) The chairperson and members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office shall fall at different times.

(4) The chairperson and the members appointed in accordance with section 13D(1)(f) and (g) who shall be appointed immediately upon the coming into force of this Act shall be appointed for such shorter terms than prescribed in subsection (1) or subsection (2) so their tenures do not end on the same date.

Gender, regional and ethnic balance. **13F.** In the composition of the Board of Directors, no more than two-thirds of the members shall be of one gender and the Board shall also reflect the regional and ethnic diversity of Kenya.

Conduct of business of the Board. **13G.** (1) The conduct and regulation of the business of the Board shall be as provided in the First Schedule of this Act.

(2) Subject to the provisions of the First Schedule, the Board shall regulate its own procedure.

Vacancies in the Board. **13H.** (1) The office of the chairperson or a member of the Board of Directors, as the case may be, shall become vacant if the holder—

- (a) dies;
- (b) by notice in writing addressed to the President or the Cabinet Secretary, as the case may be, resigns from office; or
- (c) is removed from office under any of the circumstances contemplated in section 13I.

(2) The President or the Cabinet Secretary, as the case may be, shall notify every resignation, vacancy or termination in the Gazette within fourteen days.

Removal of chairperson or a member of the Board. **13I.** A chairperson or a member appointed under section 13D(1)(f) and (g) may be removed from office for—

- (a) any violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the chairperson's or member's, as the case may be, functions or otherwise;

- (c) physical or mental incapacity to perform the functions of the office;
- (d) being absent from three consecutive meetings of Board without reasonable cause;
- (e) a failure to disclose to the Board of Directors any interest in any contract or matter before the Board;
- (f) being convicted of a criminal offence;
- (g) incompetence; or
- (h) bankruptcy.

Director-General.

13J. (1) The Cabinet Secretary shall, on the recommendation of the Board of Directors, appoint a Director-General who shall be the chief executive of the Authority and shall, subject to the directions of the Board, be responsible for the day to day management of the Authority.

(2) The Cabinet Secretary shall appoint the Director General from a list of three names of persons submitted by the Board of Directors after a competitive selection process.

(3) A person shall be qualified for appointment as the Director-General if such person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya in the fields of—
 - (i) petroleum geosciences;
 - (ii) petroleum engineering;
 - (iii) petroleum economics;
 - (iv) finance; or
 - (v) petroleum law.
- (c) has at least seven years relevant professional experience;
- (d) is a member in good standing of the relevant professional association: and
- (e) meets the requirements set out in Chapter Six of the Constitution.

(4) The Director-General shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(5) The Director-General shall be the secretary to the Board of Directors but shall have no right to vote at any meetings of the Board of Directors.

Removal from office of Director-General.

13K. (1) The Cabinet Secretary may remove the Director-General from office in accordance with the terms and conditions of service only for—

- (a) inability to perform the functions of office due to physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty;
- (d) violation of the Constitution or any other law;
- (e) bankruptcy; or
- (f) any other ground that would justify removal from office under the terms and conditions of service.

(2) Before the Cabinet Secretary removes the Director General from office, the Director-General shall be given—

- (a) sufficient notice of the allegations made against him or her to the Authority; and
- (b) an opportunity to present his defence against the allegations.

Staff of the Authority.

13L. The Authority may, in consultation with the Public Service Commission, appoint such staff as it may require for the proper discharge of the functions of the Authority under this Act, and on such terms and conditions of service as the Board, on the recommendation of the Salaries and Remuneration Commission, may determine.

Remuneration of the members of the Board.

13M. The Authority shall pay its members such remuneration, fees or allowances for expenses as may be determined by the Salaries and Remuneration Commission.

Protection from personal liability.

13N. (1) Any matter or thing done by a member of the Board or any officer, employee or agent of the Authority shall not, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority, render the member, officer, employee, agent or any other person acting on those directions personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Authority of the liability to pay compensation or damages to any person for an injury to that person, that person's property or any of the persons' interests caused by the exercise of the powers conferred on the Board by this Act or by any other written law or by the failure, whether wholly or partially, of any works.

