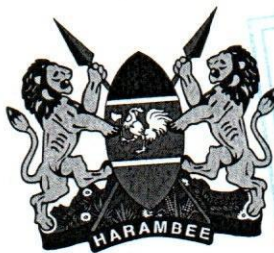


REPUBLIC OF KENYA



TWELFTH PARLIAMENT

SIXTH SESSION

THE SENATE

THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK AND
FISHERIES

REPORT ON THE CONSIDERATION OF THE IRRIGATION (AMENDMENT)
BILL,

(NATIONAL ASSEMBLY BILL No. 12 of 2021)

Clerk's Chambers
Parliament Buildings,
NAIROBI

PAPERS LAID	
DATE	23/3/22
TABLED BY	Sen. Faruqi
COMMITTEE	—
CLERK AT THE TABLE	A. Z. Mohamed

MARCH, 2022

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ABBREVIATIONS

COG	-	Council of Governors
CoK	-	Constitution of Kenya, 2010

PREFACE

Mr. Speaker Sir,

Establishment of the Committee

The Senate Standing Committee on Agriculture, Livestock and Fisheries was constituted on Wednesday, 24th June, 2020 during the Fourth Session of the Twelfth (12th) Parliament pursuant to the provisions of standing order 187 (1) of the Standing Orders of the Senate which states:

“Unless otherwise provided by any written law or these Standing Orders, the Senate Business Committee shall, in consultation with Parliamentary Parties, nominate Senators who shall serve on a Select Committee.”

Mandate of the Committee

The Standing Committee on Agriculture, Livestock and Fisheries is mandated under the Second Schedule of the Standing Orders to consider all matters relating to agriculture, irrigation, livestock, fisheries development and veterinary services.

Oversight

In executing its mandate, the Committee oversees the following Government Departments and agencies, namely-

- i. The State Department for Crops Development and Agricultural Research;
- ii. The State Department for Livestock;
- iii. The State Department for Fisheries, Aquaculture and the Blue Economy; and
- iv. The State Department for Irrigation.

Membership of the Committee

The Committee is comprised of the following Members-

- | | |
|---|--------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - Chairperson |
| 2. Sen. Enoch Wambua, MP | - Vice-Chairperson |
| 3. Sen. Kipchumba Murkomen, EGH, MP | |
| 4. Sen. (Canon) Naomi Jillo Waqo, MP | |
| 5. Sen. (Dr.) Michael Malinga Mbiti, MP | |
| 6. Sen. (Eng.) Ephraim Maina, EBS, MP | |
| 7. Sen. Justice (Rtd.) Madzayo Stewart Mwachiru, MP | |
| 8. Sen. Issa Juma Boy, MP | |

Secretariat of the Committee

The Committee secretariat is comprised of –

- | | |
|-----------------------|---------------------------|
| 1. Ms. Carol Kirorei | - Clerk Assistant |
| 2. Mr. David Angwenyi | - Clerk Assistant |
| 3. Ms. Regina Munyao | - Legal Counsel |
| 4. Mr. Tiyan Joseph | - Research Officer |
| 5. Ms. Njeri Manga | - Media Relations Officer |
| 6. Ms. Mary Nyawira | - Audio Officer |
| 7. Mr. Alex Mutuku | - Serjeant-At-Arms |
| 8. Mr. Godana Mamo | - Serjeant-At-Arms |

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate for the support extended to it in the consideration of the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021).

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 213 (6), to present the Report of the Standing Committee on Agriculture, Livestock and Fisheries on the consideration of the Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021) for consideration by the House.

Signed.....



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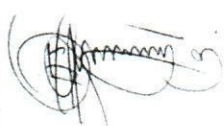
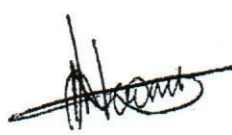
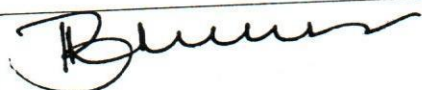
Date.....12/3/2022.....

SEN. PETER NJERU NDWIGA, EGH, M.P.

CHAIRPERSON

**REPORT ON THE CONSIDERATION OF THE IRRIGATION (AMENDMENT)
BILL, (NATIONAL BILLS NO. 12 OF 2021)**

MEMBERS' ADOPTION LIST

NO	NAME	SIGNATURE
1.	Sen. Njeru Ndwiga, EGH, MP Chairperson	
2.	Sen. Enoch Wambua, MP Vice-Chairperson	
3.	Sen. (Canon) Naomi Waqo, MP	
4.	Sen. Kipchumba Murkomen, EGH, MP	
5.	Sen. (Dr.) Michael Mbiti, MP	
6.	Sen. Issa Juma Boy, MP	
7.	Sen. Justice (Rtd.) Stewart Madzayo, MP	
8.	Sen. (Eng.) Ephraim Maina, EBS, MP	

EXECUTIVE SUMMARY

The Irrigation (Amendment) Bill, (National Assembly Bill No. 12 of 2021) was read a First Time in the Senate on Wednesday, 3rd November, 2021 and thereafter stood committed to the Senate Standing Committee on Agriculture, Livestock and Fisheries.

Pursuant to the provisions of Article 118 (1) (b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, the Senate Standing Committee on Agriculture, Livestock and Fisheries invited interested members of the public to submit their views on the Bill through advertisements in The Standard and The Daily Nation newspapers on 8th November, 2021. The Committee received submissions from various stakeholders and also held a meeting with the Ministry of Water, Sanitation and Irrigation on 30th November, 2021 to consider the provisions of the Bill.

At its 158th Sitting held on 2nd February, 2022, the Committee considered the submissions on the Bill. The Committee thereafter, considered the proposed amendments and came up with its recommendations for amendment to the Bill.

Chapter One of this report contains an overview of the Bill setting out the salient provisions contained in it. Chapter Two of the report documents all the submissions received from the various stakeholders. Chapter Three contains the Committee observations and finally, Chapter Four contains the Committee Recommendations.

1.0 INTRODUCTION

1.1 Overview of the Bill

The object of the Irrigation (Amendment) Bill, (National Assembly Bill No. 12 of 2021) seeks to amend the Irrigation Act, No. 14 of 2019 to expand the administration and management of irrigation matters in Kenya. The Irrigation Act, No. 14 of 2019 was enacted in 2019 and came into operation on the 16th August, 2019. The Act is still fairly new.

Clause 2 of the Bill seeks to amend Section 2 of the Irrigation Act, No. 14 of 2019 to amend the definition of some terms and also introduce new definitions as follows-

- i. **"Department"** means the State Department responsible for matters relating to irrigation;
- ii. The Bill defines **"irrigation"** as "any hydraulic engineering driven process which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees."

The Act currently defines irrigation as "any process, other than by natural precipitation, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees.";

- iii. **"Agency Contract"** means a legal agreement creating a fiduciary relationship whereby the principal agrees that subsequent actions by the agent are binding as if the principal acted thereon;
- iv. **"Council of Governors"** means Council of County Governors established under the Intergovernmental Relation Act, 2021;
- v. **"Irrigators"** means persons or entities which own, operate or manage an irrigation scheme;

- vi. **“National irrigation scheme”** means an area of land designated as such by the Cabinet Secretary through a gazette notice;
- vii. **“Transboundary, trans county and inter county irrigation scheme”** means a scheme whose area of coverage lies across at least two administrative county boundaries; and
- viii. **“Strategic irrigation scheme”** means a national or a county scheme which serves a specific production purpose.

Clause 3 of the Bill seeks to amend Section 3 of the Act on the application of the Act to forbid management and regulation of irrigation outside the purview of the Act.

Clause 4 of the Bill seeks to amend section 6 of the Act on the role of the National Government to provide for regulation as one of the responsibilities of the National Government.

Clause 6 of the Bill seeks to amend section 9 of the Act to provide for additional requirements on appointment of members of the Authority. These requirements include-

- i. under paragraph 9(g) the nominees by the Council of County Governors to be of opposite gender and be from different regions;
- ii. to have Knowledge and experience in irrigation or related fields; and
- iii. the nominating bodies to provide a list of nominees with several names from where the Cabinet Secretary will appoint members of the Board.

Clause 9 of the Bill seeks to amend section 15 of the Act to provide for the Cabinet Secretary to consult with the Water Resources Authority regarding putting in place appropriate water use fees structure and in requisitioning for irrigation water in bulk.

Clause 10 of the Bill seeks to amend section 16 of the Act on setting apart of land and land rights to vest acquired land rights to the Authority. The Act currently vests these rights on the Department of Irrigation.

Clause 11 of the Bill seeks to amend section 17 of the Act, on administrative and legal framework on water storage. The Bill provides in clause 11(1) for consultation with the Water Resource Authority Secretary, the National Water Harvesting and Storage Authority and the National Land Commission, when prescribing administrative and legal framework on water harvesting. The Act currently provides for consultation with only the Council of County Governors.

Further in Clause 11(2) the Bill ousts the requirement for the Cabinet Secretary to consult with the Council of County Governors in ensuring that developments are planned and implemented in accordance with the law.

