



REPUBLIC OF KENYA  
TWELFTH PARLIAMENT – (THIRD SESSION)  
THE SENATE

**ORDER PAPER**

WEDNESDAY, FEBRUARY 20, 2019 AT 2.30 PM

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers
6. Notices of Motion (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. **COMMITTEE OF THE WHOLE**  
**\*\*\*THE ENERGY BILL (NATIONAL ASSEMBLY BILLS NO. 50 OF 2017)**  
(The Senate Majority Leader)  
*(Resumption of debate interrupted on Wednesday, 13<sup>th</sup> February, 2019)*  
*(Division)*
9. **COMMITTEE OF THE WHOLE**  
**\*\*\*THE PETROLEUM BILL (NATIONAL ASSEMBLY BILLS NO. 48 OF 2017)**  
(The Senate Majority Leader)  
*(Resumption of debate interrupted on Thursday, 14<sup>th</sup> February, 2019)*  
*(Division)*
10. **COMMITTEE OF THE WHOLE**  
**\*\*\*THE COPYRIGHT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 33 OF 2017)**  
(The Senate Majority Leader)  
*(Resumption of debate interrupted on Thursday, 14<sup>th</sup> February, 2019)*  
*(Division)*

11. COMMITTEE OF THE WHOLE**\*\*\*THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 52 OF 2017)**

(The Senate Majority Leader)

***(Resumption of debate interrupted on Thursday, 14<sup>th</sup> February, 2019)******(Division)***12. COMMITTEE OF THE WHOLE**\*\*\*THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**

(The Senate Majority Leader)

***(Resumption of debate interrupted on Tuesday, 19<sup>th</sup> February, 2019)******(Division)***13. COMMITTEE OF THE WHOLE**\*\*\*THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO.4 OF 2017)**

(The Senate Majority Leader)

***(Consideration of the National Assembly Amendments)******(Resumption of debate interrupted on Tuesday, 19<sup>th</sup> February, 2019)******(Division)***14. COMMITTEE OF THE WHOLE**\*THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

***(Resumption of debate interrupted on Wednesday, 21<sup>st</sup> November, 2018)******(Division)***15. MOTION - THE REPORT OF THE AD-HOC COMMITTEE ON THE MAIZE CRISIS IN KENYA.

(Chairperson Ad-Hoc Committee on Maize)

**THAT**, this House adopts The Report of the Ad-hoc Committee on the Maize crisis in Kenya laid on the Table of the House on Tuesday, 27<sup>th</sup> November, 2018.***(Resumption of debate interrupted on Tuesday, 19<sup>th</sup> February, 2019)***16. **\*THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO 27 OF 2018)**

(Sen. Abshiro Halake, MP)

*(Second Reading)****(Resumption of debate interrupted on Tuesday, 19<sup>th</sup> February, 2019)***17. **\*THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**

(Sen. Ledama Olekina, MP)

*(Second Reading)*

...../Bills

- 18. **\*THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**  
(Sen. Mutula Kilonzo Jnr, MP and Sen. Sakaja Johnson, MP)  
*(Second Reading)*
  
- 19. **\*THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO 31 OF 2018)**  
(Sen. (Dr.) Agnes Zani, MP)  
*(Second Reading)*
  
- 20. **\*THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 32 OF 2018)**  
(Sen. (Arch.) Sylvia Kasanga, MP)  
*(Second Reading)*
  
- 21. **\*THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**  
(Sen. Ledama Olekina, MP)  
  
*(Second Reading)*

**KEY**

**\*\*\*\*** - Denotes a Majority /Minority Party Bill

**\*\*\*** - Denotes a National Assembly Bill

**\*\*** - Denotes a Committee Bill

**\*** - Denotes any other Bill

**A. \*\*\*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 **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 –

- (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 –

...../ **Amendments**

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 –

(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”.

**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”;

- (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 –

(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”.