Funds of the Authority.

130. (1) The funds of the Authority shall consist of—

- (a) such moneys as may, from time to time, be appropriated by the National Assembly for that purpose;
- (b) levies, not exceeding one half of a percent on the sales of petroleum products;
- (c) such other moneys or assets as may accrue to or vest in the Authority in the exercise of its powers or the performance of its functions under the Act;
- (d) any revenues generated from any proprietary interest held by the Authority whether movable or immovable;
- (e) interest from bank deposits; and
- (f) any revenue from other sources including loans, grants, gifts, or donations approved by the Cabinet Secretary.

(2) All revenues generated by the Authority including levies shall be paid into the Consolidated Fund.

(3) Any funds retained by the Authority shall make part of the funds of the Authority by way of appropriation.

(4) Penalties are excluded from the funds of the Authority.

(5) The Cabinet Secretary responsible for matters relating to petroleum may make Regulations to provide for a levy prescribing—

- (a) the amount in Kenya Shillings payable per cubic metre of crude oil;
- (b) the amount of Kenya Shillings payable per one thousand cubic metre of marketable natural gas;

(c) when the relevant levy may be applied; and any other requirements for implementation of the levy.

(6) There shall be paid out of the funds of the Authority, all expenditure incurred by the Authority in the exercise of its powers or the performance of its functions under this Act.

Investment of funds of the Authority.

13P. (1) The Authority may invest its funds in any securities which for the time being trustees may by law invest in trust funds, or in any other securities which the Cabinet Secretary may, from time to time, approve for that purpose.

(2) The Authority may place on deposit with such a bank as it may determine, any moneys not immediately required for the purposes of the Authority.

Financial year.

13Q. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

13R. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

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

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval.

Annual report.

13S. The Board shall, within a period of three months after the end of each financial year, submit -

- (a) to the Auditor-General, the accounts of the Authority in respect of that year together with —
 - (i) a statement of the income and expenditure of the Authority during that year; and
 - (ii) a statement of the assets and liabilities of the Authority on the last day of that financial year; and
- (b) to the Cabinet Secretary, an annual report in respect of that year containing-
 - (i) the accounts of the Authority and statements referred to under paragraph (a);
 - (ii) the Authority's performance indicators and any other related information;

...../ **Amendments**

(iii) a report on the operations of the Authority during that year; and

(iv) such other information as the Cabinet Secretary may request.

Accounts and audit.

13T. (1) The Authority shall keep or cause to be kept proper books of account in which shall be recorded all the income and liabilities, expenditure, assets, undertakings, funds, activities, contracts, transactions and any other business of the Authority.

(2) The Authority shall ensure that all moneys received are properly brought to account, all payments out of its funds are properly made and authorized and that adequate control is maintained over its assets and liabilities in accordance with this Act and any other written law.

(3) Within a period of three months after the end of each financial year, the Authority shall prepare annual financial statements in accordance with the provisions of section 81 of the Public Finance Management Act, and submit them to the Auditor-General or to an auditor appointed under subsection (4), for audit.

No.18 of 2012.

(4) Within a period of six months after the end of the financial year, the Auditor-General shall report on the examination and audit of the accounts of the Authority, to the Authority and to the Cabinet Secretary, and in the case of an auditor appointed in accordance with section 81 of the Public Finance Management Act, the auditor shall submit a copy of the report to the Auditor-General and the Auditor-General shall submit the report to the Authority and Cabinet Secretary.

(5) Notwithstanding anything in this Act, the Auditor-General may submit to the Cabinet Secretary a special report on any matter incidental to his powers under this Act, and the provisions of the Public Finance Management Act, on the same issue shall apply with the necessary modifications to any report made under this section.

(6) The fee for an auditor, other than the Auditor-General, appointed under section 81 of the Public Finance Management Act, not being a public officer, shall be determined and paid by the Authority.

(7) The Authority shall prepare the financial statements in a form that complies with the Public Finance Management Act.

...../ **Amendments**

Delegation of powers or functions to committees or agents.

