



Approved
SNA
11/4/23


REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – SECOND SESSION – 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

.....

REPORT ON THE CONSIDERATION OF THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) BILL (*NATIONAL ASSEMBLY BILL NO. 60 OF 2022*)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 11 APR 2023	DAY: TUESDAY
TABLED BY:	HON. GEORGE MURUGARA, MP, CHAIRPERSON JLAC
CLERK-AT THE-TABLE:	ESTHER NGINYO

CLERK'S CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

MARCH, 2023

TABLE OF CONTENTS

LIST OF ABBREVIATIONS AND ACRONYMS	3
ANNEXURES	4
CHAIRPERSON'S FOREWORD	5
CHAPTER ONE	10
1 Preface	10
1.1 Establishment of the Committee	10
1.2 Mandate of the Committee	11
1.3 Committee Membership	13
1.4 Committee Secretariat	14
CHAPTER TWO	15
2 Overview of The Statute Law (Miscellaneous Amendments) Bill (<i>National Assembly Bill No. 60 of 2022</i>)	15
2.1 Background	15
2.2 Summary of Legal Provisions	15
CHAPTER THREE	19
3 Public Participation and Stakeholder Engagement on the Bill	19
3.1 Introduction	19
3.2 Memoranda Received on the Statute Law (Miscellaneous Amendments) Bill, 2022	19
3.2.1 Judicature Act, Cap. 8	19
3.2.2 Appellate Jurisdiction Act, Cap. 9	20
3.2.3 Penal Code, Cap. 63	20
3.2.4 Criminal Procedure Code, Cap 75	20
3.2.5 Evidence Act, Cap 80	20
3.2.6 Anti-Corruption and Economic Crimes Act, 2003	21
3.2.7 International Crimes Act, 2008	21
3.2.8 Judicial Service Act, 2011	22
3.2.9 Vetting of Judges and Magistrates Act, 2011	22
3.2.10 Kenya National Commission on Human Rights Act, 2011	22
3.2.11 Leadership and Integrity Act, 2012	22
3.2.12 Bribery Act, 2016	23
CHAPTER FOUR	24
4 Committee Observations	24
CHAPTER FIVE	25
5 Schedule of Amendments	25
CHAPTER SIX	28
6 Committee Recommendations	28

LIST OF ABBREVIATIONS AND ACRONYMS

H.E.	-	His Excellency
UDA	-	United Democratic Alliance
ODM	-	Orange Democratic Movement
WDM	-	Wiper Democratic Movement
MCCP	-	Maendeleo Chap Chap Party
ODPP	-	Office of the Director of Public Prosecution
EACC	-	Ethics and Anti-Corruption Commission
LSK	-	Law Society of Kenya
CAJ	-	Commission on Administrative Justice
PSC	-	Public Service Commission
KLRC	-	Kenya Law Reform Commission

ANNEXURES

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: Communication from Speaker
- Annexure 4: Advertisement inviting the public to submit memoranda on the Bill
- Annexure 5: Letter from the Clerk of the National Assembly inviting relevant stakeholders to submit memoranda on the Bill
- Annexure 6: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum
- Annexure 7: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Statute Law (Miscellaneous Amendments) Bill (*National Assembly Bill No. 60 of 2022*) which was published on Tuesday 22nd November, 2022 and read a first time in the House on Thursday 8th December, 2022. It was thereafter committed to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Bill seeks to make various amendments to the following fifty-seven (57) statutes—

1. The Appellate Jurisdiction Act (Cap 9)
2. The Vexatious Proceedings Act (Cap 41)
3. The Extradition (Commonwealth Countries) Act (Cap 77)
4. The National Flag, Emblems and Names Act (Cap 99)
5. The Official Secrets Act (Cap 187)
6. The Geneva Conventions Act (Cap 198)
7. The Pharmacy and Poisons Act (Cap 244)
8. The Mental Health Act (Cap 248)
9. The Land Consolidation Act (Cap 283)
10. The Land Adjudication Act (Cap 284)
11. The Marine Insurance Act (Cap 390)
12. The Local Manufacturers (Export Compensation) Act (Cap 482)
13. The Capital Markets Act (Cap 485A)
14. The Architects and Quantity Surveyors Act (Cap 525)
15. The Prevention of Fraud (Investments) Act, 1977 (No. 1 of 1977)
16. The Higher Education Loans Board Act, 1995 (No. 3 of 1995)
17. The Retirement Benefits Act, 1997 (No. 3 of 1997)
18. The Co-operatives Societies Act, 1997 (No. 12 of 1997)
19. The Central Depositories Act, 2000 (No. 4 of 2000)
20. The Sexual Offences Act, 2006 (No. 3 of 2006)
21. The National Museums and Heritage Act, 2006 (No. 6 of 2006)
22. The Labour Institutions Act, 2007 (No. 12 of 2007)
23. The Accountants Act, 2008 (No. 15 of 2008)
24. The International Crimes Act, 2008 (No. 16 of 2008)
25. The Biosafety Act, 2009 (No. 2 of 2009)
26. The Counter-Trafficking in Persons Act, 2010 (No. 8 of 2010)
27. The Tourism Act, 2011 (No. 28 of 2011)
28. The Vetting of Judges and Magistrates Act, 2011 (No. 2 of 2010)
29. The Judicial Service Commission Act, 2011 (No. 1 of 2011)
30. The Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)
31. The Salaries and Remuneration Commission Act, 2011 (No. 10 of 2011)
32. The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)
33. The National Gender and Equality Commission Act, 2011 (No 15 of 2011)
34. The Commission on Revenue Allocation Act, 2011 (No. 16 of 2011)
35. The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)
36. The National Police Service Commission Act, 2011 (No. 30 of 2011)

37. The National Land Commission Act, 2012 (No. 5 of 2012)
38. The Teachers Service Commission Act, 2012 (No. 20 of 2012)
39. The Controller of Budget Act, 2016 (No. 26 of 2016)
40. The Public Service Commission Act, 2017 (No. 17 of 2017)
41. The Excise Duty Act, 2015 (No. 23 of 2015)
42. The Judicature Act (Cap 8)
43. The Penal Code (Cap 63)
44. The Criminal Procedure Code (Cap 75)
45. The Evidence Act (Cap 80)
46. The Public Holidays Act (Cap 110)
47. The Copyright Act 2001 (No. 12 of 2001)
48. The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)
49. The Merchant Shipping Act, 2009 (No. 4 of 2009)
50. The Prevention of Organized Crimes Act, 2010 (No. 6 of 2010)
51. The Leadership and Integrity Act, 2012 (No. 19 of 2012)
52. The National Transport and Safety Authority Act, 2012 (No. 33 of 2012)
53. The Water Act, 2016 (No. 43 of 2016)
54. The Bribery Act, 2016 (No. 47 of 2016)
55. The Scrap Metal Act, 2015 (No. 1 of 2015)
56. The Energy Act, 2019 (No. 1 of 2019)
57. The Housing Act (Cap 17)

The introduction of the Bill is in keeping with the practice of making minor amendments which do not merit the publication of separate Bills. The Bill was read for a First Time in the House on 8th December, 2022 and pursuant to Standing Order 127(1) committed to respective seventeen (17) Departmental Committees of the National Assembly for consideration as follows:

(1) Departmental Committee on Justice and Legal Affairs

- I. The Vexatious Proceedings Act (Cap 41)
- II. The Extradition (Commonwealth Countries) Act (Cap 77)
- III. The Official Secrets Act (Cap 187)
- IV. The Sexual Offences Act, 2006 (No. 3 of 2006)
- V. The International Crimes Act, 2008 (No. 16 of 2008)
- VI. The Judicial Service Commission Act, 2011 (No. 1 of 2011)
- VII. The Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)
- VIII. The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)
- IX. The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)
- X. The Penal Code (Cap 63)
- XI. The Criminal Procedure Code (Cap 75)
- XII. The Evidence Act (Cap 80)
- XIII. The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)
- XIV. Leadership and Integrity Act, 2012 (No. 19 of 2012)
- XV. The Kenya Law Reform Commission Act, 2013 (No. 35 of 2013)
- XVI. The Bribery Act, 2016 (No. 47 of 2016)
- XVII. The Judicature Act (Cap 8)
- XVIII. The Appellate Jurisdiction Act (Cap 9)

Report of the Departmental Committee on Justice and Legal Affairs on the Consideration of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022)

(2) Departmental Committee on Finance and National Planning

- I. The Capital Markets Act (Cap 485A)
- II. The Retirement Benefits Act, 1997 (No. 3 of 1997)
- III. The Central Depositories Act, 2000 (No. 4 of 2000)
- IV. The Accountants Act, 2008 (No. 15 of 2008)
- V. The Commission on Revenue Allocation Act, 2011 (No. 16 of 2011)
- VI. The Salaries and Remuneration Commission Act, 2011 (No. 10 of 2011)
- VII. The Controller of Budget Act, 2016 (No. 26 of 2016)
- VIII. The Excise Duty Act, 2015 (No. 23 of 2015)

(3) Departmental Committee on Administration and Internal Affairs

- I. The National Flag, Emblems and Names Act (Cap 99)
- II. The Public Holidays Act (Cap 110)
- III. The Counter-Trafficking in Persons Act, 2010 (No. 8 of 2010)
- IV. The Prevention of Organized Crimes Act, 2010 (No. 6 of 2010)
- V. The National Police Service Commission Act, 2011 (No. 30 of 2011)
- VI. The Prevention of Fraud (Investments) Act, 1977 (No. 1 of 1977)

(4) Departmental Committee on Transport and Infrastructure

- I. The Marine Insurance Act (Cap 390)
- II. The Kenya Roads Board Act, 1999 (No. 7 of 1999)
- III. The National Transport and Safety Authority Act, 2012 (No. 33 of 2012)
- IV. The Merchant Shipping Act, 2009 (No. 4 of 2009)

(5) Departmental Committee on Education

- I. The Higher Education Loans Board Act, 1995 (No. 3 of 1995)
- II. The Teachers Service Commission Act, 2012 (No. 20 of 2012)

(6) Departmental Committee on Lands

- I. The Land Consolidation Act (Cap 283)
- II. The Land Adjudication Act (Cap 284)
- III. The National Land Commission Act, 2012 (No. 5 of 2012)

(7) Departmental Committee on Trade, Industry and Cooperatives

- II. The Co-operatives Societies Act, 1997 (No. 12 of 1997)
- III. The Scrap Metal Act, 2015 (No. 1 of 2015)
- IV. The Local Manufacturers (Export Compensation) Act (Cap 482)

(8) Departmental Committee on Health

- I. The Pharmacy and Poisons Act (Cap 244)
- II. The Mental Health Act (Cap 248)

(9) Departmental Committee on Labour

- I. The Labour Institutions Act, 2007 (No. 12 of 2007)
- II. The Public Service Commission Act, 2017 (No. 17 of 2017)

(10) Departmental Committee on Housing and Public Works

Report of the Departmental Committee on Justice and Legal Affairs on the Consideration of the Statute Law (Miscellaneous Amendments) Bill (*National Assembly Bill No. 60 of 2022*)

- I. The Architects and Quantity Surveyors Act (Cap 525)
 - II. The Housing Act (Cap 17)
- (11) Departmental Committee on Sports and Culture**
- I. The National Museums and Heritage Act, 2006 (No. 6 of 2006)
 - II. The Copyright Act 2001 (No. 12 of 2001)
- (12) Departmental Committee on Tourism and Wildlife**
The Tourism Act, 2011 (No. 28 of 2011)
- (13) Departmental Committee on Social Protection**
The National Gender and Equality Commission Act, 2011 (No. 15 of 2011)
- (14) Departmental Committee on Defence, Intelligence and Foreign Relations**
The Geneva Conventions Act (Cap 198)
- (15) Departmental Committee on Energy**
The Energy Act, 2019 (No. 1 of 2019)
- (16) Departmental Committee on Blue Economy and Irrigation**
The Water Act, 2016 (No. 43 of 2016)
- (17) Departmental Committee on Agriculture and Livestock**
The Biosafety Act, 2009 (No. 2 of 2009)

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on Wednesday 14th December, 2022 inviting the public to submit memoranda by way of written statements on oath (affidavit) on the Bill. The memoranda were to be received on or before Wednesday, 28th December, 2022 at 5.00 p.m. (East African Time). By the close of the submission deadline, the Committee had received six memoranda touching on the eighteen statutes committed to it for consideration. In addition, the Committee invited key stakeholders to attend a public participation forum on Monday 20th March, 2023 at 10.00 am vide a letter dated 9th March, 2023 of Ref. No. NA/DDC/JLAC/2022/025. The KLRC, LSK and CAJ attended the forum and gave their views on the Bill which the Committee considered in the preparation of this report.

While considering the Bill, the Committee observed that enactment of the proposals referred to it would align the content of the various affected statutes with important provisions of the Constitution and update archaic terms inherited from colonial legislation.

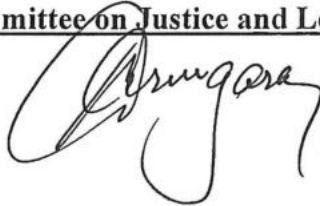
On-behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Statute Law (Miscellaneous Amendments) Bill (*National Assembly Bill No. 60 of 2022*). The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank the Office of the Director of Public Prosecution (ODPP), the Kenya Law Reform Commission (KLRC), the Law Society of Kenya (LSK), the Public Service

Report of the Departmental Committee on Justice and Legal Affairs on the Consideration of the Statute Law (Miscellaneous Amendments) Bill (*National Assembly Bill No. 60 of 2022*)

Commission (PSC), the Commission on Administrative Justice (CAJ), the Independent Electoral and Boundaries Commission (IEBC) and the Judiciary for submitting memoranda on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Statute Law (Miscellaneous Amendment) Bill (*National Assembly Bill No. 60 of 2022*) and have the honour to report back to the National Assembly with the recommendation that the Bill be approved with amendments as contained in the Schedule of Amendments and the collated Reports of the other Departmental Committees.

Hon. Murugara George Gitonga, MP
Chairperson, Departmental Committee on Justice and Legal Affairs



CHAPTER ONE

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
- iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. *To study and review all legislation referred to it;*
- v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider¹:-

- a) The Judiciary;
- b) Tribunals;
- c) Access to Justice;
- d) Public prosecutions;
- e) Ethics, Integrity and Anti-corruption;
- f) Correctional services;
- g) Community service orders and witness protection;
- h) Constitutional Affairs;
- i) Sovereign immunity;
- j) Elections including referenda;
- k) Human rights;
- l) Political parties; and
- m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.