...../ **Amendments**

**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”;

...../ **Amendments**

(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”;



(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;

...../ **Amendments**

(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.

...../ **Amendments**

(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”.

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

(The Senate Majority Leader)

**(i) 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.

No.18 of 2012.

(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.

(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.

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.

(ii) **NOTICE is hereby given that Sen. Mutula Kilonzo Jr. intends to move the following amendments to the Petroleum Bill, National Assembly Bills No. 48 of 2017, at the Committee Stage-**

**CLAUSE 18**

**THAT** clause 18 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

(1) Subject to section 23, the Cabinet Secretary shall negotiate, award and execute a petroleum agreement on behalf of the national government.

**CLAUSE 117**

**THAT** clause 117 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clauses—

(1) Where there is a dispute between parties to a petroleum agreement arising out of or in connection with upstream operations, the dispute shall be settled through arbitration.

(2) Unless otherwise provided for in the petroleum agreement, the parties shall appoint three arbitrators to determine the dispute as follows-

...../ **Amendments**

- (a) each party shall appoint one arbitrator; and
- (b) the arbitrators appointed under paragraph (a) shall, within thirty days of their appointment, jointly appoint an arbitrator who shall preside over the arbitration.

(3) Where a party fails to appoint an arbitrator within thirty days of receipt of a request to do so from the other party, or where the arbitrators appointed by the parties fail to appoint an arbitrator within thirty days of their appointment, the appointment shall be made, on the request of a party, by the Registrar of the Nairobi Centre for International Arbitration and any award, order or determination of or by such arbitrators shall be final and binding on all parties.

(4) The dispute referred to the arbitrators appointed by the Registrar under subsection (1) shall be administered in accordance with the Rules for arbitration of the Nairobi Centre for International Arbitration.

**ALTERNATIVE TO CLAUSE 117**

**SECOND SCHEDULE**

**THAT** the Second Schedule be amended by deleting paragraph 53 and substituting therefor the following new paragraph -

**53. Dispute resolution**

(1) Where there is a dispute between parties to a petroleum agreement arising out of or in connection with upstream operations, the dispute shall be settled through arbitration.

(2) Unless otherwise provided for in the petroleum agreement, the parties shall appoint three arbitrators to determine the dispute as follows-

- (c) each party shall appoint one arbitrator; and
- (d) the arbitrators appointed under paragraph (a) shall, within thirty days of their appointment, jointly appoint an arbitrator who shall preside over the arbitration.

(3) Where a party fails to appoint an arbitrator within thirty days of receipt of a request to do so from the other party, or where the arbitrators appointed by the parties fail to appoint an arbitrator within thirty days of their appointment, the appointment shall be made, on the request of a party, by the Registrar of the Nairobi Centre for International Arbitration and any award, order or determination of or by such arbitrators shall be final and binding on all parties.

(4) The dispute referred to the arbitrators appointed by the Registrar under subsection (1) shall be administered in accordance with the Rules for arbitration of the Nairobi Centre for International Arbitration.

(5) In the arbitration proceedings,

- (a) the place of arbitration proceedings shall be Nairobi, Kenya;

...../ **Amendments**

- (b) the language used for the proceedings shall be English language;
- (c) the applicable laws shall be the laws of the Republic of Kenya, and the provisions of this contract shall be interpreted in, accordance with those laws;
- (d) each party shall bear its own legal fees but the costs of the arbitral tribunal shall be borne by the parties in such manner as the arbitral tribunal shall determine;
- (e) the costs of the sole expert shall be borne equally by both parties;
- (f) the costs incurred in arbitration shall be recoverable costs and shall be borne by the parties in such manner as the arbitral tribunal shall determine or in accordance with the applicable arbitral rules; and
- (g) the parties shall continue to perform their, respective obligations under the contract during any sole expert or arbitration proceedings.