13U. (1) The Authority may, by resolution either generally or in any particular case, delegate to any committee of the Authority or to any member, officer, employee or agent of the Authority, the exercise of any of its powers or the performance of any of its functions or duties in accordance with this Act.

(2) A committee, officer, employee or agent of the Authority shall be appointed in writing and the instrument of appointment shall set out the term of the appointment, the duties of the appointee, the appointee's reporting requirements, functions, authority and powers conferred on the appointee.

(3) Any instrument issued by the Authority under subsection (2) may be varied or revoked by the Authority at any time.

(4) The Authority shall pay such allowances and fees to the members of such committees or such officers, employees or agents as the Salaries and Remuneration Commission may recommend.

Powers of committees or agents.

13V. (1) A committee, member, officer, employee or agent appointed under section 13U may, upon production of evidence of appointment to any person reasonably requiring it, for the purposes of this Act—

- (a) enter upon any premises at which any undertaking is carried out in relation to upstream petroleum operations or an offence under this Act is or is suspected to have been committed;
- (b) inspect and test any process, installation, works or other operation in relation to upstream petroleum operations which is or appears likely to be carried out in those premises;
- (c) be accompanied by a police officer if there is a reason to believe that any serious obstruction may occur in relation to an inspection or inquiry under this section;
- (d) require from any person the production of any book, notice, record, list or other document which appears to the committee, officer, employee or agent to have relevance to the inspection or inquiry, which is in the possession or custody or under the control of that person or of any other person on that committee's or agent's behalf;

- (e) examine and copy any part of any book, notice, record, list or other document which appears to have relevance to the inspections or inquiry, and require any person to give an explanation of any entry therein,

and take possession of any such book, notice, record, list or other document as he believes may afford evidence of an offence under this Act;

- (f) require information relevant to the committee, officer, employee or agents' inspection or inquiry from any person whom the committee, officer, employee or agent has reasonable grounds to believe is or has been employed at any such premises or to have in that person's possession or custody or under the person's control any article referred to in this subsection; or
- (g) exercise such other powers as may be necessary in connection with the inspection or inquiry and other powers of his appointment under section 13U.

(2) A member of a committee of the Authority, officer, employee or agent entering upon any premises under this section may be accompanied by such persons and may enter with such equipment as may be necessary.

(3) Where—

- (a) the premises to which this section relates are unoccupied;
- (b) the owner, occupier or person in charge thereof is temporarily absent; or
- (c) entry thereon is refused or obstructed,

the member of the committee, officer, employee or agent may use such force as is reasonably necessary to effect entry:

Provided that in the case of an entry under paragraph (a) or (b)—

- (i) reasonable steps shall be taken prior to entry by the member of the committee, officer, employee or agent to find the owner, occupier or person in charge of the premises to be entered; and
- (ii) the premises shall be left by the member of the committee, officer, employee or agent as effectively secured against trespassers as they were found.

(4) Where it is suspected that an undertaking is being carried contrary to any licence, permit or regulations issued under this Act, an officer or agent of the Authority may, in the course of his or her duty, lock up, seal, mark or otherwise secure—

- (a) any building, room, place, receptacle or item of plant;
- (b) any goods or materials in a factory; and
- (c) aircraft, vessels, vehicles or containers.

(5) A person who, unless authorized by the Authority or any other competent authority, opens, breaks, alters or in any way interferes with a lock, seal, mark or other fastening placed by a member of a committee, officer, employee or agent in accordance with this section on any building, room, place, receptacle, item of plant, goods, or materials, commits an offence and shall, on conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both .

(6) A person who resists, hinders or obstructs any committee, officer, employee or agent acting in the course of the committee’s or agent’s duty under this section or who wilfully fails to comply with any requirements lawfully made thereunder commits an offence and shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings for each day or part thereof that the obstruction occurs.

How Authority shall exercise its powers and functions.

13W. The Authority shall, in the exercise of its powers and performance of its functions—

- (a) promote efficiency, economy and safety in the conduct of upstream petroleum operations;
- (b) ensure that contractors carry out the upstream petroleum operations for which they are licensed to perform;
- (c) promote competition in upstream petroleum operations to ensure the optimal performance of industry players;
- (d) advocate and ensure transparency between upstream petroleum industry and the Authority;
- (e) ensure fair balance in the interests of the National Government and other stakeholders in the upstream petroleum industry; and

ensure full compliance of the petroleum agreement by all parties to the agreement.