3. In executing its mandate, the Committee oversees the following Ministries/Departments:

- a) State Department of Correctional Services;
- b) State Law Office and Department of Justice;
- c) The Judiciary;
- d) Judicial Service Commission;
- e) Office of the Director of Public Prosecutions;
- f) Ethics and Anti-Corruption Commission;
- g) Independent Electoral and Boundaries Commission;
- h) Commission on Administrative Justice;
- i) Office of the Registrar of Political Parties;
- j) Witness Protection Agency;
- k) Kenya National Commission on Human Rights;

¹ National Assembly Standing Orders

- l) Kenya Law Reform Commission; and
- m) Council of Legal Education.

1.3 Committee Membership

4. The Departmental Committee on Justice and Legal Affairs was constituted by the House on 27th October, 2022 and comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, MP
Tharaka Constituency
UDA Party

Vice-Chairperson

Hon. Mutuse Eckomas Mwengi, OGW, MP
Kibwezi West Constituency
MCCP Party

Members

Hon. Maalim Farah, MP
Dadaab Constituency
WDM-Kenya

Hon. Makali John Okwisia, MP
Kanduyi Constituency
FORD-Kenya

Hon. Francis Kajwang' Tom Joseph, MP
Ruaraka Constituency
ODM Party

Hon. Muriu Wakili Edward, MP
Gatanga Constituency
UDA Party

Hon. Junet Mohamed, MP
Suna East
ODM Party

Hon. Maina Jane Njeri, MP
Kirinyaga (CWR)
UDA Party

Hon. (Dr.) Otiende Amollo, SC, MP
Rarieda Constituency
ODM Party

Hon. Gichohi Kaguchia John Philip, MP
Mukurweini Constituency
UDA Party

Hon. Onyiego Silvanus Osoro, MP
South Mugirango
UDA Party

Hon. Mogaka Stephen M, MP
West Mugirango Constituency
Jubilee Party

Hon. Muchira Michael Mwangi, MP
Ol Jorok
UDA Party

Hon. Mohamed Aden Daud, MP
Wajir East Constituency
Jubilee Party

Hon. Siyad Amina Udgoon, MP
Garissa Township
Jubilee Party

1.4 Committee Secretariat

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Douglas Katho
Clerk Assistant II/Head of Secretariat

Mr. Ronald Walala
Senior Legal Counsel

Mr. Stanley Lagat
Serjeant-At-Arms

Ms. Winnie Kiziah
Media Relations Officer II

Mr. Omar Abdirahim
Fiscal Analyst II

Mr. Clive Onyancha
Hansard Reporter III

Ms. Jael Ayiego Kilaka
Clerk Assistant III

Ms. Vivienne Ogega
Research Officer III

Mr. Alvin Ochieng'
Research Officer III

Mr. Anthony Kariuki
Serjeant-At-Arms

Ms. Faith Jully
Public Communication Officer III

Mr. Peter Mutethia
Audio Recording Officer

CHAPTER TWO

2 OVERVIEW OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (*NATIONAL ASSEMBLY BILL NO. 60 OF 2022*)

2.1 Background

6. The Bill which was sponsored by Hon. Kimani Ichung'wah, MP was published on Tuesday 22nd November, 2022 and read for the first time in the House on Thursday 8th December, 2022. It was thereafter committed to various Departmental Committees with the Departmental Committee on Justice and Legal Affairs as the lead Committee as it had the highest number of statutes under its mandate.

2.2 Summary of Legal Provisions

7. The Statute Law (Miscellaneous Amendments) Bill seeks to amend various provisions of the law including those in **eighteen (18) statutes** falling under the mandate of the Justice and Legal Affairs Committee. The Bill seeks to—

- (1) amend section 7(1) of the **Judicature Act (Cap 8)** to increase the maximum number of judges that may be appointed to the Court of Appeal from thirty (30) to seventy (70).
- (2) amend sections 59(7) and 73 of the **Appellate Jurisdiction Act (Cap 9)**.
- (3) amend section 4 of the **Vexatious Proceedings Act (Cap 41)** to align the provision with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.
- (4) amend section 146 of the **Penal Code (Cap 63)** to replace a derogatory and discriminatory term (“idiots and imbeciles”) in the provision.
- (5) amend section 2; 83; 90(3); 123(1); 131(2); 137; 184 and 186 of the **Criminal Procedure Code (Cap 75)** to—
 - (a) replace the words “State Counsel” with the words “Prosecution Counsel” in the definition of “public prosecutor”;
 - (b) reference the definition of “police officer” to the definition provided under the National Police Service Act, 2012;
 - (c) reference the definition of “police station” to the definition provided under the National Police Service Act, 2012;

- (d) align the Act with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions;
 - (e) allow for the issuance of a summons or warrant on any day of the week;
 - (f) align the Act with Article 49(1)(h) of the Constitution on the right to bail;
 - (g) allow attachment and sale of both movable and immovable property for failure to pay the penalty prescribed for forfeiture of a recognizance (i.e., bond) made to the Court;
 - (h) delete the provision allowing the court to substitute the charge of rape under the Penal Code with an offence provided for under the Sexual Offences Act; and
 - (i) delete the provision allowing the court to substitute the charge of defilement under the Penal Code with an offence provided for under the Sexual Offences Act.
- (6) amend sections 7, 8, 9 and 10 of the **Extradition (Commonwealth Countries) Act (Cap 77)** to align the provision with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.
- (7) amend sections 3, 78(1) and 125(2) of the **Evidence Act (Cap 80)** to insert a new definition for the term “photograph” in the Act; allow preparation and admissibility of a photographic print or enlargement from an electronic and digital medium; and replace a derogatory and discriminatory term (“mentally disordered person or a lunatic”).
- (8) amend sections 10(1) and 49 (1) of the **Official Secrets Act (Cap 187)**.
- (9) amend sections 25A, 37, and 62 of the **Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)** to align the provisions with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions; and allow the Commission to apply to the court to bar a State officer from accessing their office if the officer is charged with corruption or an economic crime and is likely to either conceal, alter, destroy or remove records, documents or other evidence; intimidate, threaten or otherwise interfere with witnesses; or interfere with investigations in any way.

- (10) amend section 40 of the **Sexual Offences Act, 2006 (No. 3 of 2006)** to align the provisions with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.
- (11) amend section 5, 19(2); 19(3); 21(1)(b); 23(2); 24; 25(3)(a); 26(1); 26(2); 76; 77(2); 78; 79; 84; 85(4); 86; 87(1); 88; 89; 90; 91; 92; 93(2)(b); 94; 95; 96(1); 96(2); 102(2); 102(3); 103; ~~104~~; 105; 106; 107; 108; 109; 110; 111; 112(1); 112(3); 112(4); 113(2); 113(3); 114(1); 114(2); 115(1); 116; 118(2); 119; 120; 121(b); 122; 124; 126; 127(6); 129; 153(1); 153(2); 154; 155; 156; 157; 158; 159; 160; 168; and 171 of the **International Crimes Act, 2008 (No. 16 of 2008)** to align the provisions with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.
- (12) amend section 38 of the **Judicial Service Commission Act, 2011 (No. 1 of 2011)** to require the JSC to submit its annual report to the National Assembly within six months after the end of the year to which the Report relates.
- (13) amend section 18(1) of the **Vetting of Judges and Magistrates Act, 2011 (No. 2 of 2011)** to align the provision with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.
- (14) amend section 24(1) of the **Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)** to require the IEBC to submit its annual report to Parliament within six months after the end of the year to which the Report relates.
- (15) amend section 53 of the **Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)** to require the KNCHR to submit its annual report to the National Assembly within six months after the end of the year to which the Report relates.
- (16) amend section 27(2) of the **Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)** to increase the period within which the EACC should submit its annual report to the President by three months.
- (17) amend section 12A 19(6); and 40 of the **Leadership and Integrity Act, 2012 (No. 19 of 2012)** to require applicants for employment to all public offices to submit a self-declaration form to the EACC for integrity suitability verification; and allow any person to petition the High Court to declare the assumption of office of a State

Officer invalid for failure to execute a commitment to their specific leadership and integrity code; and

- (18) amend section 1; 4; 5; 7; 10 and 15 of the **Bribery Act, 2016 (No. 47 of 2016)** to change the title of the Act into the “Anti-Bribery Act”; extend the application of the Act to cover public entities in addition to the public, public officers and private entities; change the definition of a relevant function or activity to be ANY of the categories of functions and conditions outlined in section 7 instead of ALL the categories of functions and conditions as currently provided in the section; and provide that bribery by a citizen constitutes an offence regardless of the country where it occurs.

CHAPTER THREE

3 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 Introduction

8. Article 118 (1)(b) of the Constitution provides that:

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

9. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

“(3) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism including-

(a) inviting submission of memoranda;

(b) holding public hearings;

(c) consulting relevant stakeholders in a sector; and

(d) consulting experts on technical subjects.

(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”

3.2 Memoranda Received on the Statute Law (Miscellaneous Amendments) Bill, 2022

10. The Departmental Committee on Justice and Legal Affairs received Memoranda from the Commission on Administrative Justice (CAJ); the Law Society of Kenya (LSK), the Kenya Law Reform Commission (KLRC); the Judiciary; the Independent Electoral and Boundaries Commission (IEBC) and the Office of the Director of Public Prosecutions (ODPP) which were largely in agreement with the proposals referred to the Committees. However, the Committee received reservations and proposals relating to amendments to the following twelve (12) Acts of Parliament—

3.2.1 Judicature Act, Cap. 8

11. The LSK noted that the amendment to the Judicature Act to increase the number of Judges from a maximum of thirty to seventy is not a minor amendment and that its enactment will occasion additional expenditure of public funds.

12. The Committee was of the view that the Bill is an Executive Bill introduced by the Leader of the Majority Party after obtaining Cabinet Approval. In this regard, the budgetary considerations relating to the proposal must have been factored into in the approval. The

Report of the Departmental Committee on Justice and Legal Affairs on the Consideration of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022)

Committee was of the further view that increasing the number of the judges of the Court by more than one hundred and thirty-three per cent (133%) would not be justifiable in the current economic climate without a proper and urgent justification. As a compromise, the Committee would be open to increasing the number of the Court to a maximum of forty-five (45) judges of Appeal. This represents a fifty per cent (50%) increase of the current maximum number of judges that may be appointed to the Court of Appeal. The increment takes into account the current caseload of the Court and the fact that the Court establishes panels of three judges per matter. The Committee noted that in order to further reduce case backlog, the Court would need to be more efficient and leverage on technology.

3.2.2 Appellate Jurisdiction Act, Cap. 9

13. The KLRC and the LSK noted that the sections of the Act proposed for amendment in the Bill do not exist. The Committee agreed with this view.

3.2.3 Penal Code, Cap. 63

14. ODPP proposed that the amendment to s. 146 Penal Code be changed to “persons with different mental ability” to place emphasis on the affected person’s humanity. The Committee agreed with this view and further noted that the phrase would have to be harmonized with the terms used in the Mental Health Act, Cap. 248. The Committee agreed with this proposal.

3.2.4 Criminal Procedure Code, Cap 75

15. ODPP proposed that the amendment to s. 83 of the Criminal Procedure Code be amended to include “Principal Prosecution Counsel” in the list of Prosecution Counsel contained in the amendment. The Committee agreed with this proposal.

3.2.5 Evidence Act, Cap 80

16. ODPP proposed that the amendment to s. 125 (2) Evidence Act that seeks to replace a derogatory term with the words “person with mental disability” be changed to “person with different mental ability” to place emphasis on the affected person’s humanity. The Committee agreed with this view and further noted that the phrase would have to be harmonized with the terms used in the Mental Health Act, Cap. 248.

3.2.6 Anti-Corruption and Economic Crimes Act, 2003

17. ODPP noted that the proposed amendment to s. 62 of the Anti-Corruption and Economic Crimes Act is unconstitutional as it proposes barring a state officer from accessing his or her office or exercising the powers of that office when the matter is pending investigations which infringes on the right to a fair hearing under Article 50 (2) of the Constitution. According to ODPP the insertion of section (6A) should only apply to individuals who have been charged in a court of law. In this regard the application to the High Court seeking to bar the officer from accessing their office or exercising the powers of that office being criminal in nature should be made by the Director of Public Prosecutions so as to avoid duplicity of the matter which could affect the outcome of the case, as well as to enhance efficiency. Further, the ODPP proposed that new subsection (6B) should be amended to read that the provisions of subsection (6A) apply where the Director of Public Prosecutions has established evidence of concealment, alteration, destruction or removal of records, documents or other evidence; intimidation or threats to witnesses; or interference with investigations.
18. On its part, the KLRC proposed that the proposed s. 62(6A) of the Anti-Corruption and Economic Crimes Act, 2003 be further amended to include public officers to align it with the text of the proposed s.62 (6B).
19. The Committee agreed with the view that prejudicing a person who has not been charged in court would unfairly affect the person's constitutional rights. Additionally, the Committee was of the view that even in the absence of the proposed amendment, the EACC and the ODPP still retain the right to seek the intervention of the Court in the event they obtain evidence of concealment, alteration, destruction or removal of records, documents or other evidence; intimidation or threats to witnesses; or interference with investigations. The Committee, therefore, proposed deletion of the amendment.

3.2.7 International Crimes Act, 2008

20. The ODPP proposed an additional amendment of s. 2 of the Act in the definition of "prosecutor" to include the Director of Public Prosecutions. The Committee noted that the prosecution aspects of the Act relate to proceedings before the International Criminal Court and the inclusion of the DPP in the definition of the term "prosecutor" would create unnecessary ambiguity in the provisions of the Act.

3.2.8 Judicial Service Act, 2011

21. The KLRC proposed that the amendment to s. 38 of the Act, should be amended to ensure the Annual Reports of the Judicial Service Commission are submitted to “Parliament” in accordance with Article 254(1) of the Constitution. The Committee agreed with this view.

3.2.9 Vetting of Judges and Magistrates Act, 2011

22. The KLRC noted a typographical error in the titling of the Act which should be cited as Act “No. 2 of 2011” and not “2010” as indicated in the Bill. The Committee agreed with this view.

3.2.10 Kenya National Commission on Human Rights Act, 2011

23. The KLRC proposed that the amendment to s. 53 of the Act should be amended to ensure the Annual Reports of the Judicial Service Commission are submitted to “Parliament” in accordance with Article 254(1) of the Constitution. The Committee agreed with this view.