(6) The right to, arbitrate differences or disputes arising out of this contract shall survive the termination of this contract.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the term “Ministry” –

“Nairobi Centre for International Arbitration” means the National Centre for International Arbitration established under section 4 of the the Nairobi Centre for International Arbitration Act.

**C. \*\*\*THE COPYRIGHT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 33 OF 2017)**

(The Senate Majority Leader)

**NOTICE** is given that the Chairperson of the Standing Committee on Information and Technology, Sen. Gideon Moi intends to move the following amendments to the Copyright (Amendment) Bill (National Assembly Bills No. 33 of 2017) at the Committee Stage –

**CLAUSE 5**

**THAT** clause 5 of the Bill be amended -

(a) in paragraph (b) by deleting the word “as” appearing immediately after the word “is” in the proposed new subsection (2)(a);

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

(c) by inserting the following new subsection immediately after subsection (3) –

(4) The Executive Director shall be appointed for a term of four years and shall be eligible for reappointment for one further term of four years.

**CLAUSE 6**

**THAT** the Bill be amended by deleting clause 6 and substituting therefor the following new clause –

**6.** Section 19 of the principal Act is amended –

(a) in subsection (2) by deleting the words “Auditor General (Corporations) or to an auditor appointed under this section” appearing immediately after the words “submit to the” and substituting therefor the words “Auditor-General”; and

(b) by deleting subsection (3) and substituting therefor the following new subsection –

No. 34 of 2015. (3) The accounts of the Board shall be audited and reported in accordance with the provisions of the Public Audit Act.

**D. \*\*\*THE PUBLIC PRIVATE PARTNERSHIPS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 52 OF 2017)**

(The Senate Majority Leader)

**NOTICE** is given that the Chairperson, Committee on Finance and Budget, Sen. Mohamed M. Mohamud intends to move the following amendments to the Public Private Partnerships (Amendment) Bill, National Assembly Bills No. 52 of 2017, at the Committee Stage-

**CLAUSE 7**

**THAT** the Bill be amended by deleting clause 7.

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended-

- (a) in paragraph (a) by deleting the words “county government” appearing immediately after the words “approval by the” in the proposed new proviso and substituting therefor the words “county executive committee”;
- (b) by inserting the following new paragraph immediately after paragraph (b)-
  - (c) in subsection (3) by inserting the words “in consultation with the Council of County Governors” immediately after the words “the Cabinet Secretary shall”.

**CLAUSE 12**

**THAT** clause 12 of the Bill be amended in the proposed new subsection (1) by deleting the words “in consistence” appearing immediately after the words “this Act and” and substituting therefor the word “consistent”.

**CLAUSE 16**

**THAT** clause 16 of the Bill be amended –

- (a) in the proposed new section 54A by deleting subsection (2) and substituting therefor the following new subsection-
  - (2) Where a county government intends to enter into a public private partnership agreement, it shall cause its user department or county entity, as the case may be, to prepare a project proposal for approval by the respective county executive committee, setting out the strategic and operational benefits of entering into such an arrangement.
- (b) in the proposed new section 54B by deleting subsection (2).

**CLAUSE 19**

**THAT** clause 19 of the Bill be amended–

- (a) in paragraph (a)(ii) by inserting the word “relevant” immediately after the words “persons with such” in the proposed new paragraph (b);
- (b) in paragraph (a)(iii) by inserting the words “having relevant experience and knowledge” immediately after the words “opposite gender” in the proposed new paragraph (ba).

**NEW CLAUSES**

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

Amendment of section 4 of No. 15 of 2013. **4A.**Section 4 of the principal Act is amended in subsection (1) by-

- (a) inserting the following new paragraph immediately after paragraph (f)-
  - (fa) three persons nominated by the Council of County Governors;
- (b) deleting the word “four” appearing immediately before the words “persons not being” in paragraph (g) and substituting therefor the words “two”;
- (c) inserting the words “and infrastructure” immediately after the words “responsible for transport” in paragraph (i); and
- (d) deleting paragraph (j).