Clause 12 of the Bill seeks to amend section 20 of the Act which provides for formation of irrigation and water users associations to require that the formation of the association be subject to mandatory approval in accordance with regulations. Under the Act registration of associations does not require any approval.

Clause 13 of the Bill seeks to amend section 22(d) of the Act on annual estimates by expanding the areas which the Authority may make provision to include estimated expenditure for development of infrastructure for development of irrigation and estimated expenditure for provision of irrigation services and support.

Clause 14 of the Bill seeks to amend section 27 of the Act on monitoring and evaluation to include Regulations as one of the areas where the Cabinet Secretary may develop and implement monitoring and evaluation systems.

Clause 15 of the Bill seeks to amend section 34 of the Act on making of regulations to include-

(j) development of irrigation including infrastructure, frameworks, complementary installations, water harvesting, storage, distribution and licensing

(k) multi- government agencies consultation, collaboration, corporation and accountability in the implementation of this Act.

Further, the Bill proposes to amend section 34 (4) by increasing the publication period of regulation from ninety (90) days to within eighteen (18) months of the enactment the amendment Act or as otherwise determined upon consultation with stakeholders.

Clause 16 of the Bill seeks to amend the Schedule in –

- i. Paragraph 2 on vacation of office to provide that a member may be removed from the office by the Cabinet Secretary on the recommendation of the Board, by contravening the provision of Chapter Six of the Constitution; and acts in contravention of codes, policies and procedures in public service and of the co-operative societies;
- ii. Paragraph 3 by reducing the number of members required to form quorum for business from seven (7) to five (5).

2.0 SUBMISSIONS

2.1 Submissions from the Ministry of Water, Sanitation and Irrigation

At a meeting held on Tuesday, 30th November, 2021, the Committee held a meeting with the Principal Secretary, Ministry of Water, Sanitation and Irrigation, Mr. Joseph Irungu, CBS. He stated that though the Irrigation Act, 2019 was a progressive piece of legislation that had brought about positive gradual reforms in the irrigation sector, certain gaps and inconsistencies had been identified which would ultimately require some minimal amendments in order to ensure effective and seamless implementation of the Act. These areas of concern include-

1. omission of key terms from the definitions, even though these terms have been widely referred to under various sections of the Act;
2. lack of flexibility by the Appointing Authority in terms of Board appointments in order to meet the threshold of Article 6 of the Constitution and the Mwongozo Code of Governance for State Corporations as well as other governing legislations;
3. need for harmonization with the provisions of the Water Act, 2016 and related regulations e.g. the Water Resources Regulations; and
4. extension of time for publication of regulations owing to the extensive stakeholder consultation involved in the sub-sector.

A summary of the proposed amendments to the Act and their justifications were provided as follows-

	CURRENT POSITION	PROPOSED AMENDMENTS	JUSTIFICATION
2.	Proposal to amend Section 2 of the principal Act; “Department” means State Department for Irrigation.	Amend the definition of Department as follows: “Department” means State Department responsible for matters	To allow flexibility of the Head of State when constituting Government Ministries and to ensure adequacy and flexibility of the Irrigation Act regardless

		relating to Irrigation.	of the Ministry where the Department may fall.
	"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.	Amend the definition of irrigation to read as follows: "Irrigation" means any hydraulic engineering driven process, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees.	To expound and bring clarity on the proper meaning of irrigation as per the technical definition.
	agency contract" Not defined under current legislation.	To introduce the definition of agency contract as: "Agency contract" means a legal agreement creating a fiduciary relationship whereby the principal agrees that subsequent actions by the agent are binding as if the principal acted thereupon.	To introduce the legal definition of "agency contract".
	"Council of Governors" Not defined in current legislation.	To introduce the definition of Council of Governors as follows: "Council of Governors" means the Council of County Governors established under the Intergovernmental Relations Act, 2012.	To introduce a new definition into the Act.
	"Irrigators" Not defined in current legislation.	"Irrigators" means the persons or entities which own, operate or manage an irrigation scheme.	To introduce a new definition into the Act of the irrigation farmers.
	"National Irrigation Scheme" means an area of land designated as such by the Authority through a	To amend the definition as follows: "National Irrigation Scheme" means an area of	To give specificity as to the nature of notice, and clarify proper meaning of what constitutes a national

	notice'	land designated as such by the Cabinet Secretary through a gazette notice"	irrigation scheme.
	"Transboundary, trans-county or inter-county irrigation scheme" Not defined under current legislation.	To introduce a new definition as follows: "transboundary, trans-county or inter county irrigation scheme" means a scheme whose area of coverage lies across at least two administrative county boundaries	To introduce a new definition.
	"Strategic Irrigation Scheme" Not defined under current legislation.	To introduce a new definition as follows: "Strategic Irrigation Scheme" means a national or a county scheme which serves a specific production purpose.	To introduce the definition of strategic irrigation scheme which is mentioned in the Act, which the Cabinet Secretary has the responsibility of developing and managing, but has not been defined.
3.	Proposal to amend Section 3 of the principal Act which reads as follows: 3(2) upon commencement of this Act, no irrigation development may be carried in Kenya otherwise than under this Act.	Amended to insert the words- "management and regulation" immediately after "development"	To expound and expand the scope of application of the Irrigation Act.
4.	Proposal to amend Section 6(2) of the principal Act which reads as follows; 6(2) "Without prejudice to the generality of the foregoing, the Cabinet Secretary shall have responsibility with regard to development and management of irrigation to-	Section 6(2) is amended to read as follows: a) By deleting the words "and management" in the opening statement and substituting it with "management and regulation".	Expand the role of the national government by introducing the aspect of regulation which is a national function vested in the Cabinet Secretary.

	6(2)(h) Report to both houses of Parliament annually, and from time to time as may be necessary, on the state of, and needs for, irrigation development and management in the country.	b) Deleting the words "and management" in paragraph (h) and substituting it with "management and regulation".	
	Section 6(2)(i) of the Principal Act: (I) In collaboration with county governments, gather information and maintain data bases on irrigation development and management including data on irrigation water supplies, demands, projects, irrigated areas, management performance, potential for expansion and human resources	Section 6(2) (i) is amended to read as follows: c) Deleting "management" in paragraph (I) and substituting it with "management and regulation".	Expand the role of the national government by introducing the aspect of regulation which is a function vested in the Cabinet Secretary.
5.	Proposal to amend Section 8 of the principal Act in subsection (2) (j) which reads as follows: 8(2)(j) Provide land in national irrigation schemes for public purposes.	To amend 6(2) (j) by substituting it as follows: (j) provide, manage, and administer land in national or public irrigation schemes as well as inter-county schemes for public use.	To expand the functions of the Authority in relation to public and inter-county schemes.
6.	Proposal to amend Section 9 of the principal Act which reads as follows; Section 9(1) (f) two persons nominated by the Council of County Governors and appointed by the Cabinet Secretary;	To amend Section 9(1) and delete the following paragraphs and substitute them as follows: (f) Two persons of opposite gender and from different regions, with knowledge and experience in matters relating to	To ensure flexibility of the appointing authority in appointment and constitution of Board members and to enhance adherence and conformity to Chapter Six of CoK 2010 and also a mix of skills and professionalism in the Board.

	water, agriculture, irrigation or environmental studies, appointed by the Cabinet Secretary from a list of four nominees submitted by the Council of County Governors	
9(1) (g) "One person nominated by the registered association representing the largest number of entities in the private sector in Kenya and appointed by the Cabinet Secretary"	g) One person with knowledge and experience in matters relating to civil engineering, economics, finance or rural development, appointed by the Cabinet Secretary from a list of three nominees submitted by a registered private sector membership organization with a national outlook	To ensure flexibility of the appointing authority in appointment and constitution of Board members and to enhance adherence and conformity to Chapter six of CoK, 2010 and also a mix of skills and professionalism in the Board.
Section 9(1) (h) One person nominated by irrigation farmers associations and appointed by the Cabinet Secretary	(h) Two persons appointed by the Cabinet Secretary out of four persons nominated by the National Irrigation Farmers Association;	To ensure flexibility of the appointing authority in appointment and constitution of Board members and to enhance adherence and conformity to Chapter six of CoK 2010 and principles of corporate governance.
	To insert the following new paragraph immediately after paragraph (h) above as follows; (i) the Attorney General or his representative	To guide and advise the Board taking into account the complexity and magnitude of irrigation infrastructure projects
Section 9(5) – the Board may from time to time establish committees for better carrying out of its functions.	To delete Section 9 (5) and substitute as follows: 9(5) the Board shall adhere to the principles of	To enhance adherence and conformity to Chapter six of CoK 2010 and principles of Corporate governance by the