3.2.11 Leadership and Integrity Act, 2012

24. The ODPP opposed the amendments to s. 12A of the Act which requires applicants for employment to all public offices to submit a self-declaration form to the EACC for integrity suitability verification as it may impede the independence of the Offices. The KLRC proposed this particular amendment should be changed to limit the vetting to be done by the EACC to only the persons considered for appointment and not all shortlisted candidates to save EACC the time and money required to vet all candidates shortlisted for employment or appointment to public office.
25. The Committee agreed with the view that the proposal to vet all applicants for employment or appointment to public office would present a challenge to the capacity and resources of the EACC. The amendment seemed substantive in nature and its consideration would require additional input from the public and the EACC separately from the Bill.
26. The LSK noted that the amendment to s. 19 of the Act refers to words that are not contained in the section. The Committee agreed with this view and the need for the deletion of the amendment.
27. The ODPP further noted that the amendment to s. 40 Act was not clear with regard to the leadership and integrity code it refers to. The Committee disagreed with this view as the

leadership and integrity code referred to in the amendment is specific to each state organ or agency.

3.2.12 Bribery Act, 2016

28. The LSK proposed that the amendment to s. 1 of the Bribery Act, 2016 to change it into the “Anti-Bribery” Act should also apply to the main title of the Act. The Committee noted that if the amendment is passed, the main title of the Act would also change automatically.
29. The KLRC and the LSK noted that the amendment to s. 5 of the Act requires clarity with regard to the term(s) it seeks to amend. The Committee agreed with this view and the need to ensure the proper amendment was effected.
30. The ODPP noted that the proposed amendment to s. 7(1) of the Bribery Act should be in relation to paragraph (b)(i) and not (b)(ii) for purposes of clarity. The Committee agreed with this view and the need to ensure the amendment related to the proper paragraph.

CHAPTER FOUR

4 COMMITTEE OBSERVATIONS

31. Upon reviewing the Bill and the submissions received, the Committee made the following observations:

- (1) The Bill contained various typographical and cross-referencing errors. In relation to the amendments proposed to the Appellate Jurisdiction Act, Cap. 9, and the Official Secrets Act, Cap. 187, the Bill sought to amend non-existent provisions and text. The Bill would therefore require several amendments to 'clean up' or delete the affected provisions.
- (2) The proposed amendments to the Leadership and Integrity Act were substantive in nature and would require to be considered separately to ensure receipt of the widest possible input from the public and the affected state agencies.
- (3) The Judiciary had forwarded a Draft Bail and Bond Bill in its submissions. The Draft proposals would have to be considered separately from the Bill which forms the basis of this Report.

CHAPTER FIVE

5 SCHEDULE OF AMENDMENTS

32. In view of the observations made, the Committee proposed the following amendments to the Bill:

- (1) **THAT** the Schedule to the Bill be amended in the proposed amendment to section 7(1) of the Judicature Act by deleting the word “seventy” and substituting therefor the word “forty-five”.

Rationale: Increasing the number of the judges of the Court by more than one hundred and thirty-three per cent (133%) is not justifiable in the current economic climate without a proper and urgent justification. Increasing the number of the Court to a maximum of forty-five (45) judges of Appeal represents a fifty per cent (50%) increase of the current maximum number of judges that may be appointed to the Court of Appeal. The increment takes into account the current caseload of the Court and the fact that the Court establishes panels of three judges per matter.

- (2) **THAT** the Schedule to the Bill be amended by deleting the proposed amendments to the Appellate Jurisdiction Act.

Rationale: The amendments refer to non-existent provisions.

- (3) **THAT** the Schedule to the Bill be amended in the proposed amendments to section 146 of the Penal Code by deleting the expression “person with mental disability” and substituting therefor the expression “person suffering from mental disorder”.

Rationale: To align the expression with the terms used in the Mental Health Act, Cap. 348.

- (4) **THAT** the Schedule to the Bill be amended in the proposed amendments to section 83 Of the Criminal Procedure Code by inserting the words “Principal Prosecution Counsel” immediately after the words “Senior Prosecution Counsel,” appearing in the new section 83(1).

Rationale: To include “Principal Prosecution Counsel” in the list of Prosecution Counsel contained in section 83.

- (5) **THAT** the Schedule to the Bill be amended in the proposed amendments to section 125(2) of the Evidence Act by deleting the expression “person with mental disability” and substituting therefor the expression “person suffering from mental disorder”.

Rationale: To align the expression with the terms used in the Mental Health Act, Cap. 348.

- (6) **THAT** the Schedule to the Bill be amended by deleting the proposed amendments to the Official Secrets Act.

Rationale: The amendment seeks to delete and replace words that do not form part of the text of the sections targeted for amendment.

- (7) **THAT** the Schedule to the Bill be amended by deleting the proposed amendments to section 62 of the Anti-Corruption and Economic Crimes Act, 2003.

Rationale: The proposal prejudices a person who has not been charged in court and therefore unfairly infringes on the person’s constitutional rights. Even in the absence of the proposed amendment, the EACC and the ODPP still retain the right to seek the intervention of the Court in the event they obtain evidence of concealment, alteration, destruction or removal of records, documents or other evidence; intimidation or threats to witnesses; or interference with investigations.

- (8) **THAT** the Schedule to the Bill be amended in the proposed amendment to section 38 of the Judicial Service Act, 2011 by deleting the words “National Assembly” and substituting therefor the word “Parliament”.

Rationale: To align the amendment with Article 254(1) of the Constitution which requires Commissions and Independent Offices to submit annual reports to Parliament.

- (9) **THAT** the Schedule to the Bill be amended in the proposed amendment to the Vetting of Judges and magistrates Act, 2011 by deleting the expression “No. 2 of 2010” and substituting therefor the expression “No. 2 of 2011”.

Rationale: To correct a typographical error.

- (10) **THAT** the Schedule to the Bill be amended in the proposed amendment to section 53 of the Kenya National Commission on Human Rights Act, 2011 by deleting the words “National Assembly” and substituting therefor the word “Parliament”.

Rationale: To align the amendment with Article 254(1) of the Constitution which requires Commissions and Independent Offices to submit annual reports to Parliament.

- (11) **THAT** the Schedule to the Bill be amended by deleting the proposed amendments to section 12A of the Leadership and Integrity Act, 2011.

Rationale: The proposal to vet all applicants for employment or appointment to public office would present a challenge to the capacity and resources of the EACC. The amendment is substantive in nature and its consideration requires separate and additional input from the public and the EACC.

- (12) **THAT** the Schedule to the Bill be amended by deleting the proposed amendments to section 19 of the Leadership and Integrity Act, 2011.

Rationale: The amendment refers to an expression that does not form part of the text of the section.

- (13) **THAT** the Schedule to the Bill be amended by deleting the proposed amendment to section 5 of the Bribery Act, 2016 and substituting therefor the following amendment—

<i>Provision</i>	<i>Amendment</i>
5(1)	Delete the word “, who” appearing immediately after the words “another person” and substitute therefor the words “if the person offering, promising or giving”

Rationale: To direct the proposed amendment to the relevant text of section 5.

CHAPTER SIX

6 COMMITTEE RECOMMENDATIONS

33. The Committee, having considered the Statute Law (Miscellaneous Amendments) Bill (*National Assembly Bill No. 60. of 2022*) and the submissions from members of the public and stakeholders, recommends that the House approves the Bill with amendments as proposed in the Schedule of Amendments and the collated Reports of the other Departmental Committees.

SIGNED.....



DATE.....

11. 4. 223

HON. GEORGE GITONGA MURUGARA, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ANNEXURES

ANNEXURES



THE NATIONAL ASSEMBLY

13TH PARLIAMENT

JUSTICE AND LEGAL AFFAIRS COMMITTEE

ADOPTION SCHEDULE

AGENDA: Adoption of the Report on The Statute Law (Miscellaneous Amendment) Bill, 2022

No.	HON MEMBER	SIGNATURE
1.	HON. MURUGARA GEORGE GITONGA, MP – <i>Chairperson</i>	
2.	HON. MUTUSE ECKOMAS MWENGI, MP – <i>Vice Chairperson</i>	
3.	HON. MAALIM FARAH, MP	
4.	HON. FRANCIS KAJWANG' TOM JOSEPH, MP	
5.	HON. JUNET MOHAMED, CBS, MP	
6.	HON. ONYIEGO SILVANUS OSORO, CBS, MP	
7.	HON. (DR.) OTIENDE AMOLLO, SC, MP	
8.	HON. MUCHIRA MICHAEL MWANGI, MP	
9.	HON. MAKALI JOHN OKWISIA, MP	
10.	HON. MURIU WAKILI EDWARD, MP	
11.	HON. MAINA JANE NJERI, MP	
12.	HON. GICHOHI KAGUCHIA JOHN PHILIP, MP	
13.	HON. MOGAKA STEPHEN M, MP	
14.	HON. MOHAMED ADEN DAUD, EBS, MP	
15.	HON. SIYAD AMINA UDGOON, MP	

**ANNEXURE 1:
ADOPTION SCHEDULE**

ANNEXURE 2: MINUTES



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 43RD SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON TUESDAY 21ST MARCH, 2023 AT 2.00P.M. IN THE
PAVILION CONFERENCE ROOM, AT HILTON GARDEN INN, NAIROBI**

PRESENT

Members

- | | |
|--|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Maalim Farah, MP | |
| 3. Hon. Onyiego Silvanus Oso, CBS, MP | |
| 4. Hon. Gichohi Kaguchia John Philip, MP | |
| 5. Hon. Aden Daud, EBS, MP | |
| 6. Hon. Mogaka Stephen M, MP | |
| 7. Hon. Makali John Okwisia, MP | |
| 8. Hon. Muchira Michael Mwangi, MP | |
| 9. Hon. Maina Jane Njeri, MP | |

ABSENT

- | | |
|---|--------------------|
| 1. Hon. Mutuse Eckomas Mwengi, OGW, MP | -Vice- Chairperson |
| 2. Hon. Francis Kajwang' Tom Joseph, MP | |
| 3. Hon. Junet Mohamed, CBS, MP | |
| 4. Hon. (Dr.) Otiende Amollo, SC, MP | |
| 5. Hon. Muriu Wakili Edward, MP | |
| 6. Hon. Siyad Amina Udgoon, MP | |

JLAC COMMITTEE SECRETARIAT

- | | |
|---------------------------|---------------------------------|
| 1. Mr. Douglas Katho | - Clerk Assistant II |
| 2. Mr. Walala Ronald | - Senior Legal Counsel |
| 3. Mr. Omar Abdirahim | - Fiscal Analyst |
| 4. Mr. Clive Onyancha | - Hansard Reporter III |
| 5. Ms. Jael Ayiego Kilaka | - Clerk Assistant III |
| 6. Ms. Vivienne Ogega | - Research Officer III |
| 7. Ms. Julie Faith | - Public Communications Officer |
| 8. Mr. Cosmas Akhonya | - Audio Officer III |

9. Ms. Fridah Ngari - Media Relations Officer
10. Mr. Antony Kariuki - Serjeant-At-Arms

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Adoption of the Report on the Statute Law (Miscellaneous Amendment) Bill, 2022**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/219 PRELIMINARIES

The meeting was called to order at ten minutes past two o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/220 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Gichohi Kaguchia John Philip, MP and seconded by Hon. Mogaka M. Stephen, MP

MIN.NO/DC/JLAC/2023/221 CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO/DC/JLAC/2023/222 ADOPTION OF THE REPORT ON THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL NO. 60 OF 2022)

The Committee considered and unanimously adopted its report on the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bill No. 60 of 2022) with the recommendation that the House approves the Bill with amendments as proposed in the Schedule of Amendments and the Reports of the other Departmental Committees

The adoption of the Report was proposed by Hon. Makali John Okwisia, MP and seconded by Hon. Maina Jane Njeri, MP

MIN.NO/DC/JLAC/2023/223 ADJOURNMENT

There being no other business, the meeting was adjourned at three o'clock. The next meeting shall be held on notice.

SIGNED: DATE: 11-04-2023
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 42ND SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON TUESDAY 21ST MARCH, 2023 AT 10.00A.M. IN THE
PAVILION CONFERENCE ROOM, AT HILTON GARDEN INN, NAIROBI**

PRESENT

Members

- | | |
|--|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Maalim Farah, MP | |
| 3. Hon. Onyiego Silvanus Osoro, CBS, MP | |
| 4. Hon. Gichohi Kaguchia John Philip, MP | |
| 5. Hon. Aden Daud, EBS, MP | |
| 6. Hon. Mogaka Stephen M, MP | |
| 7. Hon. Makali John Okwisia, MP | |
| 8. Hon. Muchira Michael Mwangi, MP | |
| 9. Hon. Maina Jane Njeri, MP | |

ABSENT

- | | |
|---|--------------------|
| 1. Hon. Mutuse Eckomas Mwengi, OGW, MP | -Vice- Chairperson |
| 2. Hon. Francis Kajwang' Tom Joseph, MP | |
| 3. Hon. Junet Mohamed, CBS, MP | |
| 4. Hon. (Dr.) Otiende Amollo, SC, MP | |
| 5. Hon. Muriu Wakili Edward, MP | |
| 6. Hon. Siyad Amina Udgoon, MP | |

JLAC COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|-------------------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant II |
| 2. Mr. Walala Ronald | - | Senior Legal Counsel |
| 3. Mr. Omar Abdirahim | - | Fiscal Analyst |
| 4. Mr. Clive Onyancha | - | Hansard Reporter III |
| 5. Ms. Jael Ayiego Kilaka | - | Clerk Assistant III |
| 6. Ms. Vivienne Ogega | - | Research Officer III |
| 7. Ms. Julie Faith | - | Public Communications Officer |
| 8. Mr. Cosmas Akhonya | - | Audio Officer III |
| 9. Ms. Fridah Ngari | - | Media Relations Officer |
| 10. Mr. Antony Kariuki | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Consideration of the Report on the Statute Law (Miscellaneous Amendment) Bill, 2022**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/214 PRELIMINARIES

The meeting was called to order at ten minutes past ten o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/215 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Gichohi Kaguchia John Philip, MP and seconded by Hon. Mogaka M. Stephen, MP

MIN.NO/DC/JLAC/2023/216 CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO/DC/JLAC/2023/217 CONSIDERATION OF THE REPORT ON THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL, (NATIONAL ASSEMBLY BILL NO. 60 OF 2022)

The Committee considered its report on the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bill No. 60 of 2022)

Having conducted public participation from stakeholders and considered proposals from the stakeholders, the Committee proposed the following amendments to the Bill:

1. the proposed amendment to section 7(1) of the Judicature Act deleting the word "seventy" be substituted with the word "forty-five". Increasing the number of the Court of Appeal judges by more than one hundred per cent would not be justifiable in the current economic status
2. The Bill be amended by deleting the proposed amendments to the Appellate Jurisdiction Act as the Act does not exist
3. The Bill be amended in the proposed amendments to section 125(2) of the Evidence Act by deleting the expression "person with mental disability" and substituting therefor the expression "person suffering from mental disorder" in order to align the expression with the terms used in the Mental Health Act, Cap. 348.