**THAT** the Bill be amended by inserting the following new clause immediately after clause 5-

Amendment of section 18 of No. 15 of 2013. **5A.** Section 18 of the principal Act is amended by inserting the following new subsection immediately after subsection (2) –

(3)A contracting authority under subsection (1) shall ensure that it facilitates public participation on a project that it intends to finance, operate, equip or maintain.

**THAT** the Bill be amended by inserting the following new clause immediately after clause 19 –

Insertion of new section 70A in No. 15 of 2013. **20.** The principal Act is amended by inserting the following section immediately after section 70 –

Report of the Committee. **70A.**(1) Within three months after the end of each financial year, the Committee shall prepare a report on project agreements entered into by all contracting authorities in that financial year.

(2) The Committee shall, in preparing the report under subsection (1), set out the following information–

- (a) the status of implementation of every project agreement that is under implementation by each contracting authority including the outputs of each project as against the projected targets;
- (b) any challenges or deviations in the implementation and estimated completion of the project and the reasons for such deviation or delay;
- (c) a financial statement with respect to each project;
- (d) a risk assessment including information of any change in circumstances that may have an impact on the implementation of a project; and

...../ **Amendments**

(e) such other information as the Committee and the Cabinet Secretary may consider necessary.

(3) The Committee shall submit the report prepared under subsection (1) to the –

(a) National Assembly;

(b) Senate;

(c) respective county assemblies in which a project is being undertaken under this Act; and

(d) Controller of Budget.

(4) Parliament and the county assemblies to which a report is submitted under subsection (3) shall, in accordance with their respective standing orders –

(a) consider the report within thirty days of receipt of the report;

(b) table a report together with its recommendations on the implementation of the projects; and

(c) submit their recommendations to the Committee.

(5) The Committee shall ensure that the contracting authorities take into account the recommendations under subsection (4) in the implementation of a project under this Act.



**CLAUSE 2**

**THAT** clause 2 of the Bill be amended-

(a) in paragraph (a) in the proposed new definition of the term “contracting authority” by deleting the word “corporation” appearing immediately after the words “government or county” in sub-paragraph (ii) and substituting therefor the word “entity”;

(b) by deleting paragraph (b);

(c) inserting the following new paragraph immediately after paragraph (b)-

(c) inserting the following new definition immediately before the definition of the word “affordability”-

“accounting officer” means in the case of-

A a national government entity, the person designated as an accounting officer by the Cabinet Secretary responsible for finance in accordance with the provisions of the Public Finance Management Act;

B the Parliamentary Service Commission, the Clerk of the Senate;

C the National Assembly, the Clerk of the National Assembly;

D a Constitutional Commission, institution or Independent Office the person responsible for the administration of the Commission or institution or Independent Office in accordance with the provisions of the Public Finance Management Act;

E a county government entity, the person responsible for the administration of the county government entity in accordance with the provisions of the Public Finance Management Act;

F a county assembly, the clerk of the county assembly; and

G the Judiciary, the Chief Registrar of the Judiciary.

**E. \*\*\*THE IRRIGATION BILL (NATIONAL ASSEMBLY BILLS NO. 46 OF 2017)**

(The Senate Majority Leader)

**NOTICE** is given that Sen. Ndwiga Peter Njeru, the Chairperson to the Standing Committee on Agriculture, Livestock and Fisheries, intends to move the following amendments to the Irrigation Bill (National Assembly Bills No. 46 of 2017) at the Committee Stage—

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended in subclause (1) by deleting the words “as more specifically provided in the Act for” appearing immediately after the words “Act shall apply” and substituting therefor the words “to matters relating to the”.

**CLAUSE 6**

**THAT** clause 6 of the Bill be amended—

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

(1) The Cabinet Secretary shall, in consultation with the Council of County Governors, regulate and promote the development and proper management of irrigation throughout Kenya and to this extent shall ensure the effective exercise and performance by any authority or person under the authority of the Cabinet Secretary of their powers and duties in relation to irrigation and drainage, including water harvesting and storage for irrigation.