		corporate governance and may from time to time establish committees for the better carrying out of its functions.	Board.
7	Proposal to amend Section 11 ((2) (g)) of the principal Act which reads as follows: 11(2)(g)- undertake any activity necessary for the fulfillment of any of the functions of the Authority	Section 11(2)(g) is amended by inserting the word " other " immediately before the word " activity "	Specificity.
8	Proposal to amend Section 13 of the Principal Act which reads as follows; 13. Subject to the provisions in Section 34 regarding transitional arrangements, the Authority may engage such other officers and staff as it may consider sufficient for the performance of its functions under this Act on such terms and conditions as are provided in approved establishment	To amend Section 13 by deleting the expression " Section 34 " and substituting it for the expression " Section 35 "	To correct an error and give reference to the right provision of the Act which is Section 35 under Part X on repeals and transitional provisions.
9	Proposal to amend Section 15 (2)(a) of the Principal Act which reads as follows: 15.(2)(a) approve appropriate tariff structures and make arrangements with the Water Resources Authority in respect of requisition of	To amend Section 15(2)(a) by substituting it as follows; 15(2)(a)- In consultation with the Water Resources Authority, put in place appropriate water use fee structures and make arrangements with the Water Resources Authority	To harmonize the provisions of the Irrigation Act with those of Water Act and ensure compliance with water resources rules and regulations

	irrigation water in bulk	in respect of requisition of irrigation water in bulk	
10.	Section 16(2) and 16(3) of the principal Act are amended 16(2) – in respect of land, other than public land, in a national or public irrigation scheme, the Cabinet Secretary shall in accordance with the law for the time being relating to the compulsory acquisition of land, take such steps as may be necessary to acquire the right, title or interest in such land and to vest it in the Department for the purposes of this Act.	Section 16 (2) and (3) are amended by deleting the words “the Department” and substituting with the words “the Authority”	Proposal for Section 16(2) to be retained as it is in the parent Act. With the expanded definition of ‘Department’ under Section 2 of the amendments, land should vest in the Department under the control of the Ministry.
	16(3) in case of community land forming part of a national or public irrigation scheme, the Cabinet Secretary, on behalf of the Department, may take the land on lease and on terms to be agreed on between the Cabinet Secretary and the county government concerned.		To be vested in the Authority as per the provisions of the Act.
11.	Proposal to repeal Section 17 of the principal Act in its entirety; Section 17(1)- the Cabinet Secretary shall in consultation with the council of county governors prescribe administrative and regulatory	Section 17 is repealed and replaced with the following: Section 17(1) The Cabinet Secretary shall in consultation with the Water Resources Authority, the National	To incorporate key stakeholders who were previously omitted, in prescription of administrative and legal framework for water storage.

	framework- (a) For management and development of water storage infrastructure, and flood control and land reclamation, dams and dykes; (b) For water storage creation requirement on all existing and future irrigation projects	Water Storage and Harvesting Authority, the National Land Commission, the Council of Governors and other stakeholders prescribe administrative and regulatory frameworks within the existing laws and regulations on water storage for existing and future irrigation requirements	
	Section 17 (2) Despite the provisions under subsection (1), the Cabinet Secretary shall, in consultation with the county governments, ensure that irrigation developments are planned and implemented within the framework of Integrated Water Resources Management, and in accordance with agreements between irrigation and other stakeholders, in such a manner as to reduce water resource conflicts, protect the environment and public health and share water appropriately and equitably for multiple uses.	Section 17 is repealed and replaced with the following; (2)- without prejudice to subsection (1) the Cabinet Secretary shall ensure that irrigation developments are planned and implemented- (a) In accordance with Integrated Water Resources Management Principles; (b) In accordance with agreements between irrigation water users and other stakeholders; In such a manner as to reduce conflicts on water resources, protect the environment and public health and share water appropriately and equitably for multiple uses	To incorporate key stakeholders who were previously omitted, in prescription of administrative and legal framework for water storage

12	Proposal to amend Section 20 (3) of the principal Act which reads as follows; 20(3) - An Association may, with the approval of 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	Section 20(3) is amended by inserting the words "subject to mandatory approvals" immediately after the word "a scheme"	Taking into consideration other mandatory legal and regulatory approvals prior to improvements of schemes by Irrigation Water Users Associations.
13.	Proposal to amend Section 22(2) of the principal Act to introduce paragraphs (e) and (f) which are currently not in the Act	Section 22(2) is amended by inserting the following new paragraphs; (e) estimated expenditure for development of irrigation; (f) Estimated expenditure for the provision of irrigation and advisory support	To provide for additional information to be contained in annual expenditure estimates for the Authority
14.	Proposal to amend Section 27 subsection (1) (a) which reads as follows; Section 27(1) (a) - develop and implement a monitoring and evaluation system for the development, governance, management and financing of irrigation at all levels, and this may include assessment of inputs, immediate	To amend Section 27(1)(a) to read as follows; (a) develop and implement a monitoring and evaluation system for the development, governance, management, regulation, provision and financing of irrigation at all levels, including assessment of inputs, outputs, immediate	Introduce the aspect of regulation during monitoring and evaluation.

	outcomes and ultimate impacts based on the results;	outcomes and ultimate impacts based on the results	
15.	Section 34 (3) (a) of the principal Act is amended by adding new paragraphs that are not in the current Act	Section 34(3) is amended to introduce the following new paragraphs immediately after Paragraph (i); (j) development of irrigation including infrastructure, frameworks, complementary installations, water harvesting, storage, distribution and licensing; and (k) multi-government agencies consultation, collaboration and accountability in the implementation of this Act	To provide for Regulations to be developed on irrigation infrastructure and water storage. To provide for stakeholder consultations and collaborations.
	Proposal to amend Section 34(4) to enhance the timeframe for publishing regulations; 34(4): The Cabinet Secretary shall publish the regulations required under this Act in the Gazette within ninety days of the enactment of this Act	34(4) is amended by deleting the words “within ninety days of the enactment of this Act” appearing immediately after the words “the gazette” and substituting it for “within eighteen months of the enactment of this Act or as otherwise determined upon consultation with stakeholders”.	To enhance the timeframe for publication of regulations owing to the extensive stakeholder engagement required in the irrigation sector.
16.	Proposal to amend the schedule to the principal Act to include subparagraph 2(c)	Paragraph 2 of the Schedule is amended to include the following new	Enhance the circumstances under which Board members and chairpersons of Boards

	which is not in the current Act	subparagraph immediately after subparagraph (b); (c) Be removed from office by the Cabinet Secretary with justification if the member; (i) Conducts himself in a manner undesirable of a director; (ii) Carries himself in a way that puts the Organization into disrepute; or (iii) acts irresponsibly and in contravention of codes, policies and procedures in the public service	may vacate office or be removed from office.
17	Proposal to amend Paragraph 3(4) of the Schedule to the to reflect the quorum for Board meetings; 3(4)- the quorum for the conduct of the business of the Board shall be seven members including the chairperson or the person presiding	Paragraph 3(4) of the Schedule is amended by deleting the word "seven "and substituting it for "five"	In light of the proposal to have an additional two members to the Board, the quorum to five members to ensure 2/3 quorum is met.

2.2 Submissions from the Council of Governors (COG)

Vide a letter dated 12th November, 2021, the Council of Governors submitted their views on the Bill as summarized below-

1. That section 2 of the Act be amended to add the following new definitions-

“license” means a license issued by the Cabinet Secretary or County Executive Committee Member as the case may be.

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to irrigation

“County Chief Officer” means the County Chief Officer for the time being responsible for matters relating to irrigation

Rationale: To align provisions of the Act to the fact that irrigation is a shared function between the two levels of government.

2. That Clause 6 of the Bill so as to read as follows:

Section 9 of the principal Act is amended by deleting paragraph (f) and substituting therefor the following new paragraph-

(f) two persons of the opposite gender and from different regions, with knowledge and experience in matters relating to water, agriculture, irrigation or environmental studies nominated by the Council of County Governors and appointed by the Cabinet Secretary.

Rationale: Articles 6(2) and 189 of the Constitution recognizes the two levels of government which are distinct and interdependent as well as requiring the government at the other level to respect the institutional and functional integrity of the other level. We therefore opine that amending the law to require the COG to submit four nominees for the Cabinet Secretary to appoint two is ill-founded and has no basis in law. Such proposal should not be entertained by the Senate.

3. Amend by deleting the words “Each County Government” and replace with the words “Each County Executive Committee Member” to read as follows:

14.(1) Each County Executive Committee Member may, within its area of jurisdiction and in consultation with the County Public Service Board, establish a county irrigation development unit for the better carrying out of

its functions with respect to irrigation pursuant to Part 2 of the Fourth Schedule of the Constitution.

(2) Each County Executive Committee Member shall, for purposes of ensuring uniformity and national standards in the irrigation sub-sector, through its legislative and administrative action, implement and act in accordance with the national policy guidelines issued by the Cabinet Secretary and approved by both Houses of Parliament;

Rationale: To provide for clarity by ensuring that the respective county executive committee member responsible for irrigation in the county government is the one responsible for development and management of irrigation.