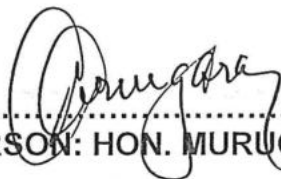
4. The Bill be amended by deleting the proposed amendments to the Official Secrets Act as the amendment made reference to words not contained in the section
5. The Bill be amended by deleting the proposed amendments to section 62 of the Anti-Corruption and Economic Crimes Act, 2003. The proposal prejudices a person who has not been charged in court and therefore unfairly infringes on the person's constitutional rights
6. The Bill be amended in the proposed amendment to section 38 of the Judicial Service Act, 2011 by deleting the words "National Assembly" and substituting therefor the word "Parliament". The proposal is to align the amendment with Article 254(1) of the Constitution which requires Commissions and Independent Offices to submit annual reports to Parliament.
7. The Bill be amended in the proposed amendment to the Vetting of Judges and magistrates Act, 2011 by deleting the expression "No. 2 of 2010" and substituting therefor the expression "No. 2 of 2011".
8. The Bill be amended in the proposed amendment to section 53 of the Kenya National Commission on Human Rights Act, 2011 by deleting the words "National Assembly" and substituting therefor the word "Parliament". The proposal is to align the amendment with Article 254(1) of the Constitution which requires Commissions and Independent Offices to submit annual reports to Parliament.
9. The Bill be amended by deleting the proposed amendments to section 12A of the Leadership and Integrity Act, 2011. The proposal to vet all applicants for employment or appointment to public office would present a challenge to the capacity and resources of the EACC. The amendment is substantive in nature and its consideration requires separate and additional input from the public and the EACC.
10. The Bill be amended by deleting the proposed amendments to section 19 of the Leadership and Integrity Act, 2011. The amendment refers to an expression that does not form part of the text of the section.
11. The Bill be amended by deleting the proposed amendment to section 5 of the Bribery Act, 2016

MIN.NO/DC/JLAC/2023/218

ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past twelve o'clock. The next meeting shall be held on notice.

SIGNED:



DATE:

11.04.2023

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 41ST SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON MONDAY 20TH MARCH, 2023 AT 2.00P.M. IN PAVILION
CONFERENCE ROOM, AT HILTON GARDEN INN, NAIROBI**

PRESENT

Members

- | | |
|--|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Maalim Farah, MP | |
| 3. Hon. Onyiego Silvanus Osoro, CBS, MP | |
| 4. Hon. Gichohi Kaguchia John Philip, MP | |
| 5. Hon. Aden Daud, EBS, MP | |
| 6. Hon. Mogaka Stephen M, MP | |
| 7. Hon. Makali John Okwisia, MP | |
| 8. Hon. Muchira Michael Mwangi, MP | |
| 9. Hon. Maina Jane Njeri, MP | |

ABSENT

- | | |
|---|--------------------|
| 1. Hon. Mutuse Eckomas Mwengi, OGW, MP | -Vice- Chairperson |
| 2. Hon. Francis Kajwang' Tom Joseph, MP | |
| 3. Hon. Junet Mohamed, CBS, MP | |
| 4. Hon. (Dr.) Otiende Amollo, SC, MP | |
| 5. Hon. Muriu Wakili Edward, MP | |
| 6. Hon. Siyad Amina Udgoon, MP | |

JLAC COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|----------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant II |
| 2. Mr. Walala Ronald | - | Senior Legal Counsel |
| 3. Mr. Omar Abdirahim | - | Fiscal Analyst |

- | | | |
|---------------------------|---|-------------------------------|
| 4. Mr. Clive Onyancha | - | Hansard Reporter III |
| 5. Ms. Jael Ayiego Kilaka | - | Clerk Assistant III |
| 6. Ms. Vivienne Ogega | - | Research Officer III |
| 7. Ms. Julie Faith | - | Public Communications Officer |
| 8. Mr. Cosmas Akhonya | - | Audio Officer III |
| 9. Ms. Fridah Ngari | - | Media Relations Officer |
| 10. Mr. Antony Kariuki | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Public hearing from Stakeholders on the Statute Law (Miscellaneous Amendment) Bill, 2022**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/208 PRELIMINARIES

The meeting was called to order at two o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/209 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Onyiego Silvanus Osoro, CBS, MP and seconded by Hon. Gichohi Kaguchia John Philip, MP

MIN.NO/DC/JLAC/2023/210 CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO/DC/JLAC/2023/211 PUBLIC HEARING FROM STAKEHOLDERS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL, 2022

The following Agencies and Departments appeared before the Committee to submit on the Statute Law (Miscellaneous Amendments) Bill, 2023

1. THE KENYA LAW REFORM COMMISSION

Mr. Peter Musyimi, a Legislative Drafter at the Kenya Law Reform Commission appeared before the Committee and briefed the Committee as follows:

- i. That the Commission noted that the sections of the Appellate Jurisdiction Act proposed for amendment in the Bill do not exist.

- ii. That the Commission was of the view that the proposed section 62(6A) of the Anti-Corruption and Economic Crimes Act, 2003 be further amended to include public officers to align it with the text of the proposed section 62 (6B).
- iii. That the Commission proposed that the amendment to section 38 of the Judicial Service Act, should be amended to have The Judicial Service Commission submit its Annual Reports to Parliament in accordance with Article 254(1) of the Constitution of Kenya 2010
- iv. That the Commission noted a typographical error in the titling of the Vetting of Judges and Magistrates Act which should be cited as Act "No. 2 of 2011" and not "2010" as indicated in the Bill.
- v. That the Commission proposed that the amendment to section 53 of the Kenya National Commission on Human Rights Act should be amended to have the Judicial Service Commission submit its Annual Reports Parliament in accordance with Article 254(1) of the Constitution of Kenya 2010
- vi. The Commission proposed the amendment of section 12A of the Leadership and Integrity Act should be revised to limit the vetting by the EACC persons considered for appointment only and not all shortlisted candidates. This is so as to save time and money required to vet all candidates shortlisted for employment or appointment to public office.
- vii. That the Commission noted that the terms of section 5 of the Bribery Act that the Bill seeks to amend require clarity.

MIN.NO/DDC/JLAC/2023/212

COMMITTEE OBSERAVTIONS

1. The Committee agreed with the Commission's proposal that the proposed amendments of sections of the Appellate Jurisdiction Act do not exist
2. The Committee agreed with the Commission's proposal that the amendment to section 38 of the Judicial Service Act, 2011 should be amended to have the Judicial Service Commission submit its Annual Reports to Parliament in accordance with Article 254(1) of the Constitution of Kenya 2010

MIN.NO/DDC/JLAC/2023/213 ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past four o'clock. The next meeting shall be held on notice.

SIGNED: DATE: 11.04.2023
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 40TH SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON MONDAY 20TH MARCH, 2023 AT 10.00A.M. IN THE
PAVILION CONFERENCE ROOM, AT HILTON GARDEN INN, NAIROBI**

PRESENT

Members

1. Hon. Murugara George Gitonga, MP - Chairperson.
2. Hon. Maalim Farah, MP
3. Hon. Onyiego Silvanus Osoro, CBS, MP
4. Hon. Gichohi Kaguchia John Philip, MP
5. Hon. Aden Daud, EBS, MP
6. Hon. Mogaka Stephen M, MP
7. Hon. Makali John Okwisia, MP
8. Hon. Muchira Michael Mwangi, MP
9. Hon. Maina Jane Njeri, MP

ABSENT

1. Hon. Mutuse Eckomas Mwengi, OGW, MP - Vice- Chairperson
2. Hon. Francis Kajwang' Tom Joseph, MP
3. Hon. Junet Mohamed, CBS, MP
4. Hon. (Dr.) Otiende Amollo, SC, MP
5. Hon. Muriu Wakili Edward, MP
6. Hon. Siyad Amina Udgoon, MP

JLAC COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|----------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant II |
| 2. Mr. Walala Ronald | - | Senior Legal Counsel |
| 3. Mr. Omar Abdirahim | - | Fiscal Analyst |
| 4. Mr. Clive Onyancha | - | Hansard Reporter III |
| 5. Ms. Jael Ayiego Kilaka | - | Clerk Assistant III |

- | | | |
|------------------------|---|-------------------------------|
| 6. Ms. Vivienne Ogega | - | Research Officer III |
| 7. Ms. Julie Faith | - | Public Communications Officer |
| 8. Mr. Cosmas Akhonya | - | Audio Officer III |
| 9. Ms. Fridah Ngari | - | Media Relations Officer |
| 10. Mr. Antony Kariuki | - | Serjeant-At-Arms |

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Public hearing from Stakeholders on the Statute Law (Miscellaneous Amendment) Bill, 2022**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/202 PRELIMINARIES

The meeting was called to order at five minutes past ten o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/203 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Maalim Farah, MP and seconded by Hon. Mogaka M. Stephen, MP

MIN.NO/DC/JLAC/2023/204 CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO/DC/JLAC/2023/205 PUBLIC HEARING FROM STAKEHOLDERS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL, 2022

The following Agencies and Departments appeared before the Committee to submit on the Statute Law (Miscellaneous Amendments) Bill, 2023

1. THE COMMISSION ON ADMINISTRATIVE JUSTICE (OFFICE OF THE OMBUDSMAN)

The Committee received a letter dated 16th March 2023 stating that the Commission on Administrative Justice is in concurrence with the proposed amendments.

Commissioner, Ms. Lucy Ndungu appeared before the Committee and further retaliated to the letter that the Commission had no further objections as to the proposed amendments.

2. THE LAW SOCIETY OF KENYA

Mr. Isaiah Ngotho, a Legislative Drafter at the Law Society of Kenya appeared before the Committee and briefed the Committee as follows:

- i. That the Law Society of Kenya noted that the sections of the Appellate Jurisdiction Act, the Bill proposed to amend do not exist.
- ii. That the Law Society of Kenya noted that the amendment to the Judicature Act to increase the number of the Court of Appeal Judges from thirty to seventy is not a minor amendment as its enactment will cause an additional expenditure of public funds.
- iii. That the Law Society of Kenya noted that the amendment of section 19 of the Leadership and Integrity Act made reference to words not contained in the section.
- iv. That the Law Society of Kenya proposes that the amendment to section 1 of the Bribery Act, 2016 to change it into the "Anti-Bribery" Act should also apply to the main title of the Act.
- v. That the Law Society of Kenya noted that the term(s) of section 5 of the Bribery Act, 2016 that the Bill seeks to amend require clarity

MIN.NO/DDC/JLAC/2023/206 COMMITTEE OBSERVATIONS

1. The Committee was of the view that increment of the numbers of the judges of the Court of Appeal by more than a hundred percent would not be justifiable in the current economic climate without a proper and urgent justification. As a compromise, the Committee would be open to increasing the numbers to a maximum of forty-five (45) judges of the Court of Appeal.
2. The Committee agreed with the Law Society of Kenya that the proposed amendments of sections of the Appellate Jurisdiction Act do not exist
3. The Committee agreed with the Law Society of Kenya that amendment of section 19 of the Leadership and Integrity Act, 2012 refers to words not contained in the section.

MIN.NO/DC/JLAC/2023/207 ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past twelve o'clock. The next meeting shall be held on notice.

SIGNED:  DATE: 11.04.2023
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 38TH SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON SATURDAY 18TH MARCH, 2023 AT 10.00A.M. IN PAVILION
CONFERENCE ROOM, AT HILTON GARDEN INN, NAIROBI**

PRESENT

Members

- | | |
|--|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Maalim Farah, MP | |
| 3. Hon. Onyiego Silvanus Osoro, CBS, MP | |
| 4. Hon. Gichohi Kaguchia John Philip, MP | |
| 5. Hon. Aden Daud, EBS, MP | |
| 6. Hon. Mogaka Stephen M, MP | |
| 7. Hon. Makali John Okwisia, MP | |
| 8. Hon. Muchira Michael Mwangi, MP | |
| 9. Hon. Maina Jane Njeri, MP | |

ABSENT

- | | |
|---|--------------------|
| 1. Hon. Mutuse Eckomas Mwengi, OGW, MP | -Vice- Chairperson |
| 2. Hon. Francis Kajwang' Tom Joseph, MP | |
| 3. Hon. Junet Mohamed, CBS, MP | |
| 4. Hon. (Dr.) Otiende Amollo, SC, MP | |
| 5. Hon. Muriu Wakili Edward, MP | |
| 6. Hon. Siyad Amina Udgoon, MP | |

JLAC COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|----------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant II |
| 2. Mr. Walala Ronald | - | Senior Legal Counsel |
| 3. Mr. Omar Abdirahim | - | Fiscal Analyst |

4. Mr. Clive Onyancha	-	Hansard Reporter III
5. Ms. Jael Ayiego Kilaka	-	Clerk Assistant III
6. Ms. Vivienne Ogega	-	Research Officer III
7. Ms. Julie Faith	-	Public Communications Officer
8. Mr. Cosmas Akhonya	-	Audio Officer III
9. Ms. Fridah Ngari	-	Media Relations Officer
10. Mr. Antony Kariuki	-	Serjeant-At-Arms

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Public hearing from Stakeholders on the Statute Law (Miscellaneous Amendment) Bill, 2022**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/190 PRELIMINARIES

The meeting was called to order at two o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/191 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Muchira Michael Mwangi MP and seconded by Hon. Maina Jane Njeri, MP

MIN.NO/DC/JLAC/2023/192 CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO/DC/JLAC/2023/193 PUBLIC HEARING FROM STAKEHOLDERS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL, 2022

The Committee received memoranda on the Statute Law (Miscellaneous Amendments) Bill, 203 from following Agencies and Departments:

1. OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

The Committee received a letter dated ... forwarding the views of the Office of the Director of Public Prosecutions in its memorandum as follows;

- i. The ODPP proposed that the amendment to section 146 of the Penal Code be replaced with "persons with different mental ability" to place emphasis on the affected person's humanity.
- ii. The ODPP proposed that the amendment to section 83 of the Criminal Procedure Code be amended to include "Principal Prosecution Counsel" in the list of Prosecution Counsel contained in the amendment.
- iii. The ODPP noted that the proposed amendment to section 7(1) of the Bribery Act should be in relation to paragraph (b)(i) and not (b)(ii) for purposes of clarity.
- iv. The ODPP opposed the amendments to section 12A of the Leadership and Integrity Act, 2012 which require applicants for employment to all public offices to submit a self-declaration form to the EACC for integrity suitability verification as it may impede the independence of the Offices.
- v. The ODPP proposed that the amendment to section 125 (2) of the Evidence Act be replaced with "person with different mental ability" to place emphasis on the affected person's humanity.
- vi. The ODPP proposed an additional amendment of section 2 of the International Crimes Act, 2008 in the definition of "prosecutor" to include the Director of Public Prosecutions.