(b) in subclause (2) by—

- (i) inserting the words “in consultation with the Council of County Governors” immediately after the words “Cabinet Secretary shall” in the introductory clause;
- (ii) deleting the word “facilitate” appearing at the beginning of paragraph (d) and substituting therefor the word “promote”; and
- (iii) deleting the word “Parliament” appearing immediately after the words “report to” in paragraph (h) and substituting therefor the words “the National Assembly and the Senate”; and

...../ **Amendments**

(c) by inserting the following new subclause immediately after subclause (3)—

(3A) The Cabinet Secretary shall consult the county governments of all counties affected by an irrigation scheme before issuing a licence under subsection (2)(f).

**CLAUSE 8**

**THAT** clause 8 of the Bill be amended in subclause (2) by inserting the words “safe storage” immediately after the words “promote the marketing” in paragraph (k).

**CLAUSE 9**

**THAT** clause 9 of the Bill be amended—

(a) in subclause (1) by—

(i) deleting the words “State Department of” appearing immediately after the words “the Principal Secretary” in paragraph (b) and substituting therefor the words “responsible for”;

(ii) deleting the words “five other” appearing at the beginning of paragraph (f) and substituting therefor the word “two”;

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

(g) four persons nominated by the Council of County Governors and appointed by the Cabinet Secretary, taking into account the various stakeholder interests in irrigation development and management as defined in subsection (2).

(b) in subclause (2) by deleting the words “include two representatives of county governments nominated by the Council of Governors and shall” appearing at the beginning of paragraph (b);

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

(2A) The Council of County Governors shall, for purposes of subsection (2)(b), nominate and submit to the Cabinet Secretary, the names of eight persons out of whom the Cabinet Secretary shall appoint four.

(d) by deleting subclause (4).

**CLAUSE 14**

**THAT** clause 14 of the Bill be amended—

- (a) in subclause (1) by deleting the words “an irrigation function delegated by the Cabinet Secretary as may be prescribed in the Regulations” appearing immediately after the words “carrying out of” and substituting therefor the words “its functions with respect to irrigation pursuant to Part 2 of the Fourth Schedule to the Constitution”; and
- (b) in subclause (2) by deleting the word “Parliament” appearing immediately after the words “and approved by” and substituting therefor the words “the National Assembly and the Senate”.

**CLAUSE 16**

**THAT** clause 16 of the Bill be amended in subclause (6) by inserting the words “and the impact the irrigation scheme is likely to have on the environment” immediately after the words “and fish producers”.

**CLAUSE 17**

**THAT** clause 17 of the Bill be amended in subclause (1) by—

- (a) inserting the words “in consultation with the Council of County Governors,” immediately after the words “Cabinet Secretary shall” in the introductory clause; and
- (b) inserting the following new paragraph immediately after paragraph (b)—
  - (c) in consultation with the Water Resources Authority, for the handling of irrigation water effluent.

**CLAUSE 20**

**THAT** clause 20 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause—

(3) An association may, with the approval by the Cabinet Secretary, enter into an agreement with the National Government, a county government, a private sector institution or another farmers’ association for the establishment, expansion, implementation, improvement, modernization, operation or maintenance of a scheme.

**CLAUSE 25**

**THAT** clause 25 of the Bill be amended in subclause (1) by inserting the word “intra-scheme” immediately after the words “scheme development, management,”.