Co-operation with others.

13X. The Authority shall, to the greatest extent possible and in accordance with this Act, consult and co-operate with other ministries, departments and agencies of the National Government in promoting effective upstream petroleum operations.

National Data Centre.

13Y. The Authority shall establish a national data centre which shall be used for the storage, analysis, interpretation, and management of petroleum data and information from sedimentary basins and field operations.

Decisions of the Authority.

13Z. (1) Where the Authority is required to make a decision under this Act, the Authority shall make that decision within sixty days of obtaining all the documents or information required under this Act or hearing all parties, where necessary, in relation to the decision.

(2) Where the Authority fails to make a decision within the period provided under this section (1), an affected party may apply to the Tribunal for the matter to be considered and determined by the Tribunal.

(3) The decision of the Authority shall be in writing and shall include the reasons for the decision.

(4) A decision of the Authority shall be served upon all relevant parties within seven days of making the decision and may be published in the Gazette as may be prescribed by Regulations.

(5) Where a decision of the Authority requires a party to do or refrain from doing something, that party shall comply with the decision of the Authority within the time prescribed in the decision.

Appeal against decision of the Authority.

13AA. A party aggrieved by a decision of the Authority may appeal to the Tribunal within sixty days of receipt of the decision:

Provided that the Tribunal may hear an appeal out of time if it is satisfied that there is sufficient cause.

The common seal of the Authority.

13BB. (1) The common seal of the Authority shall be kept in such custody as the Authority may direct and shall not be used except on the direction of the Board.

(3) The common seal of the Authority when affixed on a document and duly authenticated shall be judicially and officially noticed unless and until the contrary is proved, and any necessary order or authorization by the Authority under this section shall be presumed to have been duly given.

(3) The Chairperson and Director-General shall authenticate the affixing of the common seal of the Authority by the signature of the Chairperson and the Director-General:

Provided that the Authority shall, in the absence of the Chairperson, nominate one member to authenticate the seal on behalf of the Chairperson.

(4) The Chairperson and Director-General may authenticate, by their signatures—

- (a) any document not required by law to be made under seal and
- (b) all decisions of the Board.

NEW SCHEDULE

THAT the Bill be amended by inserting the following new Schedule immediately before the Schedule –

**FIRST SCHEDULE (s. 13F)
CONDUCT OF MEETINGS OF THE BOARD**

1. (1) The Board shall meet as often as necessary for the transaction of business but shall meet not less than four times every financial year and not more than four months shall elapse between the date of one meeting and the next.

(2) The Chairperson shall preside at every meeting of the Board at which the chairperson is present but in the absence of the chairperson, the members of the Board present shall appoint a member from among their number to preside at that meeting.

(3) The Chairperson or, in the absence of the chairperson a member of the Board appointed by the Board to act in the place of the chairperson, may at any time call a special meeting upon a written request by a majority of the members.

2. Unless five members otherwise agree, at least seven days' written notice of every meeting of the Board shall be given to every member of the Board.

3. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members of the Board present and in the case of an equality of votes, the chairperson or member presiding shall have a casting vote.

4. Any member of the Board present at a meeting of the Board or a Committee thereof, shall have the right to require his opinion to be recorded in the minutes if the Board or the Committee, as the case may be, passes a resolution, which in the opinion of that member is contrary to his advice or to law.

5. (1) A member of the Board who has a direct or indirect interest in a matter being considered or to be considered by the Board shall, as soon as possible after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his interest to the Board and shall not be present during any deliberations on the matter.

(2) A disclosure of interest made by a member of the Board under sub-section (1) shall be recorded in the minutes of the meeting of the Board and the member shall in respect of that matter—

- (a) remove himself or herself during any deliberations on the matter;
- (b) not participate in any decision taken by the Board on the matter; and
- (c) refrain from attempting to influence or coerce any other member to decide in his favour.