MIN.NO/DDC/JLAC/2023/194

COMMITTEE OBSERVATIONS

1. The Committee agreed with the ODPP view on amendment of section 146 of the Penal Code and section 125(2) of the Evidence Act and further noted that the phrase would have to be harmonized with the terms used in the Mental Health Act, Cap. 248
2. The Committee noted that the prosecution aspects of the International Crimes Act, 2008 relate to proceedings before the International Criminal Court and inclusion of the DPP in the definition of the term "prosecutor" would create unnecessary ambiguity in the provisions of the Act.

MIN.NO/DDC/JLAC/2023/195

ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past twelve o'clock. The next meeting shall be held on notice.

SIGNED:



DATE: 11.04.2023

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 37TH SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON FRIDAY 17TH MARCH, 2023 AT 2.00P.M. IN PAVILION
CONFERENCE ROOM, AT HILTON GARDEN INN, NAIROBI**

PRESENT

Members

- | | |
|--|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Maalim Farah, MP | |
| 3. Hon. Onyiego Silvanus Osoro, CBS, MP | |
| 4. Hon. Gichohi Kaguchia John Philip, MP | |
| 5. Hon. Aden Daud, EBS, MP | |
| 6. Hon. Mogaka Stephen M, MP | |
| 7. Hon. Makali John Okwisia, MP | |
| 8. Hon. Muchira Michael Mwangi, MP | |
| 9. Hon. Maina Jane Njeri, MP | |

ABSENT

- | | |
|---|--------------------|
| 1. Hon. Mutuse Eckomas Mwengi, OGW, MP | -Vice- Chairperson |
| 2. Hon. Francis Kajwang' Tom Joseph, MP | |
| 3. Hon. Junet Mohamed, CBS, MP | |
| 4. Hon. (Dr.) Otiende Amollo, SC, MP | |
| 5. Hon. Muriu Wakili Edward, MP | |
| 6. Hon. Siyad Amina Udgoon, MP | |

JLAC COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|----------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant II |
| 2. Mr. Walala Ronald | - | Senior Legal Counsel |
| 3. Mr. Omar Abdirahim | - | Fiscal Analyst |

4. Mr. Clive Onyancha	-	Hansard Reporter III
5. Ms. Jael Ayiego Kilaka	-	Clerk Assistant III
6. Ms. Vivienne Ogega	-	Research Officer III
7. Ms. Julie Faith	-	Public Communications Officer
8. Mr. Cosmas Akhonya	-	Audio Officer III
9. Ms. Fridah Ngari	-	Media Relations Officer
10. Mr. Antony Kariuki	-	Serjeant-At-Arms

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Public hearing from Stakeholders on the Statute Law (Miscellaneous Amendment) Bill, 2022**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/184 PRELIMINARIES

The meeting was called to order at two o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/185 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Mogaka Stephen M. MP and seconded by Hon. Aden Daud, EBS, MP

MIN.NO/DC/JLAC/2023/186 CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO/DC/JLAC/2023/187 PUBLIC HEARING FROM STAKEHOLDERS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL, 2022

The Committee received memoranda on the Statute Law (Miscellaneous Amendments) Bill, 203 from following Agencies and Departments:

1. THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION

The Committee received a letter dated 16th March 2023 forwarding the views of the Independent Electoral and Boundaries Commission as follows:

- i. That while the Statute Law (Miscellaneous Amendments) 2022 makes proposals on several Acts of Parliament, the only provision that directly affects the

Commission id the proposal on review of timelines for the Commission to submit the Annual Report to Parliament.

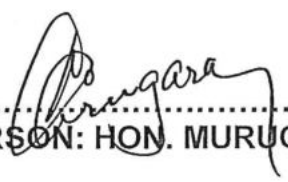
- ii. That the Bill intends to review provisions of section 24(1) of the IEBC Act, 2011 taking into account emerging reforms.
- iii. That the Commission had no objection to the proposed amendment to the Independent Electoral and Boundaries Commission Act, 2011

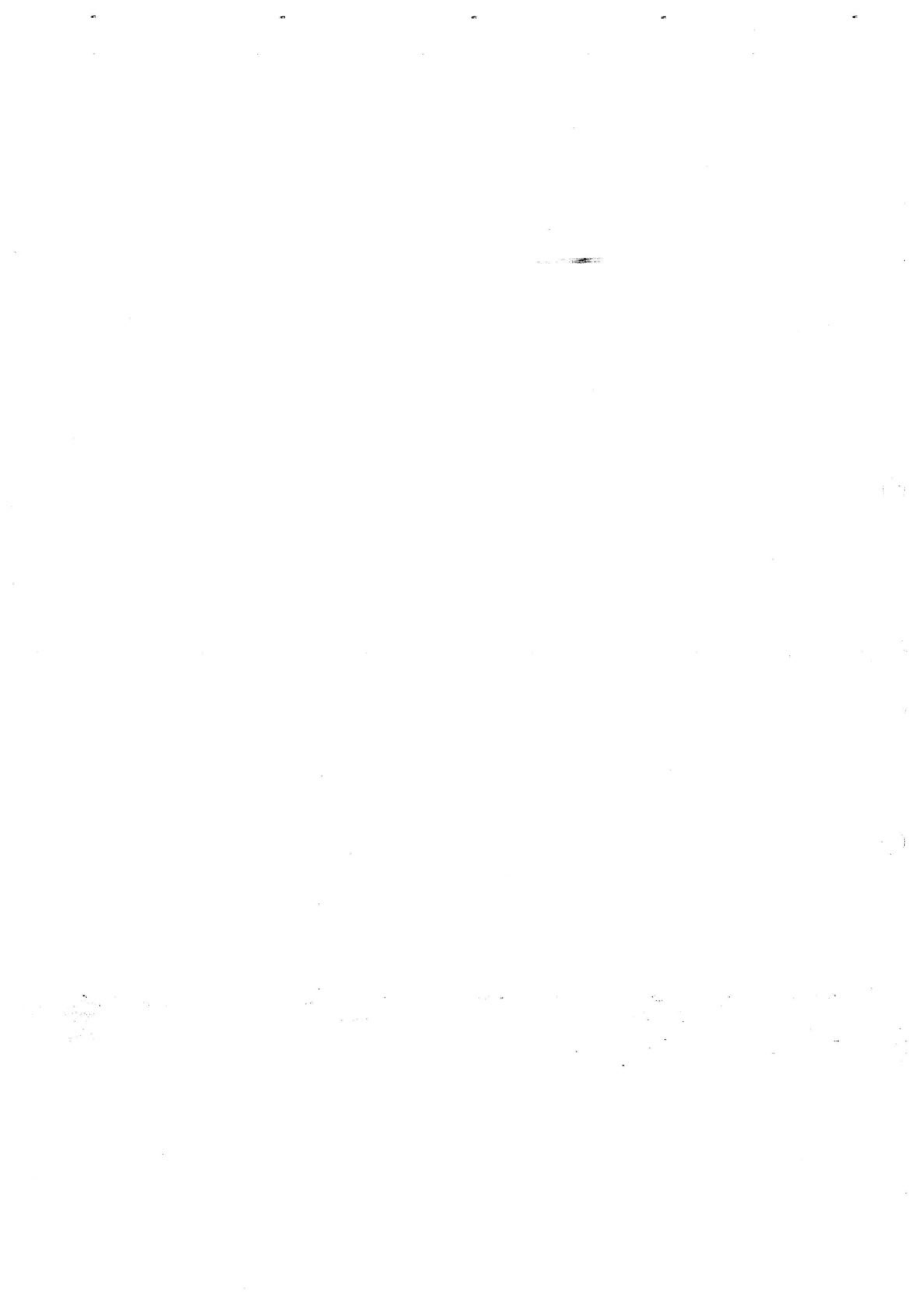
MIN.NO/DDC/JLAC/2023/188 COMMITTEE OBSERAVTIONS

1. The Committee agreed with the Commission's view on the proposed amendments of sections of the Independent Electoral and Boundaries Commission Act, 2011

MIN.NO/DDC/JLAC/2023/189 ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past three o'clock. The next meeting shall be held on notice.

SIGNED:  DATE: 11.04.2023
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)





REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - SECOND SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 36TH SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON FRIDAY 17TH MARCH, 2023 AT 10.00 A.M. IN PAVILION
CONFERENCE ROOM, AT HILTON GARDEN INN, NAIROBI**

PRESENT

Members

- | | |
|--|---------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Maalim Farah, MP | |
| 3. Hon. Onyiego Silvanus Osoro, CBS, MP | |
| 4. Hon. Gichohi Kaguchia John Philip, MP | |
| 5. Hon. Aden Daud, EBS, MP | |
| 6. Hon. Mogaka Stephen M, MP | |
| 7. Hon. Makali John Okwisia, MP | |
| 8. Hon. Muchira Michael Mwangi, MP | |
| 9. Hon. Maina Jane Njeri, MP | |

ABSENT

- | | |
|---|--------------------|
| 1. Hon. Mutuse Eckomas Mwengi, OGW, MP | -Vice- Chairperson |
| 2. Hon. Francis Kajwang' Tom Joseph, MP | |
| 3. Hon. Junet Mohamed, CBS, MP | |
| 4. Hon. (Dr.) Otiende Amollo, SC, MP | |
| 5. Hon. Muriu Wakili Edward, MP | |
| 6. Hon. Siyad Amina Udgoon, MP | |

JLAC COMMITTEE SECRETARIAT

- | | |
|----------------------|------------------------|
| 1. Mr. Douglas Katho | - Clerk Assistant II |
| 2. Mr. Walala Ronald | - Senior Legal Counsel |

3. Mr. Omar Abdirahim	-	Fiscal Analyst
4. Mr. Clive Onyancha	-	Hansard Reporter III
5. Ms. Jael Ayiego Kilaka	-	Clerk Assistant III
6. Ms. Vivienne Ogega	-	Research Officer III
7. Ms. Julie Faith	-	Public Communications Officer
8. Mr. Cosmas Akhonya	-	Audio Officer III
9. Ms. Fridah Ngari	-	Media Relations Officer
10. Mr. Antony Kariuki	-	Serjeant-At-Arms

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Briefing by the Legal Counsel on the Statute Law (Miscellaneous Amendment) Bill, 2022**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/178 PRELIMINARIES

The meeting was called to order at five minutes past ten o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/178 ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Onyiego Silvanu Osoro, CBS. MP and seconded by Hon. Makali John Okwisia, MP

MIN.NO/DC/JLAC/2023/180 CONFIRMATION OF MINUTES

The agenda was deferred.

MIN. NO/DC/JLAC/2023/181 BRIEFING BY THE LEGAL COUNSEL ON THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL; 2022

The Committee was appraised on eighteen (18) provisions of law that The Statute Law (Miscellaneous Amendments) Bill seeks to amend falling under the mandate of the Justice and Legal Affairs Committee.

1. Judicature Act (Cap 8)

The Bill seeks to amend section 7(1) of the to increase the maximum number of judges that may be appointed to the Court of Appeal from thirty (30) to seventy (70).

2. Appellate Jurisdiction Act (Cap 9)

The Bill seeks to amend section 59(7) and 73 of the which are non-existent.

3. Vexatious Proceedings Act (Cap 41)

The Bill seeks to amend section 4 to align the provision with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.

4. Penal Code (Cap 63)

The Bill seeks to amend section 146 to replace a derogatory and discriminatory term ("idiots and imbeciles") in the provision.

5. Criminal Procedure Code (Cap 75)

The Bill seeks amend section 2; 83; 90(3); 123(1); 131(2); 137; 184 and 186 of the to;

- (a) replace the words "State Counsel" with the words "Prosecution Counsel" in the definition of "public prosecutor";
- (b) reference the definition of "police officer" to the definition provided under the National Police Service Act, 2012;
- (c) reference the definition of "police station" to the definition provided under the National Police Service Act, 2012;
- (d) align the Act with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions;
- (e) allow for the issuance of a summons or warrant on any day of the week;
- (f) align the Act with Article 49(1)(h) of the Constitution on the right to bail;
- (g) allow attachment and sale of both movable and immovable property for failure to pay the penalty prescribed for forfeiture of a recognizance (i.e., bond) made to the Court;
- (h) delete the provision allowing the court to substitute the charge of rape under the Penal Code with an offence provided for under the Sexual Offences Act; and

- (i) delete the provision allowing the court to substitute the charge of defilement under the Penal Code with an offence provided for under the Sexual Offences Act.

6. Extradition (Commonwealth Countries) Act (Cap 77)

The Bill seeks to amend section 7, 8, 9 and 10 to align the provision with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.

7. Evidence Act (Cap 80)

The Bill seeks to amend section 3, 78(1) and 125(2) to insert a new definition for the term "photograph" in the Act; allow preparation and admissibility of a photographic print or enlargement from an electronic and digital medium; and replace a derogatory and discriminatory term ("mentally disordered person or a lunatic").

8. Official Secrets Act (Cap 187)

The Bill seeks to amend section 10(1) and 49 (1) which are non-existent

9. Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)

The Bill seeks to amend section 25A, 37, and 62 to align the provisions with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions; and allow the Commission to apply to court to bar a State officer from accessing their office if the officer is charged with corruption or an economic crime and is likely to either conceal, alter, destroy, or remove records, documents or other evidence; intimidate, threaten or otherwise interfere with witnesses; or interfere with investigations in any way.