4. Introduce a new paragraph 2A immediately after paragraph 2 to read as follows:

2A. Without prejudice to the generality of the sub-section (2) above, the County Executive Committee Member shall have responsibility with regard to development and management of irrigation to---

(a) formulate county irrigation strategy in collaboration with relevant stakeholders, in line with national policies and strategies;

(b) establish, through a gazette notice, county, public or strategic schemes of any category as defined in this Act;

(c) promote the use of efficient irrigation systems across the county;

(d) receive and determine applications for small scale irrigation projects, including issuance of irrigation licences for small irrigation schemes in the county;

(e) monitor and enforce conditions attached to licenses for irrigation projects in the county;

- (f) report to the County Assembly annually, and from time to time as may be necessary, on the state of, and needs for, irrigation development and management in the county;*
- (g) set up measures for adaptation and mitigation to climate change, and enhance sustainable environmental management;*
- (h) Carry out other mandate as may be specified in this Act or any other written law.*

5. Amend section 14(3) of the Act to read as follows:

- (3) The county irrigation development units established under subsection (1) shall have the following functions—*
 - (a) implement county irrigation strategy in collaboration with relevant stakeholders, in line with national policies and strategies;*
 - (b) undertake irrigation development, including infrastructure, in county or public and smallholder schemes;*
 - (c) develop and maintain an irrigation database and integrate systematic monitoring and evaluation;*
 - (d) identify community-based smallholder schemes for implementation in line with national guidelines;*
 - (e) mainstream irrigation related statutory obligations such as those that relate to the environment, water and health;*
 - (f) provide capacity building for farmers and support establishment of viable farmer organizations, and in particular irrigation water users associations to develop and manage irrigation schemes including actively participating in conflicts resolution within irrigation schemes;*

(g) Implement measures for adaptation and mitigation to climate change, and enhance sustainable environmental management;

(m) prepare and submit to the County Executive Committee member, through the County Chief Officer, annual and other periodic reports concerning the performance of its mandate and functions; and

(n) advise the County Executive Committee member, through the County Chief Officer, on any matter in connection with the development, maintenance, expansion and availability of irrigation support services in the county.

Rationale: This is to provide alignment of the functions of the county executive committee member and the established County Irrigation Development Units as well as provide for a reporting mechanism in the discharge of functions under the Act.

2.3 Submissions from Nature Kenya

Nature Kenya, the East Africa Natural History Society, submitted a written memorandum on the Bill dated 23rd November, 2021. The proposed amendments to the Bill are as follows-

1. That section 8(2) (f) on the Powers and functions of the Authority be amended to insert the words “and relevant stakeholders” after the word “county governments”.

Rationale: Public participation is a constitutional right towards achieving public engagement and views in project designs and implementation. Stakeholder consultation is key towards benefiting from information and data critical in making informed decision.

2. That section 6(2)(f) and (g) of the Act be amended to read as follows:

6(2) (f) receive and determine applications for irrigation projects, including issuance of irrigation licences for large and medium scale irrigation schemes;

(g) *monitor and enforce conditions attached to licenses for irrigation projects;*

Rationale: To align to the other provisions of the Act which places the implementation of large and medium scale irrigation schemes under the purview of the National Government.

3. That section 15(2) be amended by introducing “informed by a Strategic Environmental Assessment(SEA) or/ and EIA recommendations to read as follows:

“Approve appropriate arrangements on inter catchment transfers of irrigation water in consultation with the County Governments and water resource Authority informed by a Strategic Environmental Assessment (SEA) and/or recommendation.”

Rationale: Inter- catchment water transfers have the potential to destabilize water regimes within the affected ecosystems. This needs to be avoided if possible or kept at a minimum levels and be informed by a Strategic Environmental Assessment (SEA) or/ and EIA recommendations.

4. That section 16 (1) be amended to insert the words “and through public participation” immediately after the word “county government”

Rationale: to ensure public participation as provided for in the Constitution is provided for in the Act.

5. That section 20(5) be amended to insert the words “and relevant stakeholders” immediately after the words “county governments”

Rationale: To ensure public participation which is a constitutional right involves relevant stakeholders.

6. That section 34(1) be amended to insert the words “and relevant stakeholders” immediately after the words “county governments”

Rationale: To ensure public participation which is a constitutional right involves relevant stakeholders.

3.0 COMMITTEE OBSERVATIONS

The Committee made the following observations:

1. The Bill is important for the management and administration of irrigation matters at both the national and county government levels;
2. The Bill includes definitions of new terms and various amendments for harmonization with the Water Act, 2016 and related subsidiary legislation for better and more effective implementation of the Act;
3. Irrigation is a shared responsibility between the national and county governments as provided under the Fourth Schedule to the Constitution. It is important that the law recognizes and empowers the county governments to effectively provide service delivery in the agriculture sector;
4. There is need for inclusion of the definition of a “county executive committee member” in the Bill, as well as the functions of the member in order to provide for clarity by ensuring that the respective county executive committee member responsible for irrigation in the county government is the one responsible for development and management of irrigation; and
5. There is further need to provide alignment of the functions of the county executive committee member and the established County Irrigation Development Units as well as provide for a reporting mechanism in the discharge of functions under the Act.

4.0 COMMITTEE RECOMMENDATIONS

The Committee recommends as follows:

1. That Clause 2 be amended to insert the definition of “county executive committee member”;
2. That section 14 of the Act be amended to include the functions of the county executive committee member with regard to irrigation within the county; and
3. That section 14 of the Act be amended to align the functions of county executive committee member and the established County Irrigation Development Units as well as provide for a reporting mechanism in the discharge of functions under the Act.

APPENDICES

APPENDIX I	Minutes of the Committee Deliberations
APPENDIX II	Committee Stage amendments to the Bill
APPENDIX III	Copy of the Newspaper advertisement
APPENDIX IV	The Irrigation (Amendment) Bill, (National Assembly Bill No. 12 of 2021)

APPENDIX I

Committee Minutes



MINUTES OF THE 156TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON MONDAY, 15TH NOVEMBER, 2021, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | | |
|--------------------------------------|---|------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. Enoch Wambua, MP | - | Vice-Chairperson |
| 3. Sen. Issa Juma Boy, MP | | |
| 4. Sen. (Canon) Naomi Jillo Waqo, MP | | |
| 5. Sen. (Dr.) Michael Mbiti, MP | | |

ABSENT WITH APOLOGY

1. Sen. Kipchumba Murkomen, EGH, MP
2. Sen. (Eng.) Ephraim Maina, EBS, MP
3. Sen. Justice (Rtd.) Stewart Madzayo, MP

SECRETARIAT

- | | | |
|-----------------------|---|---|
| 1. Ms. Carol Kiorei | - | Clerk Assistant |
| 2. Mr. David Angwenyi | - | Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Mr. Alex Mutuku | - | Serjeant-At-Arms |
| 4. Ms. Regina Munyao | - | Legal Counsel |
| 5. Ms. Njeri Manga | - | Media Relations Officer |
| 6. Ms. Mary Nyawira | - | Audio Officer |
| 7. Mr. Shem Oreko | - | Intern (Committee Services) |

MIN. NO. 241/2021

PRELIMINARIES

The Chairperson called the meeting to order at 11.09 a.m. followed by a word of prayer.

MIN. NO. 242/2021

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. (Canon) Naomi Jillo Waqo, MP and seconded by Sen. Issa Boy Juma, MP -

1. Preliminaries

- a) Prayer
- b) Adoption of the Agenda
- 2. Confirmation of previous Minutes
- 3. Matters arising from the previous Minutes
- 4. Consideration of the Irrigation (Amendment) Bill, (National Assembly No. 12 of 2021)
- 5. Meeting with the Council of Governors to receive submissions on the irrigation (Amendment) Bill (National Assembly Bills No. 12 of 2021)
- 6. Any other business
- 7. Date of Next Meeting
- 8. Adjournment.

MIN. NO. 243/2021

CONFIRMATION OF PREVIOUS MINUTES

This agenda item was deferred to the next meeting.

MIN. NO. 244/2021

**CONSIDERATION OF THE IRRIGATION
(AMENDMENT) BILL, NATIONAL ASSEMBLY BILLS
NO. 12 OF 2021)**

The Legal Counsel presented a brief on the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021) as summarized below-

1. The Bill seeks to amend the Irrigation Act, No. 14 of 2019 to expand the administration and management of irrigation matters in Kenya. The Act was enacted in 2019 and came into operation on the 16th August, 2019.
2. **Clause 2** of the Bill seeks to amend Section 2 of the Irrigation Act, No. 14 of 2019 to amend the definition of some terms and also introduce new definitions. These include-
 - ix. The Bill defines **irrigation** as “Any hydraulic engineering driven process which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees. “
Currently the act Defines Irrigation as any process, other than by natural precipitation, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees;
 - x. **Council of Governors** - Means Council of County Governors established under the Intergovernmental Relation Act
3. **Clause 3** of the Bill seeks to amend Section 3 of the Act on the application of the Act to forbid management and regulation of irrigation outside the purview of the Act

4. **Clause 4** of the Bill seeks to amend section 6 of the Act on the role of the National Government to provide for regulation as one of the responsibilities of the National Government.
5. **Clause 6** of the Bill seeks to amend section 9 of the Act to provide for additional requirements on appointment of members of the Authority. These requirements include-
 - iv. Under paragraph 9(g) the nominees by the Council of County Governors to be of opposite gender and be from different regions
 - v. To have Knowledge and experience in irrigation or related fields.
 - vi. The nominating bodies to provide a list of nominees with several names from where the Cabinet secretary will appoint members of the Board.
6. **Clause 9** of the Bill seeks to amend section 15 of the Act to provide for the Cabinet Secretary to Consult with the Water Resource authority in regards to putting in place appropriate water use fees structure and in requisitioning for irrigation water in Bulk.
7. **Clause 10** of the Bill seeks to amend section 16 of the Act on setting apart of land and land rights to vest acquired land rights to the authority. Currently the Act vests these rights on the Department of irrigation.
8. **Clause 11** of the Bill seeks to amend section 17 of the Act, on administrative and Legal framework on water storage. The Bill provides in clause 11(1) for consultation with; The Water Resource Authority Secretary, the National Water Harvesting and Storage authority and the National Land Commission, when prescribing administrative and legal framework on water harvesting. Currently the Act provides for consultation with only the Council of County Governors.
9. Further in Clause 11(2) the Bill ousts the requirement of the Cabinet Secretary to consult with the Council of County Governors in ensuring that developments are planned and implemented in accordance with the Law.
10. **Clause 12** of the Bill seeks to amend section 20 of the Act which provides for formation of irrigation and water users association to require the that the formation of the association be subject to mandatory approval in accordance with regulations. The current Act registration of associations does not require any approval.
11. **Clause 13** of the Bill seeks to amend section 22(d) of the Act on annual estimates by expanding the areas which the authority may make provision to include; estimated expenditure for development of infrastructure for development of irrigation and estimated expenditure for provision of irrigation services and support.