6. The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the Chairperson or the member presiding at the meeting.

7. (1) Subject to subsection (2), five members of the Board shall constitute a quorum for the conduct of business at any meeting of the Board.

(2) When there is no quorum at or for the continuation of a meeting of the Board only because of the exclusion of a member of the Board under section 26, the other members present may, if they deem it expedient so to do—

- (a) postpone the consideration of that matter until there is a quorum; or
- (b) proceed to consider and decide the matter as if there was quorum.

APPENDIX**1. PAPERS**

- i. Report of the Parliament of Kenya delegation to the 49th Commonwealth Parliamentary Association (CPA) Africa Region Conference held in Gaborone, Botswana, 13th – 22nd August, 2018.
(Sen. Petronilla Were, MP)
- ii. The Senate Calendar Regular Sessions of the Senate for the Year 2019 (*Third Session, February to December, 2019*).
- iii. Report of the Auditor-General on the Financial Statements of the County Assembly of Siaya Car Loan and Mortgage Fund for Fourteen (14) Months Period ended 30 June, 2015.
- iv. Report of the Auditor-General on the Financial Statements of the County Assembly of Siaya Car Loan and Mortgage Fund for the Year ended 30 June, 2016.
- v. Report of the Auditor-General on the Financial Statements of Makueni County Sand Conservation and Utilization Authority for the Year ended 30 June, 2016.
- vi. Report of the Auditor-General on the Financial Statements of Makueni County Sand Conservation and Utilization Authority for the Year ended 30 June, 2017.
- vii. Report of the Auditor-General on the Financial Statements of Makueni County Emergency Fund for the Year ended 30 June, 2017.
- viii. Report of the Auditor-General on the Financial Statements of the Makueni County Youth, Men, Women, Persons with Disabilities and Table – Banking Groups Empowerment Fund for the Year ended 30 June, 2017.
- ix. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2005.
- x. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2006.
- xi. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2007.
- xii. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2008.
- xiii. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2009.
- xiv. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2010.
- xv. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2011.
- xvi. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2012.
- xvii. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2013.
- xviii. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2014.

- xix. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2015.
- xx. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2016.
- xxi. Report of the Auditor-General on the Financial Statements of the Nairobi Health Management Board for the Year ended 30 June, 2017.

(The Senate Majority Leader)

2. NOTICES OF MOTION

(i) APPROVAL OF SENATORS TO SERVE IN SESSIONAL COMMITTEES

(The Senate Majority Leader)

THAT, pursuant to Standing Orders No. 189 (1) and 219, the Senate approves the following Senators, nominated to serve in Sessional Committees of the Senate as follows-

A. COMMITTEE ON COUNTY PUBLIC ACCOUNTS AND INVESTMENTS

1. Sen. Fatuma Dullo, CBS, MP;
2. Sen. Kimani Wamatangi, MP;
3. Sen. Mithika Linturi, MP;
4. Sen. Kibiru Charles Reubenson, MP;
5. Sen. Omanga Millicent, MP;
6. Sen. Mohamed Faki, MP;
7. Sen. Ledama Olekina, MP;
8. Sen. Moses Kajwang', MP; and
9. Sen. (Prof.) Sam Ogeri, EGH, MP.

B. COMMITTEE ON DELEGATED LEGISLATION

1. Sen. Kang'ata Irungu, MP;
2. Sen. Prengei Victor, MP;
3. Sen. (CPA) Haji Farhiya Ali, MP;
4. Sen. Poghisió Samuel Losuron, EGH, MP;
5. Sen. Omanga Millicent, MP;
6. Sen. Judith Pareno, MP;
7. Sen. Mutinda Kabaka, MP;
8. Sen. Okong'o Omogeni, MP; and
9. Sen. Mohamed Faki, MP.

(ii) APPROVAL OF SENATE CALENDAR

(The Senate Majority Leader)

THAT, pursuant to Standing Order 29(1) this House approves the Senate Calendar (Regular Sessions of the Senate) for the Year 2019 (*Third Session, February to December, 2019*), laid on the Table of the House today, Wednesday, 13th February, 2019.