10. Sexual Offences Act, 2006 (No. 3 of 2006)

The Bill seeks to amend section 40 to align the provisions with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.

11. International Crimes Act, 2008 (No. 16 of 2008)

The Bill seeks to amend section 5, 19(2); 19(3); 21(1)(b); 23(2); 24; 25(3)(a); 26(1); 26(2); 76; 77(2); 78; 79; 84; 85(4); 86; 87(1); 88; 89; 90; 91; 92; 93(2)(b); 94; 95; 96(1); 96(2); 102(2); 102(3); 103; 104; 105; 106; 107; 108; 109; 110; 111; 112(1); 112(3); 112(4); 113(2); 113(3); 114(1); 114(2); 115(1); 116; 118(2); 119; 120; 121(b); 122; 124;

126; 127(6); 129; 153(1); 153(2); 154; 155; 156; 157; 158; 159; 160; 168; and 171 to align the provisions with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.

12. Judicial Service Commission Act, 2011 (No. 1 of 2011)

The Bill seeks to amend section 38 to require the JSC to submit its annual report to the National Assembly within six months after the end of the year to which the Report relates.

13. Vetting of Judges and Magistrates Act, 2011 (No. 2 of 2011)

The Bill seeks to amend section 18(1) to align the provision with Article 157 of the Constitution which grants powers of criminal prosecution to the Director of Public Prosecutions.

14. Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)

The Bill seeks to amend section 24(1) to require the IEBC to submit its annual report to Parliament within six months after the end of the year to which the Report relates.

15. The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)

The Bill seeks to amend section 53 require the KNCHR to submit its annual report to the National Assembly within six months after the end of the year to which the Report relates.

16. Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)

The Bill seeks amend section 27(2) to increase the period within which the EACC should submit its annual report to the President by three months.

17. Leadership and Integrity Act, 2012 (No. 19 of 2012)

The Bill seeks to amend section 12A 19(6); and 40 to require applicants for employment to all public offices to submit a self-declaration form to the EACC for integrity suitability verification; and allow any person to petition the High Court to declare the assumption of office of a State Officer invalid for failure to execute a commitment to their specific leadership and integrity code.

18. The Bribery Act, 2016 (No. 47 of 2016)

The Bill seeks to amend section 1; 4; 5; 7; 10 and 15 to change the title of the Act into the "Anti-Bribery Act"; extend the application of the Act to cover public entities in addition to the public, public officers and private entities; change the definition of a relevant function or activity to be ANY of the categories of functions and conditions outlined in section 7 instead of ALL the categories of functions and conditions as currently provided in the section; and provide that bribery by a citizen constitutes an offence regardless of the country where it occurs.

The Committee was also taken through a side by side comparison of the current provisions of the Act and the changes proposed by the Bill.

MIN.NO/DC/JLAC/2023/182 COMMITTEE OBSERVATIONS

- I. That the Bill contained various typographical and cross-referencing errors.
- II. The Bill sought to amend non-existent provisions of the law that is the Appellate Jurisdiction Act, Cap 9 and the Official Secrets Act, Cap 187
- III. The Bill would require several amendments to 'clean up' or delete the affected provisions.
- IV. The proposed amendments to the Leadership and Integrity Act were substantive in nature and would require to be considered separately to ensure receipt of the widest possible input from the public and the affected state agencies.

MIN.NO/DC/JLAC/2023/183 ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past twelve o'clock. The next meeting shall be held on notice.

SIGNED:  DATE: 11.04.2023
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT - FIRST SESSION - 2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**MINUTES OF THE 35TH SITTING OF THE JUSTICE AND LEGAL AFFAIRS
COMMITTEE HELD ON THURSDAY 16TH MARCH, 2023 AT 10:00 A.M. AT
FAIRMOUNT THE NORFOLK HOTEL, NAIROBI**

PRESENT

Members

- | | |
|---|---------------------|
| 1. Hon. Murugara George Gitonga, MP | - Chairperson |
| 2. Hon. Mutuse Eckomas Mwengi, OGW, MP | - Vice- Chairperson |
| 3. Hon. Francis Kajwang' Tom Joseph, MP | |
| 4. Hon. Onyiego Silvanus Osoro, CBS, MP | |
| 5. Hon. Mogaka Stephen M, MP | |
| 6. Hon. Makali John Okwisia, MP | |
| 7. Hon. Muchira Michael Mwangi, MP | |

ABSENT

1. Hon. Maalim Farah, MP
2. Hon. Junet Mohamed, CBS, MP
3. Hon. (Dr.) Otiende Amollo, SC, MP
4. Hon. Gichohi Kaguchia John Philip, MP
5. Hon. Muriu Wakili Edward, MP
6. Hon. Mohamed Aden Daud, MP
7. Hon. Maina Jane Njeri, MP
8. Hon. Siyad Amina Udgoon, MP

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|----------------------|
| 1. Mr. Douglas Katho | - | Clerk Assistant II |
| 2. Mr. Walala Ronald | - | Senior Legal Counsel |
| 3. Mr. Omar Abdirahim | - | Fiscal Analyst II |

- | | | |
|---------------------------|---|-------------------------------|
| 4. Mr. Clive Onyancha | - | Clerk Assistant III |
| 5. Ms. Jael Ayiego Kilaka | - | Clerk Assistant III |
| 6. Ms. Vivienne Ogega | - | Research Officer III |
| 7. Mr. Alvin Ochieng | - | Research Officer III |
| 8. Ms. Julie Faith | - | Public Communications Officer |
| 9. Mr. Peter Mutethia | - | Audio Officer III |
| 10. Mr. Antony Kariuki | - | Serjeant-At-Arms |

IN ATTENDANCE

- | | | |
|-------------------|---|--------------------------------|
| 1. Mr. Paul Ndemo | - | Deputy Chief Registrar |
| 2. Mr. Jose Were | - | Office of the Deputy Registrar |
| 3. Mr. Ken Ogutu | - | Legal Counsel |
| 4. Mr. David Ruto | - | Building Services |

AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of minutes

4. Messages:-

The Message of H.E the President with respect to the implementation of the two-thirds gender rule and the establishment of the Office of the Leader of Official Opposition in Parliament.

5. Petitions, Questions and Statements:

Question by the Member for Saboti (Hon. Caleb Amisi, MP) to the Hon. Attorney General regarding circumstances under which the defunct Barclay Bank of Kenya Limited rebranded and registered as Absa Kenya Limited in 2017.

6. Bills and Legislative Proposals:

The Penal Code (Amendment) Bill (National Assembly Bill No. 56 of 2022) sponsored by Hon. David Gikaria, M.P. (Nakuru Town East).

Proposed Criminal Procedure Code (amendment) Bill, 2023 by the Hon. Abdul R. Dawood, MP (Imenti North).

Proposed Law of Contract (amendment) Bill, 2023 by the Hon. Simon King'ara, MP

7. Budget Implementation status of the Independent Electoral and Boundaries Commission (IEBC)

8. Meeting with the Judiciary regarding non-payment of obligations on the Sealink Holdings and the JKUAT Enterprises Limited

9. Any Other Business

10. Adjournment/ Date of the Next Meeting

MIN. NO/DC/JLAC/2023/171 PRELIMINARIES

The meeting was called to order at thirty minutes past ten o'clock by the Chairperson followed by a word of prayer from the Chairperson.

MIN.NO/DC/JLAC/2023/172

ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Onyiego Silvanus Oso, CBS, MP and seconded by Hon. Mogaka Stephen M, MP

MIN.NO/DC/JLAC/2023/173

MEETING WITH JUDICIARY REGARDING NON-PAYMENT OF OBLIGATIONS ON THE SEALINK HOLDINGS AND THE JKUAT ENTERPRISE LIMITED

The Deputy Chief Registrar, Mr. Paul Ndemo, appeared before the Committee and made submissions on the Petition filed by the Petitioner. The Registrar made reference to the letter dated 13th March 2023. Mr. Ndemo indicated that whereas the judiciary had entered into a lease agreement with Sealink Holdings Ltd, a dispute arose as to the safety of the building owing to the presence of Telkom Transmission masts in the vicinity of the building. That the matter is presently before court and has proceeded for hearing and the Plaintiff has closed its case. Mr. Ndemo further indicated that the judiciary is amenable to an out of court settlement and that it would be ideal for the Justice and Legal Affairs Committee to act as mediator in the process.

The Committee Members thereafter posed questions to the Petitioner seeking clarifications on various issues arising from the Presentation.

The Committee further resolved to have a site visit to the impugned building so as to be better versed on issues in contention.

MIN. NO/DC/JLAC/2023/174

PETITIONS, QUESTIONS AND STATEMENTS:

The committee resolved that it would invite the Hon. Attorney General on 5th April 2023 so as to respond to the question by (Hon. Caleb Amisi, MP) regarding circumstances under which the defunct Barclays Bank of Kenya Limited rebranded and registered as Absa Kenya Limited in 2017.

MIN. NO/DC/JLAC/2023/175

BILLS AND LEGISLATIVE PROPOSALS:

The committee resolved to consider pending bills and legislative proposals on 6th April 2023.

MIN. NO/DC/JLAC/2023/176

BUDGET IMPLEMENTATION STATUS OF THE INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION (IEBC)

The committee looked into the issue of budget implementation by the IEBC and in particular, pending bills owed by the Commission including legal fees owed to various

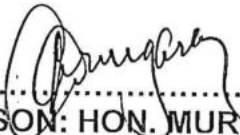
law firms. It was the committee's resolution that it would further probe the pending bills with a view to enabling the Commission to settle the accrued bills and legal fees.

**MIN. NO/DC/JLAC/2023/177 MESSAGE FROM H.E THE PRESIDENT WITH
RESPECT TO THE IMPLEMENTATION OF THE TWO-THIRDS GENDER RULE AND
THE ESTABLISHMENT OF THE OFFICE OF THE LEADER OF OFFICIAL
OPPOSITION IN PARLIAMENT.**

The committee resolved that it would hold meetings across several counties so as to engage in public participation on the message from H.E the President with respect to implementation of the two-thirds gender rule as well as establishment of the Office of the Leader of Official Opposition in parliament.

MIN. NO/DC/JLAC/2023/178 ADJOURNMENT

There being no other business, the meeting was adjourned at thirty minutes past twelve o'clock. The next meeting will be held on notice.

SIGNED:  DATE: 11.04.023
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)

ANNEXURE 3:
COMMUNICATION FROM
SPEAKER



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT- (FIRST SESSION)
THE NATIONAL ASSEMBLY
COMMUNICATION FROM THE CHAIR

_____ (No. 034 of 2022) _____

**ON THE CONSIDERATION OF THE STATUTE LAW
(MISCELLANEOUS AMENDMENTS) BILL (NATIONAL
ASSEMBLY BILL NO. 60 OF 2022)**

Honourable Members,

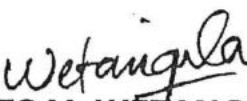
1. As you may have followed from this Afternoon's Supplementary Order Paper, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022) has just been read a First Time. At the cost of stating the obvious, this Bill is an Omnibus Bill which seeks to amend various statutes, especially where the amendments do not merit the publication of several separate Bills.
2. **Honourable Members,** I have been informed that this is not a new Bill. In fact, majority of the amendments proposed were contained in a similar Bill, which was introduced in May 2022 but lapsed in the last Parliament. For clarity, the current Statute Law (Miscellaneous Amendments) Bill, 2022 seeks to amend **fifty-eight (58)** statutes.
3. As is the practice, **Hon. Members,** I refer the Bill to the various Departmental Committees for consideration. I further direct that the lead Committee on this Bill will be the Departmental Committee on Justice and Legal Affairs, which has the highest number of statutes under its mandate.

All other Committees will therefore forward their final reports on consideration of the proposed amendments to statutes to the Justice and Legal Affairs Committee for compilation and subsequent tabling in the House.

4. **Hon. Members**, you may further recall that I had suspended committee sittings until mid-January 2023. However, this does not preclude the House from receiving views from the public on matters that require public participation. I therefore direct the Clerk to publish a notification in the newspapers and on the website to enable commencement of public participation on the Bill.

The House is accordingly guided.

I thank you!


THE RT. HON. MOSES M. WETANG'ULA, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY
Thursday, 8th December 2022

ANNEXURE 4:
ADVERTISEMENT INVITING THE
PUBLIC TO SUBMIT
MEMORANDA ON THE BILL



REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT (FIRST SESSION) 2022
THE NATIONAL ASSEMBLY

In the Matter of Consideration by the National Assembly of the Statute Law
(Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022)

PUBLIC PARTICIPATION/SUBMISSION OF MEMORANDA

Article 118(1) (b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

The **Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022)** is sponsored by the **Leader of Majority Party, Hon. Kimani Ichung'wah, CBS, MP** is an Omnibus Bill which seeks to amend various statutes in keeping with the practice of making minor amendments which do not merit the publication of separate Bills.

The Statute Law (Miscellaneous Amendments) Bill, 2022 contains proposed amendments to the following statutes-

1. The Appellate Jurisdiction Act (Cap 9)
2. The Vexatious Proceedings Act (Cap 41)
3. The Extradition (Commonwealth Countries) Act (Cap 77)
4. The National Flag, Emblems and Names Act (Cap 99)
5. The Official Secrets Act (Cap 187)
6. The Geneva Conventions Act (Cap 198)
7. The Pharmacy and Poisons Act (Cap 244)
8. The Mental Health Act (Cap 248)
9. The Land Consolidation Act (Cap 283)
10. The Land Adjudication Act (Cap 284)
11. The Marine Insurance Act (Cap 390)
12. The Local Manufacturers (Export Compensation) Act (Cap 482)
13. The Capital Markets Act (Cap 485A)
14. The Architects and Quantity Surveyors Act (Cap 525)
15. The Prevention of Fraud (Investments) Act, 1977 (No. 1 of 1977)
16. The Higher Education Loans Board Act, 1995 (No. 3 of 1995)
17. The Retirement Benefits Act, 1997 (No. 3 of 1997)
18. The Co-operatives Societies Act, 1997 (No. 12 of 1997)
19. The Central Depositories Act, 2000 (No. 4 of 2000)
20. The Sexual Offences Act, 2006 (No. 3 of 2006)
21. The National Museums and Heritage Act, 2006 (No. 6 of 2006)
22. The Labour Institutions Act, 2007 (No. 12 of 2007)
23. The Accountants Act, 2008 (No. 15 of 2008)

24. The International Crimes Act, 2008 (No. 16 of 2008)
25. The Biosafety Act, 2009 (No. 2 of 2009)
26. The Counter-Trafficking in Persons Act, 2010 (No. 8 of 2010)
27. The Tourism Act, 2011 (No. 28 of 2011)
28. The Vetting of Judges and Magistrates Act, 2011 (No. 2 of 2010)

The Bill seeks to amend these Acts in order to harmonise their provisions with the functions of the Director of Public Prosecutions under Article 157 of the Constitution.