12. **Clause 14** of the Bill seeks to amend section 27 of the Act on monitoring and evaluation to include Regulations as one of the areas where the Cabinet secretary may develop and implement monitoring and evaluation systems.
13. **Clause 15** of the Bill seeks to amend section 34 of the Act on making of regulation to include-
 - (j) development of irrigation including infrastructure, frameworks, complementary installations, water harvesting, storage, distribution and licensing
 - (k) multi- government agencies consultation, collaboration, corporation and accountability in the implementation of this Act.
14. Further, the Bill proposes to amend section 34 (4) **by increasing the publication period of regulation from 90 days to within eighteen months** of the enactment the amendment Act or otherwise determined upon consultation with stakeholders.
15. Clause 16 of the Bill seeks to amend the Schedule in –
 - iii. Paragraph 2 on vacation of office to provide that; a member may be removed from the office by the Cabinet Secretary on the recommendation of the board; by contravening the provision of chapter six of the constitution; and acts in contravention of codes, policies and procedures in public service and of the Co-operative Societies
 - iv. In paragraph 3 by reducing the number of members required to form quorum for business from seven to five.

The Committee was informed that a public advertisement calling for submission of views on the Bill had been published and the Committee was currently receiving submissions from the public which would be compiled for its consideration.

MIN. NO. 245/2021

**MEETING WITH THE COUNCIL OF GOVERNORS
TO RECEIVE SUBMISSIONS ON THE IRRIGATION
(AMENDMENT) BILL (NATIONAL ASSEMBLY
BILLS NO. 12 OF 2021)**

The meeting was informed that the Council of Governors had sent their apologies but had nonetheless submitted their proposed amendments to the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021) for consideration by the Committee.

MIN. NO. 246/2021

ANY OTHER BUSINESS

The meeting was informed that –

1. The Committee was scheduled to undertake a County visit to Trans-Nzoia County between 18th and 21st November, 2021 on the Petition concerning the plight of seed

farmers in Trans-Nzoia County and Members were urged to confirm their attendance; and

2. The Committee was informed of the upcoming Devolution Conference scheduled to be held between 23rd and 26th November, 2021. The Chairperson was reminded that he was slotted as a Session Chair for the Agriculture sector breakout session. The Chairperson requested the Vice-Chair to hold his brief during the session.

MIN. NO. 247/2021

DATE OF NEXT MEETING

The next meeting would be held on Tuesday, 30th November, 2021 at 10.00 a.m.

MIN. NO. 248/2021

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.35 a.m.

SIGNED:.....



.....
(CHAIRPERSON)

DATE:.....14/02/2022.....



MINUTES OF THE 157TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON TUESDAY, 30TH NOVEMBER, 2021, AT 10.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | | |
|--------------------------------------|---|-------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. (Canon) Naomi Jillo Waqo, MP | | |
| 3. Sen. Issa Juma Boy, MP | | |
| 4. Sen. (Dr.) Michael Mbiti, MP | | |

ABSENT WITH APOLOGY

- | | | |
|---|---|--------------------|
| 1. Sen. Enoch Wambua, MP | - | Vice - Chairperson |
| 2. Sen. Kipchumba Murkomen, EGH, MP | | |
| 3. Sen. Justice (Rtd) Stewart Madzayo, MP | | |
| 4. Sen. (Eng.) Ephraim Maina, EBS, MP | | |

IN ATTENDANCE

1. Mr. Joseph Irungu, CBS
2. Mr. Phanuel Mebi
3. Mr. Aboud Moeva
4. Mr. Gitonga Mugambi
5. Ms. Joan Ogolla
6. Mr. Vincent Kabuti

**MINISTRY OF WATER,
SANITATION & IRRIGATION**

- | | |
|---|----------------------|
| - | Principal Secretary |
| - | Director, Irrigation |
| - | Irrigation Secretary |
| - | CEO, NIA |
| - | Legal Officer |
| - | NIA |

SECRETARIAT

- | | | |
|-----------------------|---|---|
| 1. Ms. Carol Kirorei | - | Clerk Assistant |
| 2. Mr. David Angwenyi | - | Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Ms. Mary Nyawira | - | Audio Officer |

MIN. NO. 249/2021

PRELIMINARIES

The Chairperson called the meeting to order at 10.05 a.m. followed by a word of prayer.

MIN. NO. 250/2021**ADOPTION OF THE AGENDA**

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Juma Boy, MP and seconded by Sen. (Canon) Naomi Jillo Waqo, MP-

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*
2. Meeting with the Ministry of Water, Sanitation and Irrigation to receive submissions on the irrigation (Amendment) Bill (National Assembly Bills No. 12 of 2021)
3. Any other business
4. Date of Next Meeting
5. Adjournment.

MIN. NO. 251/2021**MEETING WITH THE MINISTRY OF WATER, SANITATION AND IRRIGATION TO RECEIVE SUBMISSIONS ON THE IRRIGATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)**

The Chairperson welcomed the Principal Secretary, Mr. Joseph Irungu, CBS and his team to the meeting. He then invited the Principal Secretary to make his remarks.

Mr. Joseph Irungu, CBS thanked the Chairperson, for convening the meeting and conveyed the apologies of the Cabinet Secretary Ms. Sicily Kariuki as she was engaged in other official duties. He then invited the Director, Irrigation, Mr. Phanuel Webi to brief the meeting on the proposed amendments.

In his remarks, he highlighted some areas of concern as follows-

1. Omission of key terms from the definitions, even though these terms have been widely referred to under various Sections of the Act;
2. Lack of flexibility by the appointing authority in terms of Board appointments in order to meet the threshold of Article 6 of the Constitution and the Mwongozo Code of Governance for State Corporations as well as other governing legislations;
3. Need for harmonization with the provisions of the Water Act, 2016 and related Regulations e.g. the Water Resources Regulations; and
4. Need for extension of time for publication of Regulations owing to the extensive stakeholder consultations involved in the sub-sector.

The proposed amendments were summarized as follows-

- 1) The Bill should introduce new definitions not previously captured in the Act, and to review some definitions of terms;
- 2) That Clauses 3, 4 and 5 be amended to expand the administration of irrigation to include management and regulation of irrigation matters;
- 3) That Clause 6 be amended to provide for the appointment and nominations in line with the Constitution;
- 4) That Clause 7 be amended for specificity;
- 5) That Clause 8 be amended to correct an error;
- 6) That Clause 9 be amended to harmonize the provisions of the Irrigation Act, Water Act and Water Resources Management Rules;
- 7) That Clause 10 be amended to substitute the reporting obligation under the Act from the Department to the Authority;
- 8) That Clause 12 be amended to take into consideration mandatory legal and regulatory approvals;
- 9) That Clause 13 be amended to correct an omission;
- 10) That Clause 14 be amended to include the output level of results in Monitoring and Evaluation;
- 11) That Clause 15 be amended to enable the Cabinet Secretary to make Regulations to provide for the development of irrigation, including infrastructure and water storage, and to provide Multi-Governmental agencies consultation and collaboration;
- 12) That Clause 16 be amended to provide for other conditions for removal of a Board member by the Cabinet Secretary; and
- 13) That Clause 17 be amended to harmonize the provisions with existing policies on Board meetings.

The Chairperson thanked the Principal Secretary for the submissions and assured him that the proposed amendments would be considered by the Committee.

MIN. NO. 252/2021

ANY OTHER BUSINESS

1. County visit to Trans-Nzoia County

Sen. (Dr.) Michael Mbiti, MP expressed his gratitude to the Chairperson and Members of the Committee who attended the County visit to Kitale to meet with seed farmers on the Petition concerning the plight of seed farmers in Trans-Nzoia County. He added that the seed farmers were very happy and hopeful following the visit.

2. 7th Annual Devolution Conference

It was reported that the 7th Annual Devolution Conference held between 23rd and 27th November, 2021 was successful. The Chairperson was ably represented by Sen (Canon) Naomi Waqo, MP as the Session Chair during the Agriculture sector breakout session held on Wednesday, 24th November, 2021.

