



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – (FIFTH SESSION)

THE SENATE

ORDER PAPER

SPECIAL SITTING

THURSDAY, JANUARY 27, 2022 AT 10.00 AM

PRAYER

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements

8. **COMMITTEE OF THE WHOLE**

***THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO. 22 OF 2021)**
(Sen. (Dr.) Alice Milgo, MP)

(Resumption of debate interrupted on Tuesday, 25th January, 2022)

(Division)

9. **COMMITTEE OF THE WHOLE**

***THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 17 OF 2021)**
(Sen. Ledama Olekina, MP)

(Resumption of debate interrupted on Wednesday, 22nd December, 2021 – Morning Sitting)

(Division)

...../Bills

10. **COMMITTEE OF THE WHOLE**

***THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILLS NO. 38 OF 2021)**

(Sen. Moses Kajwang, MP)

(Resumption of debate interrupted on Wednesday, 22nd December, 2021 – Morning Sitting)

(Division)

11. **COMMITTEE OF THE WHOLE**

****THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL (SENATE BILLS NO. 37 OF 2021)**

(The Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

(Resumption of debate interrupted on Wednesday, 22nd December, 2021 – Morning Sitting)

(Division)

...../Notice

NOTICE

NOTICE is given that, pursuant to Standing Order 251A and 251B, the sitting will be a hybrid sitting consisting of Senators who are physically present in the Senate Chamber and Senators participating virtually from a remote location through **Zoom** online meeting platform, as per guidelines issued by the Speaker pursuant to Standing Order 251A (4).

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KEY

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

***- Denotes a National Assembly Bill

** - Denotes a Committee Bill

*- Denotes any other Bill

...../Notice of Amendments

A. *THE HERITAGE AND MUSEUMS BILL (SENATE BILLS NO. 22 OF 2021)

(Sen. (Dr.) Alice Milgo, MP)

NOTICE is given that the Chairperson, Standing Committee on Labour and Social Welfare, intends to move the following amendment to the Heritage and Museums Bill, 2021, Senate Bills No. 22 of 2021, at the Committee Stage—

CLAUSE 4

THAT the Bill be amended by deleting clause 4.

CLAUSE 5

THAT clause 5 of the Bill be amended by—

- (a) inserting the following new paragraph immediately after paragraph (b) –
 - (ba) identify and manage grade I heritage resources in accordance with this Act; and
- (b) deleting paragraphs (d) and (e).

CLAUSE 7

THAT clause 7 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b) –

- (ba) identify and manage grade II heritage resources in accordance with this Act.

CLAUSE 8

THAT clause 8 of the Bill be amended—

- (a) in subclause (1) by deleting paragraph (d) and substituting therefor the following new paragraph—
 - (d) three persons representing scientific, arts and general outstanding interest in, and contribution to the work of, the national heritage, one of whom shall be nominated by Nature Kenya;

CLAUSE 34

THAT the Bill be amended by deleting clause 34.

CLAUSE 35

THAT the Bill be amended by deleting clause 35.

CLAUSE 36

THAT the Bill be amended by deleting clause 36.

CLAUSE 37

THAT the Bill be amended by deleting clause 37.

...../Amendments

CLAUSE 38

THAT the Bill be amended by deleting clause 38.

CLAUSE 39

THAT the Bill be amended by deleting clause 39.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 2—

**PART IA - SYSTEM FOR MANAGEMENT OF NATIONAL
HERITAGE RESOURCES**

General
principles.

2A. (1) Every person shall, in the management of heritage resources, take into account —

- (a) the lasting value of natural resources to the Kenyan society;
 - (b) the valuable, finite, non-renewable and irreplaceable nature of the resources and the need to ensure their survival;
 - (c) the responsibility by every generation to act as trustee of the national heritage for succeeding generations;
 - (d) the need to promote the interests of all Kenyans;
 - (e) the need to promote reconciliation, understanding and respect, take account of all relevant cultural values and indigenous knowledge systems;
 - (h) the involvement of communities in the management of heritage resources;
 - (i) the respect of cultural values and the dignity of the communities to whom the resource is connected;
 - (j) the need ensure that the process and resources are researched, documented and recorded; and
 - (k) the need to guard against the use of heritage for sectarian purposes or political gain.
- (2) To ensure that heritage resources are effectively managed—
- (a) the skills and capacities of persons and communities involved in heritage resources management shall be developed; and
 - (b) provision shall be made for the ongoing education and training of existing and new heritage resources management workers.

...../Amendments

Heritage
assessment
criteria and
grading.

2B. The National Museums of Kenya shall, in consultation with the Cabinet Secretary and the county executive committee member in each county prescribe a system of grading of places and objects which form part of the national heritage and shall distinguish between—

- (a) grade I category consisting of heritage resources with qualities so exceptional that they are of special national significance;
- (b) grade II consisting of heritage resources which, although forming part of the national heritage, can be considered to have special qualities which make them significant within the context of a county or a region; and
- (c) such other grade assessment criteria as the National Museum of Kenya shall consider appropriate.