29. The Judicial Service Commission Act, 2011 (No. 1 of 2011)
30. The Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)
31. The Salaries and Remuneration Commission Act, 2011 (No. 10 of 2011)
32. The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)
33. The National Gender and Equality Commission Act, 2011 (No. 15 of 2011)
34. The Commission on Revenue Allocation Act, 2011 (No. 16 of 2011)
35. The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)
36. The National Police Service Commission Act, 2011 (No. 30 of 2011)
37. The National Land Commission Act, 2012 (No. 5 of 2012)
38. The Teachers Service Commission Act, 2012 (No. 20 of 2012)
39. The Controller of Budget Act, 2016 (No. 26 of 2016)
40. The Public Service Commission Act, 2017 (No. 17 of 2017)

The Bill seeks to amend these Acts to require the presentation of Annual Reports by the Commissions/Offices within six (6) months after the end of the year to which they relate.

41. The Excise Duty Act, 2015 (No. 23 of 2015)

The Bill seeks to amend the First Schedule to the Excise Duty Act to correct mistakes in a tariff number.

42. The Judicature Act (Cap 8)

The Bill proposes to amend the Act to increase the number of Judges of the Court of Appeal from Thirty to Seventy.

43. The Penal Code (Cap 63)

The Bill seeks to amend Section 246 of the Act by deleting expressions therein which may be perceived to be discriminatory towards persons with mental disabilities.

44. The Criminal Procedure Code (Cap 75)

The Bill seeks to amend the statute to harmonize terms therein with the provisions of the Constitution of Kenya, 2010 and the National Police Service Act, 2011. It also seeks to allow the Director of Public Prosecutions to delegate powers to specified officers and to delete offences provided for in the Sexual Offences Act, 2006.

45. The Evidence Act (Cap 80)

The Bill seeks to amend the Act to expand the definition of "photograph" by allowing the presentation and admissibility of digital photographs in line with the current technological advancements. It also seeks to delete expressions which may be perceived to be discriminatory to persons with mental disabilities.

46. The Public Holidays Act (Cap 110)

The Bill proposes to amend the Public Holidays Act to provide that 10th October be *Huduma Day* and 26th December *Utamaduni Day*.

47. The Copyright Act 2001 (No. 12 of 2001)

The Bill seeks to amend the Act to provide for the equitable remuneration of performers and producers of sound recordings and expand the responsibilities of collective management organisations towards authors and performers. It also seeks to bring collective management organisations under regulation by the Board in order to enhance their efficiency.

48. The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)

The Bill seeks to amend the Act to harmonise its provisions with the functions of the Director of Public Prosecutions under Article 157 of the Constitution. It also proposes to amend the Act to allow the Commission to seek a court order for a state officer under investigation or charged with corruption or economic crimes to be barred from accessing office or exercising powers of that office where the public officer is likely to interfere with investigations.

49. The Merchant Shipping Act, 2009 (No. 4 of 2009)

The Bill seeks to amend the Act by deleting section 16 which restricts ship owners from providing crewing agencies, pilotage, clearing and forwarding, port facility operator and shipping agencies among other services in the maritime industry. This is after the High Court in September, 2020 declared the section unconstitutional and to allow for the revival of the Kenya National Shipping Line.

50. The Prevention of Organized Crimes Act, 2010 (No. 6 of 2010)

The Bill seeks to amend the Act to harmonize its provisions with the functions of the Director of Public Prosecutions under Article 157 of the Constitution. It also seeks to enhance the penalty for organised crimes and to extend the period in which an order obtained in relation to the tracing of property shall lapse.

51. Leadership and Integrity Act, 2012 (No. 19 of 2012)

The Bill seeks to amend the Act to allow the Ethics and Anti-Corruption Commission to verify the suitability of candidates seeking public service appointments and make recommendations.

52. The National Transport and Safety Authority Act, 2012 (No. 33 of 2012)

The Bill seeks to amend the Act to provide for the appointment of the Director-General, for a renewable period of five years instead of three.

53. The Kenya Law Reform Commission Act, 2013 (No. 35 of 2013)

The Bill seeks to amend the Act to clarify the provisions on the attendance of ex-officio members at the Commission meetings.

54. The Water Act, 2016 (No. 43 of 2016)

The Bill seeks to amend the Act to include the Attorney-General as a member of the Water Resources Management Board and to require the appointments of Chief Executive Officers under the Act to be in line with guidelines issued by the Salaries and Remuneration Commission. The Bill further seeks to allow the designation of representatives to sit in Boards in place of designated officer holders and the introduction of new members to the Water Works Development Agencies, the Water Services Regulatory Board and the Board of Trustees.

55. The Bribery Act, 2016 (No. 47 of 2016)

The Bill seeks to amend the Act to include both private and public entities in the scope and application of the Act and to make other minor amendments.

56. The Scrap Metal Act, 2015 (No. 1 of 2015)

The Bill seeks to amend the Act to provide for the issuance of a special license for dealing in copper, aluminium, and their alloys. The Bill further proposes to restrict the disposal of scrap metal from critical infrastructure to two national entities namely; Numerical Machining Complex and the Kenya Shipyard Limited and the regulation of imports in addition to exports as well as the enhancement of several penalties in the Act in order to deter vandalism and other prohibited acts.

57. The Energy Act, 2019 (No. 1 of 2019)

The Bill proposes to amend the Act to give effect to the recommendations of the "Presidential Task Force on the Review of Power Purchase Agreements". The recommendations include addressing the overlapping functions between the Energy Petroleum Regulatory Authority and the Ministry responsible for Energy matters.

58. The Housing Act (Cap 17)

The Bill seeks to amend the Act by placing definitions of terminologies in proper alphabetical sequence.

The Statute Law (Miscellaneous Amendments) Bill, 2022 was published on **22nd November 2022** and read a First Time in the House on **8th December, 2022** and pursuant to Standing Order 127(1) committed to respective Departmental Committees of the National Assembly for consideration as set out in the schedule hereunder: -

SCHEDULE	
i. The Vexatious Proceedings Act (Cap 41) ii. The Extradition (Commonwealth Countries) Act (Cap 77) iii. The Official Secrets Act (Cap 187) iv. The Sexual Offences Act, 2006 (No. 3 of 2006) v. The International Crimes Act, 2008 (No. 16 of 2008) vi. The Judicial Service Commission Act, 2011 (No. 1 of 2011) vii. The Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011) viii. The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011) ix. The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011) x. The Penal Code (Cap 63) xi. The Criminal Procedure Code (Cap 75) xii. The Evidence Act (Cap 80) xiii. The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003) xiv. Leadership and Integrity Act, 2012 (No. 19 of 2012) xv. The Kenya Law Reform Commission Act, 2013 (No. 35 of 2013) xvi. The Bribery Act, 2016 (No. 47 of 2016) xvii. The Judicature Act (Cap 8) xviii. The Appellate Jurisdiction Act (Cap 9)	Departmental Committee on Justice and Legal Affairs
i. The Capital Markets Act (Cap 485A)	Departmental Committee

<ul style="list-style-type: none"> ii. The Retirement Benefits Act, 1997 (No. 3 of 1997) iii. The Central Depositories Act, 2000 (No. 4 of 2000) iv. The Accountants Act, 2008 (No. 15 of 2008) v. The Commission on Revenue Allocation Act, 2011 (No. 16 of 2011) vi. The Salaries and Remuneration Commission Act, 2011 (No. 10 of 2011) vii. The Controller of Budget Act, 2016 (No. 26 of 2016) viii. The Excise Duty Act, 2015 (No. 23 of 2015) 	on Finance and National Planning
<ul style="list-style-type: none"> i. The National Flag, Emblems and Names Act (Cap 99) ii. The Public Holidays Act (Cap 110) iii. The Counter-Trafficking in Persons Act, 2010 (No. 8 of 2010) iv. The Prevention of Organized Crimes Act, 2010 (No. 6 of 2010) v. The National Police Service Commission Act, 2011 (No. 30 of 2011) vi. The Prevention of Fraud (Investments) Act, 1977 (No. 1 of 1977) 	Departmental Committee on Administration and Internal Affairs
<ul style="list-style-type: none"> i. The Marine Insurance Act (Cap 390) ii. The Kenya Roads Board Act, 1999 (No. 7 of 1999) iii. The National Transport and Safety Authority Act, 2012 (No. 33 of 2012) iv. The Merchant Shipping Act, 2009 (No. 4 of 2009) 	Departmental Committee on Transport and Infrastructure
<ul style="list-style-type: none"> i. The Higher Education Loans Board Act, 1995 (No. 3 of 1995) ii. The Teachers Service Commission Act, 2012 (No. 20 of 2012) 	Departmental Committee on Education
<ul style="list-style-type: none"> i. The Land Consolidation Act (Cap 283) ii. The Land Adjudication Act (Cap 284) iii. The National Land Commission Act, 2012 (No. 5 of 2012) 	Departmental Committee on Lands
<ul style="list-style-type: none"> i. The Co-operatives Societies Act, 1997 (No. 12 of 1997) ii. The Scrap Metal Act, 2015 (No. 1 of 2015) iii. The Local Manufacturers (Export Compensation) Act (Cap 482) 	Departmental Committee on Trade, Industry and Cooperatives
<ul style="list-style-type: none"> i. The Pharmacy and Poisons Act (Cap 244) ii. The Mental Health Act (Cap 248) 	Departmental Committee on Health
<ul style="list-style-type: none"> i. The Labour Institutions Act, 2007 (No. 12 of 2007) ii. The Public Service Commission Act, 2017 (No. 17 of 2017) 	Departmental Committee on Labour
<ul style="list-style-type: none"> i. The Architects and Quantity Surveyors Act (Cap 525) ii. The Housing Act (Cap 17) 	Departmental Committee on Housing and Public Works
<ul style="list-style-type: none"> i. The National Museums and Heritage Act, 2006 (No. 	

6 of 2006) ii. The Copyright Act 2001 (No. 12 of 2001)	Departmental Committee on Sports and Culture
The Tourism Act, 2011 (No. 28 of 2011)	Departmental Committee on Tourism and Wildlife
The National Gender and Equality Commission Act, 2011 (No 15 of 2011)	Departmental Committee on Social Protection
The Geneva Conventions Act (Cap 198)	Departmental Committee on Defence, Intelligence and Foreign Relations
The Energy Act, 2019 (No. 1 of 2019)	Departmental Committee on Energy
The Water Act, 2016 (No. 43 of 2016)	Departmental Committee on Blue Economy and Irrigation
The Biosafety Act, 2009 (No. 2 of 2009)	Departmental Committee on Agriculture and Livestock

IN COMPLIANCE with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Departmental Committees hereby invite the public and interested stakeholders to submit memoranda on the Bill.

Copies of the Bill are available at the National Assembly Table Office, Main Parliament Building or on www.parliament.go.ke/the-national-assembly/house-business/bills.

The memoranda may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; or hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to cna@parliament.go.ke to be received **on or before Friday, 6th January, 2023 by 5.00 pm.**

SAMUEL NJOROGI
CLERK OF THE NATIONAL ASSEMBLY

16th December, 2022

For the Welfare of Society and the just Government of the People

ANNEXURE 5:
LETTER FROM THE CLERK OF
THE NATIONAL ASSEMBLY
INVITING RELEVANT
STAKEHOLDERS TO
SUBMIT MEMORANDA ON
THE BILL



Telegraphic Address
'Bunge', Nairobi
Tel. +254-020-2848000
Fax: +254-020-2243694
E-mail: cna@parliament.go.ke
www.parliament.go.ke



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

Clerk's Chambers
National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI, Kenya

Ref: NA/DDC/JLAC/2022/010

20th December 2022

Ms. Anne Amadi,
Chief Registrar
Judiciary of Kenya
Supreme Court Building
NAIROBI

Hon. Justin Muturi, EGH
The Attorney General of the Republic of Kenya,
Office of the Attorney-General and Department of Justice,
Sheria House, Harambee Avenue,
NAIROBI.

Mr. Wafula Chebukati
Chairperson
Independent Electoral & Boundaries Commission (IEBC)
University Way, Anniversary Towers, 6th floor,
NAIROBI

Ms. Roseline Odede HSC
Chairperson
Kenya National Commission on Human Rights (KNCHR)
1st Floor, CVS Plaza, Lenana Road
NAIROBI

Dr. Joyce Mwikali Mutinda,
National Gender and Equality Commission (NGEC)
1st Floor, Solution Tech Place, 5 Longonot Rd,
Upper Hill,
NAIROBI

Mr. Joash Dache, MBS
Commission Secretary/CEO,
Kenya Law Reform Commission,
Reinsurance Plaza, 3rd Floor,
Tara Road,
NAIROBI.

Hon. Florence Kajuru, MBS
Chairperson
Commission on Administrative Justice
Office of the Ombudsman
West End Towers, 2nd Floor, Waiyaki Way, Westlands
NAIROBI

Ms. Margaret Klogora
National Youth Council
Absa Towers, 12th Floor, Loita Street,
NAIROBI

Ms. Florence Muturi,
Chief Executive Officer
Law Society of Kenya (LSK)
Lavington, Opposite Valley Arcade, Gitanga Road
NAIROBI

Ms. Christine Gakii Nkonge,
Executive Director
Katiba Institute, House No.5 -the Crescent-Off Parklands Road
NAIROBI

Ms. Nancy Ikiinu
Federation of Women Lawyers (FIDA Kenya)
Amboseli Road off Gitanga Road, Lavington
NAIROBI

RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILLS No. 60 OF 2022)

The above matter refers.

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, ***'study and review all legislation referred to it'***.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022) sponsored by the Leader of Majority Party, Hon. Kimani Ichung'uwa, ~~CBS~~ MP is an Omnibus Bill which seeks to amend various statutes in keeping with the practice of making minor amendments which do not merit the publication of several separate Bills.