MIN. NO. 253/2021

DATE OF NEXT MEETING

The next meeting would be held on Friday, 3rd December, 2021 at 11.00 a.m.

MIN. NO. 254/2021

ADJOURNMENT

There being no other business, the meeting was adjourned at 10.46 a.m.

SIGNED:.....



(CHAIRPERSON)

DATE:.....14/2/2022.....



MINUTES OF THE 158TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON TUESDAY, 2ND FEBRUARY, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | |
|--------------------------------------|---------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - Chairperson |
| 2. Sen. Issa Juma Boy, MP | |
| 3. Sen. (Canon) Naomi Jillo Waqo, MP | |

ABSENT WITH APOLOGY

- | | |
|---|--------------------|
| 1. Sen. Enoch Wambua, MP | - Vice-Chairperson |
| 2. Sen. (Eng.) Ephraim Maina, EBS, MP | |
| 3. Sen. (Dr.) Michael Mbitto, MP | |
| 4. Sen. Justice (Rtd) Stewart Madzayo, MP | |

SECRETARIAT

- | | |
|-----------------------|---|
| 1. Ms. Carol Kirorei | - Clerk Assistant |
| 2. Mr. David Angwenyi | - Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Ms. Regina Munyao | - Legal Counsel |
| 4. Ms. Njeri Manga | - Media Relations Officer |
| 5. Ms. Mary Nyawira | - Audio officer |
| 6. Mr. Alex Mutuku | - Serjeant-At-Arms |

MIN. NO. 01/2022

PRELIMINARIES

The Acting Chairperson called the meeting to order at 11.15 a.m. followed by a word of prayer.

MIN. NO. 02/2022

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. Issa Boy Juma, MP and seconded by Sen. (Canon) Naomi Jillo Waqo, MP-

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*

2. Confirmation of previous Minutes
3. Matters arising from previous Minutes
4. Consideration of the submissions received on the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021)
5. Any other business.
6. Date of Next Meeting
7. Adjournment.

MIN. NO. 03/2022

CONFIRMATION OF PREVIOUS MINUTES

This agenda item was deferred to the next meeting.

MIN. NO. 04/2022

**CONSIDERATION OF SUBMISSIONS RECEIVED ON
THE IRRIGATION (AMENDMENT) BILL,
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)**

The Legal Counsel presented the submissions received from the stakeholders including the Council of Governors and Nature Kenya as follows-

1. Clause 6

Proposal: That Clause 6 (2) of the Bill so as to read as follows:

6. Section 9 of the principal Act is amended-

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

(f) two persons of the opposite gender and from different regions, with knowledge and experience in matters relating to water, agriculture, irrigation or environmental studies nominated by the Council of County Governors and appointed by the Cabinet Secretary.

Rationale: Articles 6(2) and 189 of the Constitution recognizes the two levels of government which are distinct and interdependent as well as requiring the government at the other level to respect the institution and functional integrity of the other level.

Resolution: Not agreed to.

2. Section 8 (2) (f)

Proposal: That the section on the Powers and functions of the Authority be amended to insert the words "and relevant stakeholders" after the word "county governments".

Rationale: Public participation is a constitutional right towards achieving public engagement and views in project designs and implementation. Stakeholder consultation is key towards benefiting from information and data critical in making informed decision.

Resolution: Not Agreed to.

3. Section 6 (2) (f), (g)

Proposal: That Section 6 (2) (f) and (g) of the Act be amended to read-

6 (2) (f) receive and determine applications for irrigation projects, including issuance of irrigation licenses for large and medium scale irrigation schedule; and

(g) monitor and enforce conditions attached to licenses for irrigation.

Rationale: To align to the other provisions of the Act which places the implementation of large and medium scale irrigation schemes under the purview of the National Government.

Resolution: Not agreed to.

4. Section 14

Proposal: That the section be amended by deleting the words "Each County Government" and replace with the words "Each County Executive Committee Member" to read—

14(1) Each Committee Member may, within its area of jurisdiction and in consultation with the County Public Service Board establish a county irrigation development unit for the better carrying of its functions with respect to irrigation pursuant to Part 2 of the Fourth Schedule of the Constitution.

(2) Each County Executive Committee Member shall, for purposes of ensuring uniformity and national standards in the irrigation sub-sector, through its legislative and administrative action, implement and act in accordance with the national policy guidelines issued by the Cabinet Secretary and approved by both Houses of Parliament;

Resolution: Agreed to.

5. New Clause 2 (A)

Proposal: That a new Clause 2 (A) be introduced to the generality of the sub-section (2)

Rationale: To align provisions of the Act to the fact that irrigation is a shared function between the two levels of government.

Resolution: Agreed to.

6. Section 15

Proposal: That section 15(2) be amended by introducing "informed by a strategic Environmental Assessment(SEA) or/ and EIA recommendations.

Resolution: Not agreed to. This may be handled in the Regulations.

7. Section 16 (1)

Proposal: That the clause be amended by inserting through public participation to read as “The Cabinet secretary may, in consultation with National Lands Commission, the board, County government **and through public participation** and by notice in the Gazette, designate an area of land, for which an irrigation water permit may be issued by water resources Authority and irrigation license may be issued.”

Rationale: to ensure public participation as provided for in the Constitution is provided for in the Act.

Resolution: Not agreed to.

8. Section 20 (5)

Proposal: That the clause be amended by inserting relevant stake holders to read as “The Cabinet secretary, in consultation with the County governments and relevant stake holders, may make rules for establishment and governance of irrigation water users’ associations under this section”

Rationale: to ensure public participation as provided for in the Constitution is provided for in the Act.

Resolution: Not agreed to.

9. Section 34 (4)

Proposal: That clause 34 (4) be amended to provide as follows- The cabinet secretary shall in consultation with the County Governments and other stake holders make regulations for better carrying out of the purposes and provisions of this Act.

Resolution: Not agreed to.

10. Clause 2 - Interpretations

Proposal: That the following definitions be added:

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to irrigation

“County Chief Officer” means the County Chief Officer for the time being responsible for matters relating to irrigation.

Resolution: It was agreed that the definition of a county executive committee member be included in the Bill.

The meeting was informed that upon tabling of the Report on the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021) and subsequent passage of the Bill by the

Senate, the amended Bill would be forwarded to the National Assembly for concurrence. If the National Assembly did not agree with the Senate amendments, then the Bill would proceed for mediation.

MIN. NO. 05/2022

ANY OTHER BUSINESS

The Cotton Industry Development Bill, Senate Bills No. 55 of 2021

The meeting was informed that the Committee was currently receiving submissions from the public on the Cotton Industry Development Bill, 2021 following an advertisement carried in the local dailies and letters sent to various stakeholders. Upon receipt, the submissions would be presented to the Committee for its consideration.

MIN. NO. 06/2022

DATE OF NEXT MEETING

The next meeting would be on notice.

MIN. NO. 07/2022

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.43 a.m.

SIGNED:.....



(CHAIRPERSON)

DATE:.....12/3/2022>.....



MINUTES OF THE 159TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON MONDAY, 14TH FEBRUARY, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | | |
|-------------------------------------|---|-----------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - | Chairperson |
| 2. Sen. Enoch Wambua, MP | - | Ag. Chairperson |
| 3. Sen. (Dr.) Michael Mbiti, MP | | |
| 4. Sen. Issa Juma Boy, MP | | |

ABSENT WITH APOLOGY

1. Sen. (Eng.) Ephraim Maina, MP
2. Sen. Kipchumba Murkomen, MP
3. Sen. Justice (Rtd) Stewart Madzayo, MP
4. Sen. (Canon) Naomi Jillo Waqo, MP

SECRETARIAT

- | | | |
|-----------------------|---|---|
| 1. Ms. Carol Kiorei | - | Clerk Assistant |
| 2. Mr. David Angwenyi | - | Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Ms. Regina Munyao | - | Legal Counsel |
| 4. Ms. Njeri Manga | - | Media Relations Officer |
| 5. Mr. Tiyan Joseph | - | Researcher |
| 6. Ms. Mary Nyawira | - | Audio officer |
| 7. Mr. Alex Mutuku | - | Sargent at arms |

MIN. NO. 08/2022

PRELIMINARIES

The Acting Chairperson called the meeting to order at 11.10 a.m. followed by a word of prayer.

MIN. NO. 09/2022

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. (Dr.) Michael Mbiti, MP and seconded by Sen. Issa Boy Juma, MP-

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*
2. Confirmation of previous Minutes
3. Matters arising from previous Minutes
4. Consideration of proposed amendments to the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021)
5. Any other business.
6. Date of Next Meeting
7. Adjournment.

MIN. NO. 10/2022

CONFIRMATION OF PREVIOUS MINUTES

- 1) The Minutes of the 154th Sitting held on Tuesday, 26th October, 2021 were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. Enoch Wambua, MP and seconded by Sen. Issa Boy Juma, MP;
- 2) The Minutes of the 155th Sitting held on Friday, 5th November, 2021 were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. (Dr.) Michael Mbiti, MP and seconded by Sen. Issa Boy Juma, MP;
- 3) The Minutes of the 156th Sitting held on Monday, 15th November, 2021 were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. (Dr.) Michael Mbiti, MP and seconded by Sen. Issa Boy Juma, MP; and
- 4) The Minutes of the 157th Sitting held on Tuesday, 2nd January, 2021 were confirmed as a true record of the proceedings and signed by the Chairperson after being proposed by Sen. (Dr.) Michael Mbiti, MP and seconded by Sen. Issa Boy Juma, MP.