NEW CLAUSE 7A

THAT the Bill be amended by inserting the following new clause immediately after clause 7—

County
museum.

7A. (1) A county executive committee member may establish a county museum for the management of the heritage resources within the respective county.

(2) Notwithstanding the generality of subsection (1), a county museum shall—

- (a) advise the county executive committee member on the implementation of this Act or relevant county legislation;
- (b) submit an annual report to the county executive committee member regarding its activities for each financial year;
- (c) promote the systematic identification, recording and assessment of heritage resources and heritage objects which form part of the national heritage in a county;
- (d) protect and manage heritage resources in a county which fulfil the heritage assessment criteria prescribed under this Act for grade II status;
- (e) notify the National Museums of Kenya of the presence of any heritage resource in the county which fulfils the heritage assessment criteria prescribed under this Act for grade I status;
- (f) maintain data bases on heritage resources in accordance with national standards, and at regular intervals furnish the National Museums of Kenya with such data; and
- (g) establish policy, objectives and strategic plans for heritage resources management in the county.

NEW CLAUSES

THAT the Bill be amended by inserting the following new clauses immediately after clause 33—

Petition for
declaration of
National and
county
heritage sites.

33A. (1) A person may petition –

- (a) the National Museums of Kenya for a place to be declared a national heritage site; or
- (b) the respective county museum for a place to be declared a county heritage site.

(2) The Cabinet Secretary shall develop regulations on petitions for declaration of National and county heritage sites.

Inventory of
national
heritage.

33B. (1) The National Museums of Kenya shall keep and maintain an inventory of national heritage.

(2) The inventory of national heritage shall be in the form of a data base of information on heritage resources, including—

- (a) an object, monument or protected area declared this Act to be a protected object, monument or protected area;
- (b) all places and objects protected through the publication of notices in the *Gazette* or *county gazette*, whether under this Act or a county legislation; and
- (c) places and objects subject to general protection under this Act or a county legislation for the management of heritage resources.

(3) The National Museums of Kenya shall list heritage resources in the inventory under the categories prescribed under this Act.

(4) The National Museums of Kenya shall from time to time, and in consultation with the relevant county museum review and update the inventory of national heritage.

(5) The National Museums of Kenya shall make the inventory of national heritage accessible to members of the public.

(6) The National Museums of Kenya shall, at regular intervals, publish a summary and analysis of the inventory of national heritage.

Heritage
registers.

33C. (1) A county museum shall compile and maintain heritage register specifying the heritage resources in the respective county in accordance with this Act.

(2) A county museum shall, in the heritage register, set out the heritage resources in accordance with—

- (a) the sub categories prescribed under this Act;
- (b) the area of jurisdiction; and
- (c) such other categories as the Cabinet Secretary shall prescribe.

(3) The respective county executive committee member shall prescribe the procedure and information required for—

- (a) the entry of a resource into the heritage register; and
- (b) the compilation of an inventory of heritage resources.

(4) A county museum may approve an application for the entry of heritage resource in the heritage register submitted to it by any person in the prescribed form.

(5) A county museum shall not enter a place in a heritage register unless the museum has consulted with owner of such place regarding the protection of that place.

National
heritage
resources
assistance
programme.

33D. (1) The National Museums of Kenya may provide financial assistance in the form of a grant or a loan to an approved body or an individual for a project in line with the provisions and the principles prescribed under this Act.

(2) The Cabinet Secretary shall, in consultation with the National Museums of Kenya, prescribe the procedure for the application for approval and granting of financial assistance and the criteria for the assessment of projects.

Heritage
agreements.

33E. (1) The National Museums of Kenya or a county museum may enter into an agreement with a conservation body, a person, or a community for the conservation or improvement of a heritage resource.

(2) A heritage agreement may provide for—

- (a) the maintenance and management of a heritage resource;
- (b) the custody of the resource;
- (c) the occupation or use of the place by the owner;
- (d) the facilities of access to be permitted to the public;
- (e) the payment of any expenses incurred by the owner in connection with the maintenance of the heritage resource;
- (f) the duration of the agreement; and
- (g) the procedure for the resolution of any dispute arising out of the agreement.

Compulsory
repair order.

33F. The National Museums of Kenya or a county museum may, where it appears that any place or object is in imminent danger of serious damage or destruction and requires to be protected by a declaration under this Act, make an order protecting the said place or object in the prescribed manner.

Heritage
areas.

33G. (1) The National and county governments shall at the time of revision of a national or county planning laws, or the compilation or revision of a spatial plan, take into account the need for the designation of heritage areas to protect any place of environmental or cultural interest.

(2) A county government may, by notice in the *county gazette*, designate any area or land to be a heritage area if such area or land is of environmental or cultural interest or has heritage resources.

(3) A county government shall provide for the protection of a heritage area through the provisions of its planning laws or legislation.

Burial
grounds and
graves.

33H. (1) Where it is not the responsibility of any other body, the National Museums of Kenya shall conserve and generally care for burial grounds and graves protected under this Act.