**CLAUSE 34**

**THAT** clause 34 of the Bill be amended—

- (a) in subclause (1) by inserting the words “and with the approval of the Senate and the National Assembly,” immediately after the words “with county governments”; and
- (b) in subclause (2) by deleting paragraph (e) and substituting therefor the following new paragraph—
  - (e) the requirements, procedures and forms for licensing of irrigation schemes;

**SCHEDULE**

**THAT** the schedule to the Bill be amended in paragraph 3 by deleting subparagraph (5) and substituting the following new subparagraph—

- (5) The chairperson shall preside at every meeting of the Board of and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended by —

- (a) deleting the definition of the word “irrigation” and substituting therefor the following new definition—
 

“irrigation” means any process, other than by natural precipitation, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees;
- (b) deleting the definition of the word “license” and substituting therefor the following new definition—
 

“licence” means a license issued by the Cabinet Secretary or such other person as the Cabinet Secretary may authorize;

**F. \*\*\*THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILLS NO.4 OF 2017)**

(The Senate Majority Leader)

**Clause 19**

**THAT**, Clause 19 of the Bill be amended in the proposed new FIRST SCHEDULE under the heading marked “City” by inserting the following new services immediately after

“Organised Public Transport”-

“Information, Communication and Technology services”

“Telecommunication services”

**G. \*THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 13 OF 2018)**

(Sen. Aaron Cheruiyot, MP)

**NOTICE** is hereby given that Sen. Kinyua Nderitu, Chairperson of the Senate Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Governments (Amendment) Bill, 2018, at the Committee Stage -

**CLAUSE 2**

**THAT** the Bill be amended by deleting clause 2 and substituting therefor the following new clause -

Amendment of section 58 of No. 17 of 2012.

**2.** Section 58 of the County Governments Act is amended in—

(a) subsection (1) by -

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

(c) the secretary to the board who shall be nominated and appointed by the governor with the approval of the county assembly.

(ii) inserting the following new subsections immediately after subsection (1) -

(1A) The secretary to the board shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board.

(1B) In nominating or appointing a person as a member of the Board, the Governor shall—

(a) observe the principles of gender equity, ethnic and other diversities of the people of Kenya, and shall provide an equal opportunity for persons with disabilities; and

...../Amendments

No. 52 of  
2012.

- (b) take into account the national values and principles set out in Articles 10, 27 and 232 of the Constitution.
- (b) subsection (3) by deleting paragraph (c) and substituting therefor the following new paragraph -
  - (c) in the case of the chairperson -
    - (i) possesses a minimum of a bachelors degree from a university recognised in Kenya;
    - (ii) is registered as a human resource management professional of good standing under the Human Resource Management Professionals Act; and
    - (iii) has at least ten years working experience in a managerial position either in the public or private sector.

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**APPENDIX****1. PETITION**

Petition to the Senate by Residents of Kangemi, Mountain View, Uthiru, 87, Kinoo, Muthiga, Zambezi and Kamandura on compensation and resettlement of persons affected by the rehabilitation and capacity enhancement of James Gichuru Road Junction-Rironi Highway (A104) Project.

*(Sen. Kimani Wamatang'i, MP)*

**2. NOTICES OF MOTION****(i) THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

(Sen. (Canon) Naomi Waqo Jilo, MP)

**AWARE THAT**, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

**FURTHER AWARE THAT**, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

**COGNIZANT** that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People's Rights of the Right of Women which are international instruments that are key to promoting women's rights;

**RECALLING** that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

**NOTING THAT**, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

**CONCERNED** that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

**NOW THEREFORE THE SENATE RESOLVES**

- 1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
- 2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

...../Appendix



- (ii) **REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS' INFRASTRUCTURE PROJECTS**  
(Chairperson, Standing Committee on Finance and Budget)

**THAT**, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments' infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers' residences, laid on the Table of the Senate on Thursday, 29<sup>th</sup> November, 2018.

3. **STATEMENTS PURSUANT TO STANDING ORDER NO. 48(1)**

- a) Nominated Senator (Sen. Millicent Omanga, MP) to seek a statement from the Standing Committee on Justice, Legal Affairs and Human Rights on the compulsory management of copyright and other related rights.
- b) The Senator for Taita Taveta County (Sen. Johnes Mwaruma, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources regarding the status of Voi Sisal Estate.

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