MIN. NO. 11/20212

MATTERS ARISING FROM PREVIOUS MINUTES

1. *Ex Min. 231/2021 - Meeting with the Receiver Manager, Mumias Sugar Co. Ltd.*

Members were informed that the Statement on the impending take-over and resuscitation of the Mumias Sugar Company Limited had been concluded as the bidding process was now complete. The Committee resolved to close the matter.

2. *Ex Min. 237/2021 - Meeting with the Ag. Managing Director, Kenya Seed Company*

Members were informed that following the visit to Trans-Nzoia County to meet with seed farmers on the Petition concerning the plight of seed farmers in Trans-Nzoia County, the Committee had resolved to invite the Ag. Managing Director, Kenya Seed Company to address some issues that arose during the visit. The meeting was scheduled for 9th December, 2021, however, the Committee lacked quorum and the meeting was postponed to a later date.

The Committee resolved to hold the meeting on the Friday, 25th February, 2022.

MIN. NO. 12/2022

**CONSIDERATION OF PROPOSED AMENDMENTS
TO THE IRRIGATION (AMENDMENT) BILL,
(NATIONAL ASSEMBLY BILLS NO. 12 OF 2021)**

The Legal Counsel presented the proposed Committee stage amendments as follows-

1. Clause 8

Proposal: THAT the Bill be amended by inserting the following new clause immediately after clause 8—

8A. Section 14 of the principal Act is amended—

(a) by inserting the following new subsection immediately after subsection (2) —

(2A) Each county executive committee member shall, in ensuring that the county government fulfils its obligations under subsection (1) –

- (a) formulate a county irrigation strategy in collaboration with the relevant stake holders, in line with national policies and strategies;
- (b) establish, by notice in the gazette, strategic smallholder irrigation schemes;
- (c) promote the use of efficient irrigation systems in the respective county;
- (d) put in place measures for adaptation to, and mitigation against the effects of climate change and the enhanced sustainable environmental management in the county; and
- (e) report to the county assembly annually, and at such other time as may be necessary, on the state of irrigation development and management in the county.

(b) in subsection (3) by—

(a) deleting the words “formulate and” appearing at the beginning of the paragraph (a);

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

(aa) undertake the development of irrigation infrastructure in smallholder schemes;

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

(f) prepare and submit to the respective county executive committee member such periodic reports on the performance of its functions as the committee member shall determine; and

(g) advise the respective county executive committee member on the development, maintenance, expansion and availability of irrigation support services in the respective county.

Resolution: Agreed to.

2. Clause 2

Proposal: THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the words “commercial irrigation farmer” —

“county executive committee member” means the county executive committee member responsible for matters relating to irrigation.

Resolution: Agreed to.

MIN. NO. 13/2022

ANY OTHER BUSINESS

The Legal Counsel introduced Mr. Titus Michubu a pupil serving in the Directorate of Legal Services who was attached to the Committee.

The Ag. Chairperson welcomed the Mr. Titus and wished him a fruitful engagement in the Committee and the Senate.

MIN. NO. 14/2022

DATE OF NEXT MEETING

The next meeting would be held on Friday, 18^h February, 2022 at 11.00 a.m.

MIN. NO. 15/2022

ADJOURNMENT

There being no other business, the meeting was adjourned at 11.37 a.m.

SIGNED:.....



.....

(CHAIRPERSON)

DATE:.....12/3/2022.....



MINUTES OF THE 164TH SITTING OF THE STANDING COMMITTEE ON AGRICULTURE, LIVESTOCK & FISHERIES HELD ON SATURDAY, 12TH MARCH, 2022, AT 11.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM.

PRESENT

- | | |
|--------------------------------------|--------------------|
| 1. Sen. Peter Njeru Ndwiga, EGH, MP | - Chairperson |
| 2. Sen. Enoch Wambua, MP | - Vice-Chairperson |
| 3. Sen. (Canon) Naomi Jillo Waqo, MP | |
| 4. Sen. (Dr.) Michael Mbiti, MP | |
| 5. Sen. Issa Juma Boy, MP | |

ABSENT WITH APOLOGY

1. Sen. Justice (Rtd.) Stewart Madzayo, MP
2. Sen. (Eng.) Ephraim Maina, MP
3. Sen. Kipchumba Murkomen, EGH, MP

SECRETARIAT

- | | |
|-----------------------|---|
| 1. Ms. Carol Kirorei | - Clerk Assistant |
| 2. Mr. David Angwenyi | - Clerk Assistant (<i>Taking Minutes</i>) |
| 3. Mr. Alex Mutuku | - Serjeant-At-Arms |
| 4. Ms. Regina Munyao | - Legal Counsel |
| 5. Mr. Mitchell Otoro | - Legal Counsel |
| 6. Mr. Tiyan Joseph | - Research Officer |
| 7. Ms. Mary Nyawira | - Audio Officer |
| 8. Mr. Titus Michubu | - Pupil |

MIN. NO. 36/2022

PRELIMINARIES

The Chairperson called the meeting to order at 11.25 a.m. followed by a word of prayer.

MIN. NO. 37/2022

ADOPTION OF THE AGENDA

The Committee adopted the agenda of the Sitting, as set out below, having been proposed by Sen. (Dr.) Michael Mbiti, MP and seconded by Sen. Issa Juma Boy, MP-

1. Preliminaries
 - a) *Prayer*
 - b) *Adoption of the Agenda*
2. Consideration and adoption of Reports
3. Any other business.
4. Date of Next Meeting
5. Adjournment.

MIN. NO. 38/2022

CONSIDERATION AND ADOPTION OF REPORTS

The Committee considered the following Reports-

1. Report on the consideration of the Irrigation (Amendment) Bill, (National Assembly Bills No. 12 of 2021); and
2. Report on the Petition concerning the plight of seed farmers in Trans-Nzoia County.

The Committee adopted the Reports after being proposed by Sen. (Dr.) Michael Mbiti, MP and seconded by Sen. Issa Juma Boy, MP

MIN. NO. 39/2022

DATE OF NEXT MEETING

The next meeting would be on 12th March, 2022 at 12.30 p.m.

MIN. NO. 40/2022

ADJOURNMENT

There being no other business the meeting was adjourned at 12.00 noon.

SIGNED:.....



(CHAIRPERSON)

DATE:.....12/3/2022.....

APPENDIX II

Committee Stage amendments to the Irrigation (Amendment) Bill,
National Assembly Bill No. 12 of 2021

11th February, 2022

The Clerk of the Senate,
Parliament Buildings,
NAIROBI.

RE: COMMITTEE STAGE AMENDMENTS TO THE IRRIGATION BILL, NATIONAL ASSEMBLY BILLS NO. 12 OF 2021

NOTICE is given that Sen. Peter Njeru Ndwiga, Chairperson, Committee on Agriculture, Livestock and Fisheries intends to move the following amendments to the Irrigation (Amendment) Bill, National Assembly Bills No. 12 of 2021, at the Committee Stage—

NEW CLAUSE 8A

THAT the Bill be amended by inserting the following new clause immediately after clause 8—

8A. Section 14 of the principal Act is amended—

Amendment of section
14 of No. 14 of 2019.

(b) by inserting the following new subsection immediately after subsection (2) —

(2A) Each county executive committee member shall, in ensuring that the county government fulfils its obligations under subsection (1) –

- (f) formulate a county irrigation strategy in collaboration with the relevant stake holders, in line with national policies and strategies;
- (g) establish, by notice in the gazette, strategic smallholder irrigation schemes;
- (h) promote the use of efficient irrigation systems in the respective county;
- (i) put in place measures for adaptation to, and mitigation against the effects of climate change and the enhanced sustainable environmental management in the county; and
- (j) report to the county assembly annually, and at such

other time as may be necessary, on the state of irrigation development and management in the county.

(b) in subsection (3) by—

(d) deleting the words “formulate and” appearing at the beginning of the paragraph (a);

(e) inserting the following new paragraph immediately after paragraph (a) –

(aa) undertake the development of irrigation infrastructure in smallholder schemes;

(f) deleting paragraph (f) and substituting therefor the following new paragraphs—

(f) prepare and submit to the respective county executive committee member such periodic reports on the performance of its functions as the committee member shall determine; and

(g) advise the respective county executive committee member on the development, maintenance, expansion and availability of irrigation support services in the respective county.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the words “commercial irrigation farmer” —

“county executive committee member” means the county executive committee member responsible for matters relating to irrigation.

Dated.....14th March...2022.



Sen. Peter Njeru Ndwiga,

Chairperson,

Committee on Agriculture, Livestock and Fisheries.

APPENDIX III

Newspaper advertisement

REPUBLIC OF KENYA



TWELFTH PARLIAMENT | FIFTH SESSION THE SENATE

INVITATION FOR SUBMISSION OF MEMORANDA

At the sittings of the Senate held on Tuesday, 2nd November, 2021 and Wednesday, 3rd November, 2021, the Bills listed at the second column below were introduced in the Senate by way of First Reading and thereafter stood committed to the respective Standing Committees indicated at the third column.