(2) The National Museums of Kenya shall identify and record the graves of victims of conflict and any other graves which it considers to be of cultural significance and may, for this purpose, erect memorials associated with the graves and maintain such memorials.

(3) A person shall not, unless such person has applied for and obtained a permit from by the National Museums of Kenya or a county museum—

- (a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof which contains such graves;
- (b) destroy, damage, alter, exhume, remove from its original position or otherwise disturb any grave or burial ground older than sixty years which is situated outside a formal cemetery administered by a county government; or
- (c) bring onto or use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment which assists in the detection or recovery of metals.

(4) The National Museums of Kenya or a county museum may not issue a permit for the destruction or damage of any burial ground or grave referred to in subsection (3) unless it is satisfied that the applicant has made satisfactory arrangements for the exhumation and re-interment of the contents of such graves, at the cost of the applicant.

Establishment
of research
institutions
No. 28 of
2013.

33I. (1) The Cabinet Secretary may, on the recommendation of the National Museums of Kenya, by notice in the *Gazette* establish research institutes and grant a Certificate of Registration in accordance with the provisions of the Science, Technology and Innovation Act.

(2) The research institutes established under subsection (1) may research and conduct other activities of –

- (a) scientific, natural, cultural or technological importance by means of exploration and field investigations, data analysis, public programmes, exhibitions, tours or publications;

- (b) biomedical importance by use of non-human primates and other animal models;
 - (c) importance to conservation of biodiversity, including identification, documentation, establishment and curation of a national biodiversity inventory;
 - (d) research in fields of ancient, historical, scientific, cultural, natural, technological, biomedical and human interest; and
 - (e) dissemination and transmission of knowledge from research on cultural heritage, natural heritage, biomedical, ancient and historical monuments and sites of national importance.
- (3) An order under this section may specify—
- (a) that the institute to which it relates shall have corporate personality;
 - (b) the duties, powers and functions of the institute;
 - (c) the manner in which the institute shall be governed; and
 - (d) such other matters with respect to the conduct and management of the institute, as the Cabinet Secretary may find it necessary or desirable to provide for.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “heritage”—

“living heritage” means the intangible aspects of inherited culture, and may include—

- (a) cultural tradition;
- (b) oral history;
- (c) performance;
- (d) ritual;
- (e) popular memory;
- (f) skills and techniques;
- (g) indigenous knowledge systems; or
- (h) the holistic approach to nature, society and social relationships;

...../Amendments

B. THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL, 2021 (SENATE BILLS NO. 17 OF 2021)

(Sen. Lekama Olekina, MP)

NOTICE is given that the Chairperson, Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Oversight and Accountability Bill, Senate Bills No. 17 of 2021, at the Committee Stage –

CLAUSE 5

THAT clause 5 of the Bill be amended –

- (a) in subclause (1) by deleting the word “shall” appearing immediately after the words “each county government” and substituting therefor the word “may”;
- (b) in subclause (2) by deleting the word “shall” appearing immediately after the words “A county government” and substituting therefor the word “may”;

CLAUSE 17

THAT clause 17 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

- (1) A Senator may facilitate public participation through public awareness campaigns in the respective county.

CLAUSE 19

THAT clause 19 of the Bill be amended in subclause (2) by deleting the words “County Assembly” appearing immediately after the words “The Clerk of the” and substituting therefor the word “Senate”.

...../Amendments

C. THE COUNTY GOVERNMENTS (AMENDMENT) BILL, 2021 (SENATE BILLS NO. 38 OF 2021)

(Sen. Moses Kajwang' MP)

NOTICE is given that the Chairperson, Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the County Governments (Amendment) Bill, Senate Bills No. 38 of 2021, at the Committee Stage –

CLAUSE 4

THAT clause 4 of the Bill be amended –

(a) in the proposed new section 91A(1) by deleting paragraph (h); and

(b) in the proposed new section 91B by deleting the word “determine” appearing at the beginning of the paragraph (a) and substituting therefor the words “consult on”.

...../Amendments

D. THE INTERGOVERNMENTAL RELATIONS (AMENDMENT) BILL, 2021
(SENATE BILLS NO. 37 OF 2021)

(Chairperson, Standing Committee on Devolution and Intergovernmental Relations)

NOTICE is given that the Chairperson, Standing Committee on Devolution and Intergovernmental Relations, intends to move the following amendments to the Intergovernmental Relations (Amendment) Bill, 2021, at the Committee Stage –

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new paragraph immediately after the proposed paragraph (n) –

(na) conditions for the termination of the agreement.

CLAUSE 3

THAT clause 3 of the Bill be amended by inserting the following new section immediately after the proposed section 26F –

Role of Technical Committee in transfer or delegation of powers, functions and competencies.	<p>26G. The Technical Committee shall, in undertaking duties under this Part –</p> <p>(a) witness the execution of a transfer or delegation of a power, function or competency;</p> <p>(b) provide administrative support to the parties to the transfer agreement during the transfer process; and</p> <p>(c) prepare and maintain an inventory of assets and liabilities of the transferred functions.</p>
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