Pursuant to the provisions of Article 118 of the Constitution and Standing Order 140 (5) of the Senate Standing Orders, the Committees now invite interested members of the public to submit any representations that they may have on the Bills by way of written memoranda.

The Memoranda may be sent **by email** on the address: csenate@parliament.go.ke and copied to the email addresses of the respective Committee indicated at the fourth column below, to be received on or before **Friday, 19th November, 2021 at 5.00 p.m.**

	Bill	Committee Referred To	Email Address
a)	The Election Campaign Financing (Amendment) Bill (Senate Bills No. 51 of 2021)	Standing Committee on Justice, Legal Affairs and Human Rights	senatejlahrc@parliament.go.ke
b)	The Kenya Medical Supplies Authority (Amendment) Bill (Senate Bills No. 53 of 2021)	Standing Committee on Health	senatehealth@gmail.com
c)	The Irrigation (Amendment) Bill (National Assembly Bills No. 12 of 2021)	Standing Committee on Agriculture, Livestock and Fisheries	senatescalf@parliament.go.ke

The Bills may be found on the Parliament website at <http://www.parliament.go.ke/the-senate/senate-bills>.

**J.M. NYEGENYE, CBS,
CLERK OF THE SENATE.**

APPENDIX IV

The Irrigation (Amendment) Bill,
(National Assembly Bill No. 12 of 2021)

THE IRRIGATION (AMENDMENT) BILL, 2021**A Bill for****AN ACT of Parliament to amend the Irrigation Act****ENACTED** by the Parliament of Kenya as follows—

1. This Act may be cited as the Irrigation (Amendment) Act, 2021. Short title.

2. Section 2 of the Irrigation Act, 2019, in this Act referred to as “the principal Act”, is amended— Amendment of Section 2 of No 14 of 2019.

(a) by deleting the definition of “Department” and substituting therefor the following new definition—

“Department” means the State Department responsible for matters relating to irrigation;

(b) by deleting the definition of “irrigation” and substituting therefor the following new definition—

“irrigation” means any hydraulic engineering driven process, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees;

(c) by inserting the following new definitions in proper alphabetical sequence—

“agency contract” means a legal agreement creating a fiduciary relationship whereby the principal agrees that subsequent actions by the agent are binding as if the principal acted thereupon;

“Council of Governors” means the Council of County Governors established under the Intergovernmental Relations Act, 2012; No.2 of 2012.

“irrigators” means the persons or entities which own, operate or manage an irrigation scheme;

“national irrigation scheme” means an area of land designated as such by the Cabinet Secretary through a gazette notice;

“transboundary, trans-county or inter county irrigation scheme” means a scheme whose area of coverage lies across at least two administrative county boundaries; and

“strategic irrigation scheme” means a national or a county scheme which serves a specific production purpose.

3. Section 3 of the principal Act is amended in subsection (2) by inserting the words “management and regulation” immediately after the word “development”.

Amendment of section 3 of No 14 of 2019.

4. Section 6 of the principal Act is amended in subsection (2) —

Amendment of section 6 of No. 14 of 2019.

- (a) by deleting the words “and management” appearing in the opening statement and substituting therefor the words “management and regulation”;
- (b) by deleting the word “projects” appearing in paragraph (g) and substituting therefor the word “schemes”;
- (c) by deleting the words “and management” appearing in paragraph (h) and substituting therefor the words “management and regulation”; and
- (d) by deleting the words “and management” appearing in paragraph (i) and substituting therefor the words “management and regulation”.

5. Section 8 of the principal Act is amended in subsection (2) by deleting paragraph (j) and substituting therefor the following new paragraph—

Amendment of section 8 of No. 14 of 2019.

“(j) provide, manage, and administer land in national or public irrigation schemes as well as inter-county schemes for public use;

6. Section 9 of the principal Act is amended—

Amendment of section 9 of No. 14 of 2019.

(a) in subsection (1) —

- (i) by deleting paragraph (f) and substituting therefor the following new paragraph—
- (f) two persons of opposite gender and from different regions, with knowledge and experience in matters relating to water, agriculture, irrigation or environmental studies, appointed by the Cabinet Secretary

from a list of four nominees submitted by the Council of County Governors;

- (ii) by deleting paragraph (g) and substituting therefor the following new paragraph—

(g) one person with knowledge and experience in matters relating to civil engineering, economics, finance or rural development, appointed by the Cabinet Secretary from a list of three nominees submitted by a registered private sector membership organisation with a national outlook;

- (iii) by deleting paragraph (h) and substituting therefor the following new paragraph—

(h) one person appointed by the Cabinet Secretary out of three persons nominated by the National Irrigation Farmers Associations;

- (b) in subsection (4) by deleting the words “or its equivalent in any field” appearing in paragraph (c) and substituting therefor the words “in water engineering, civil engineering, agriculture, irrigation or environmental studies.”

- (c) by deleting subsection (5) and substituting therefor the following new subsection—

“(5) The Board shall adhere to principles of corporate governance and may from time to time establish committees for the better carrying out of its functions.”

7. Section 11 of the principal Act is amended in paragraph (g) by inserting the word “other” immediately before the word “activity”.

Amendment of
section 11 of No.
14 of 2019.

8. Section 13 of the principal Act is amended by deleting the expression “section 34” and substituting therefor the expression “section 35”.

Amendment of
section 13 of No.
14 of 2019.

9. Section 15 of the principal Act is amended in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph—

Amendment of
section 15 of No.
14 of 2019.

“(a) in consultation with the Water Resources Authority, put in place appropriate water use fees structures and make arrangements with the Water Resources Authority in respect of requisition of irrigation water in bulk;”

10. Section 16 of the principal Act is amended—

Amendment of
section 16 of No.
14 of 2019.

(a) in subsection (2) by deleting the words “the Department” and substituting therefor the words “the Authority”;

(b) in subsection (3) by deleting the words “the Department” and substituting therefor the words “the Authority”

11. The principal Act is amended by repealing section 17 and replacing it with the following new section—

Repeal and
replacement of
section 17 of No.
14 of 2019.

Administrative and
legal framework
water storage.

17. (1) The Cabinet Secretary shall in consultation with the Water Resource Authority Secretary, the National Water Storage and Harvesting Authority, the National Land Commission, the Council of Governors and other stakeholders prescribe administrative and regulatory frameworks within existing laws and regulations on water storage existing and future irrigating requirements.

(2) Without prejudice to subsection (1), the Cabinet Secretary shall ensure that irrigation developments are planned and implemented—

(a) in accordance with Integrated Water Resources Management Principles;

(b) in accordance with agreements between irrigation water users and other stakeholders; and

(c) in such a manner as to reduce conflicts on water resources, protect the environment and public health and share water appropriately and equitably for multiple uses.

12. Section 20 of the principal Act is amended in

Amendment of
section 20 of No.

subsection (3) by inserting the words "subject to mandatory approvals in accordance with regulations" immediately after the word "a scheme".

14 of 2019.

13. Section 22 of the principal Act is amended in subsection (2) by inserting the following new paragraphs immediately after paragraph (d)—

Amendment of section 22 of No. 14 of 2019.

- (e) estimated expenditure for development of infrastructure for the development of irrigation;
- (f) estimated expenditure for the provision of irrigation services and advisory support.

14. Section 27 of the principal Act is amended in subsection (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

Amendment of section 27 of No. 14 of 2019.

- (a) develop and implement a monitoring and evaluation system for the development, governance, management, regulation, provision and financing of irrigation at all levels, including assessment of inputs, outputs immediate outcomes and ultimate impacts based on the results;

15. Section 34 of the principal Act is amended—

Amendment of section 34 of No. 14 of 2019.

- (a) in subsection (3) by inserting the following new paragraphs immediately after paragraph (i)—
 - (j) development of irrigation including infrastructure, frameworks, complementary installations, water harvesting, storage, distribution and licensing; and
 - (k) multi-government agencies consultation, collaboration, cooperation and accountability in the implementation of this Act.
- (b) in subsection (4) by deleting the words "within ninety days of the enactment of this Act" appearing immediately after the words "the Gazette" and substituting therefor the words "within eighteen months of the enactment of this Act or as otherwise determined upon consultation with stakeholders";

16. The Schedule to the principal Act is amended—

Amendment of the Schedule of No. 14 of 2019.

- (a) in paragraph 2 by inserting the following new subparagraph immediately after subparagraph (b)—

“(c) be removed from office by the Cabinet Secretary if the member —

- (i) contravenes the provisions of Chapter six of the Constitution; or
- (ii) acts in contravention of codes, policies and procedures in the public service.

(b) in paragraph 3, by deleting the word “seven” and substituting therefore the word “five” appearing in subparagraph (4).

I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 23rd September, 2021.



Clerk of the National Assembly

Endorsed for presentation to the Senate in accordance with the provisions of Standing Order 142 of the National Assembly Standing Orders.



Speaker of the National Assembly

PRINTED BY THE CLERK OF THE NATIONAL ASSEMBLY