The Statute Law (Miscellaneous Amendments) Bill, 2022 contains proposed amendments to the following statutes under the purview of the Committee:-

1. The Appellate Jurisdiction Act (Cap 9)
2. The Vexatious Proceedings Act (Cap 41)
3. The Extradition (Commonwealth Countries) Act (Cap 77)
4. The Official Secrets Act (Cap 187)
5. The Sexual Offences Act, 2006 (No. 3 of 2006)
6. The International Crimes Act, 2008 (No. 16 of 2008)
7. The Vetting of Judges and Magistrates Act 2011 (No. 2 of 2010)

With respect to the above statutes, the Bill seeks to amend the Acts in order to harmonize their provisions with the functions of the Director of Public Prosecutions under Article 157

of the Constitution.

8. **The Judicial Service Commission Act, 2011 (No. 1 of 2011)**
9. **The Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)**
10. **The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)**
11. **The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)**

With respect to the above statutes, the Bill seeks to amend the Acts to require the presentation of Annual Reports by the Commissions/Offices within six (6) months after the end of the year to which they relate.

12. The Judicature Act (Cap 8)

The Bill proposes to amend the Judicature Act to increase the number of Judges of the Court of Appeal from thirty to seventy.

13. The Penal Code (Cap 63)

The Bill seeks to amend Section 246 of the statute by deleting expressions therein which may be perceived to be discriminatory towards persons with mental disabilities.

14. The Criminal Procedure Code (Cap 75)

The Bill seeks to amend the statute to harmonize terms therein with the provisions of the Constitution of Kenya, 2010 and the National Police Service Act, 2011. It also seeks to allow the Director of Public Prosecutions to delegate powers to specified officers and to delete offences provided for in the Sexual Offences Act, 2006.

15. The Evidence Act (Cap 80)

The Bill seeks to amend the Act to expand the definition of "photograph" by allowing the presentation and admissibility of digital photographs in line with the current technological advancements. It also seeks to delete expressions which may be perceived to be discriminatory to persons with mental disabilities.

16. The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)

The Bill seeks to amend the Act to harmonize its provisions with the functions of the Director of Public Prosecutions under Article 157 of the Constitution.

It also proposes to amend the Act to allow the Commission to seek a court order for a state officer under investigation or charged with corruption or economic crimes to be barred from accessing office or exercising powers of that office where the public officer is likely to interfere with investigations.

17. Leadership and Integrity Act, 2012 (No. 19 of 2012)

The Bill seeks to amend the Act to allow the Ethics and Anti-Corruption Commission to verify the suitability of candidates seeking public service appointments and make recommendations.

18. The Kenya Law Reform Commission Act, 2013 (No. 35 of 2013)

The Bill seeks to amend the Act to clarify the provisions on the attendance of ex-officio members at the Commission meetings.

19. The Bribery Act, 2016 (No. 47 of 2016)

The Bill seeks to amend the Act to include both private and public entities in the scope and application of the Act and to make other minor amendments.

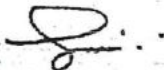
The Statute Law (Miscellaneous Amendments) Bill was published on 22nd November 2022 and Read a First Time in the House on 8th December, 2022. Pursuant to Standing Order 127(1), Bill was committed to the Departmental Committee on Justice & Legal Affairs of the National Assembly for consideration and table its report the House. Due to the tremendous public interest in the Bill, the Committee has resolved to meet critical stakeholders to make submissions on the Bill.

This is therefore to invite you to a meeting with the Committee scheduled for **Tuesday 17th January, 2022 and Wednesday 18th January, 2022** at a venue to be communicated in due course in Nairobi County or its environs. You are required to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions to be availed at the meeting while soft copies should be sent to the Office of the Clerk, Main Parliament Building or email the same to cna@parliament.go.ke.

Enclosed find a copy of the Bill for reference.

Our Liaison Officer on this matter are **Mr. Douglas Katho** and **Mr. Clive Onyancha** who may be contacted on Tel. 0722333145 or email douglas.katho@parliament.go.ke.

Yours



JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Encl.//

ANNEXURE 6:
LETTER FROM THE CLERK OF
THE NATIONAL ASSEMBLY
INVITING RELEVANT
STAKEHOLDERS TO ATTEND
THE PUBLIC PARTICIPATION
FORUM



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

Ref: NA/DDC/JLAC/2023/025

9th March 2023

Ms. Anne Amadi
Chief Registrar Judiciary of Kenya/Secretary
Judicial Service Commission
Supreme Court Building
NAIROBI

Hon. Justin Muturi, EGH
The Attorney General of the Republic of Kenya
Sheria House, Harambee Avenue
NAIROBI

Maj. (Rtd) Twalib Mbarak, CBS
Chief Executive Officer
Ethics and Anti-Corruption Commission
Integrity Centre, Jakaya Kikwete/Valley Road Junction
NAIROBI

Mr. Noordin M. Haji, CBS, OGW
The Director of Public Prosecutions
ODPP House, Ragati Road, Upper Hill
NAIROBI

Mr. Marjan Hussein Marjan
Independent Electoral and Boundaries Commission Secretary/ CEO
Independent Electoral and Boundaries Commission
University Way, Anniversary Towers, 6th floor
NAIROBI

Mr. Bernard Mogesa
Chief Executive Officer
Kenya National Commission on Human Rights
1st Floor, CVS Plaza, Lenana Road
NAIROBI

Dr. Joyce Mwikali Mutinda
National Gender and Equality Commission (NGEC)
1st Floor, Solution Tech Place, 5 Longonot Rd, Upper Hill
NAIROBI

Mr. Joash Dache, MBS
Commission Secretary/CEO
Kenya Law Reform Commission
Reinsurance Plaza, 3rd Floor, Taifa Road
NAIROBI

Hon. Florence Kajuju, MBS
Chairperson, Commission on Administrative Justice
Office of the Ombudsman
West End Towers, 2nd Floor, Waiyaki Way, Westlands
NAIROBI

Ms. Margaret Kiogora
National Youth Council
Absa Towers, 12th Floor, Loita Street
NAIROBI

Ms. Florence Muturi
Chief Executive Officer
Law Society of Kenya (LSK)
Lavington, Opposite Valley Arcade, Gitanga Road
NAIROBI

Ms. Christine Gakii Nkonge
Executive Director
Katiba Institute, House No.5 -the Crescent-Off Parklands Road
NAIROBI

Ms. Nancy Ikiinu
Federation of Women Lawyers (FIDA Kenya)
Amboseli Road off Gitanga Road, Lavington
NAIROBI

Dear *Hon. Muturi,*

RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW
(MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILLS No.
60 OF 2022)

The above matter refers.

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, *"study and review all legislation referred to it"*.

The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022) sponsored by the Leader of Majority Party, Hon. Kimani Ichung'wah, CBS, MP is an Omnibus Bill which seeks to amend various statutes in keeping with the practice of making minor amendments which do not merit the publication of several separate Bills.

The Statute Law (Miscellaneous Amendments) Bill, 2022 contains proposed amendments to the following statutes under the purview of the Committee:-

1. The Appellate Jurisdiction Act (Cap 9)
2. The Vexatious Proceedings Act (Cap 41)
3. The Extradition (Commonwealth Countries) Act (Cap 77)
4. The Official Secrets Act (Cap 187)
5. The Sexual Offences Act, 2006 (No. 3 of 2006)
6. The International Crimes Act, 2008 (No. 16 of 2008)
7. The Vetting of Judges and Magistrates Act 2011 (No. 2 of 2010)

With respect to the above statutes, the Bill seeks to amend the Acts in order to harmonize their provisions with the functions of the Director of Public Prosecutions under Article 157 of the Constitution.

8. The Judicial Service Commission Act, 2011 (No. 1 of 2011)
9. The Independent Electoral and Boundaries Commission Act, 2011 (No. 9 of 2011)
10. The Kenya National Commission on Human Rights Act, 2011 (No. 14 of 2011)
11. The Ethics and Anti-Corruption Commission Act, 2011 (No. 22 of 2011)

With respect to the above statutes, the Bill seeks to amend the Acts to require the presentation of Annual Reports by the Commissions/Offices within six (6) months after the end of the year to which they relate.

12. The Judicature Act (Cap 8)

The Bill proposes to amend the Judicature Act to increase the number of Judges of the Court of Appeal from thirty to seventy.

13. The Penal Code (Cap 63)

The Bill seeks to amend Section 246 of the statute by deleting expressions therein which may be perceived to be discriminatory towards persons with mental disabilities.

14. The Criminal Procedure Code (Cap 75)

The Bill seeks to amend the statute to harmonize terms therein with the provisions of the Constitution of Kenya, 2010 and the National Police Service Act, 2011. It also seeks to allow the Director of Public Prosecutions to delegate powers to specified officers and to delete offences provided for in the Sexual Offences Act, 2006.

15. The Evidence Act (Cap 80)

The Bill seeks to amend the Act to expand the definition of "photograph" by allowing the presentation and admissibility of digital photographs in line with the current technological advancements. It also seeks to delete expressions which may be perceived to be discriminatory to persons with mental disabilities.

16. The Anti-Corruption and Economic Crimes Act, 2003 (No. 3 of 2003)

The Bill seeks to amend the Act to harmonize its provisions with the functions of the Director of Public Prosecutions under Article 157 of the Constitution.

It also proposes to amend the Act to allow the Commission to seek a court order for a state officer under investigation or charged with corruption or economic crimes to be barred from accessing office or exercising powers of that office where the public officer is likely to interfere with investigations.

17. Leadership and Integrity Act, 2012 (No. 19 of 2012)

The Bill seeks to amend the Act to allow the Ethics and Anti-Corruption Commission to verify the suitability of candidates seeking public service appointments and make recommendations.

18. The Kenya Law Reform Commission Act, 2013 (No. 35 of 2013)

The Bill seeks to amend the Act to clarify the provisions on the attendance of ex-officio members at the Commission meetings.

19. The Bribery Act, 2016 (No. 47 of 2016)

The Bill seeks to amend the Act to include both private and public entities in the scope and application of the Act and to make other minor amendments.

The Statute Law (Miscellaneous Amendments) Bill was published on 22nd November 2022 and Read a First Time in the House on 8th December, 2022. Pursuant to Standing Order 127(1), the Bill was committed to the Departmental Committee on Justice & Legal Affairs of the National Assembly for consideration and tabling of its report the House.

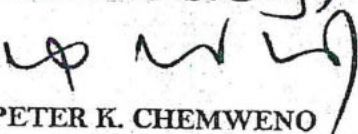
In accordance with the provisions of Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) that require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees, the Committee sought submissions on the Bill through an advertisement published in the daily newspapers on Friday, 16th December, 2022. In addition to this, and considering the tremendous public interest in the Bill, the Committee has resolved to enrich the Bill further by seeking the views of critical stakeholders to make submissions on the Bill.

In this regard, a meeting has been scheduled on **Friday 17th March, 2023 at 10.00 am** at a venue to be communicated in due course in Nairobi County or its environs. You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions to be availed at the meeting while soft copies should be sent to the Office of the Clerk, Main Parliament Building or email the same to cna@parliament.go.ke.

A copy of the Bill is available at the National Assembly Table Office and an electronic version may be obtained from the Parliament website: www.parliament.go.ke/the-national-assembly/house-bills for reference.

The liaison officers for this activity are **Mr. Douglas Katho** who may be contacted on tel. no. 0722333145 or email: douglas.katho@parliament.go.ke, **Mr. Clive Onyancha**, tel. no. 0725993500 or email: clive.onyancha@parliament.go.ke or **Ms. Jael Ayiego Kilaka** tel. no. 0725385945 or email: jael.kilaka@parliament.go.ke.

Yours

Sincerely,


PETER K. CHEMWENO

For: CLERK OF THE NATIONAL ASSEMBLY

Telegraphic Address
"Bunge", Nairobi
Tel: +254-020-2848000
Fax: +254-020-2243694
E-mail: ona@parliament.go.ke
www.parliament.go.ke



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

Clerk's Chambers
National Assembly
Parliament Buildings
P.O. Box 41842-00100
NAIROBI, Kenya

Ref: NA/DDC/JLAC/2022/001

17th January, 2023

Hon. Justin Muturi, EGH

The Attorney General of the Republic of Kenya,
Office of the Attorney-General and Department of Justice,
Sheria House, Harambee Avenue,
NAIROBI.

Ms. Anne Amadi,
Chief Registrar
Judiciary of Kenya
Supreme Court Building
NAIROBI

Mr. Wafula Chebukati
Chairperson
Independent Electoral & Boundaries Commission (IEBC)
University Way, Anniversary Towers, 6th floor,
NAIROBI

Ms. Roseline Odede HSC
Chairperson
Kenya National Commission on Human Rights (KNCHR)
1st Floor, CVS Plaza, Lenana Road
NAIROBI

Dr. Joyce Mwikali Mutinda,
National Gender and Equality Commission (NGEC)
1st Floor, Solution Tech Place, 5 Longonot Rd,
Upper Hill,
NAIROBI

Mr. Joash Dache, MBS
Commission Secretary/CEO,
Kenya Law Reform Commission,
Reinsurance Plaza, 3rd Floor,
Taifa Road,
NAIROBI

Hon. Florence Kajuju, MBS
Chairperson
Commission on Administrative Justice
Office of the Ombudsman
West End Towers, 2nd Floor, Waiyaki Way, Westlands
NAIROBI

Ms. Margaret Kiogora
National Youth Council
Absa Towers, 12th Floor, Loita Street,
NAIROBI

Ms. Florence Muturi,
Chief Executive Officer
Law Society of Kenya (LSK)
Lavington, Opposite Valley Arcade, Gitanga Road
NAIROBI

Ms. Christine Gakii Nkonge,
Executive Director
Katiba Institute, House No.5 -the Crescent-Off Parklands Road
NAIROBI

Ms. Nancy Ikilnu
Federation of Women Lawyers (FIDA Kenya)
Amboseli Road off Gitanga Road, Lavington
NAIROBI

Dear Madam,

**RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) BILL (NATIONAL ASSEMBLY BILLS No. 60 OF 2022)**

Reference is made to our letter to you Ref: NA/DDC/JLAC/2022/10 dated 20th December 2022 on the aforementioned subject.

Owing to the unavoidable circumstances, the Departmental Committee on Justice and Legal Affairs has postponed the meeting schedule for **Tuesday 17th January, 2023 and Wednesday 18th January, 2023** to a date to be communicated.

Any inconvenience caused by the postponement is regretted.

Our Liaison Officer on this subject are **Mr. Douglas Katho** and **Mr. Clive Onyancha** who may be contacted on Tel. 0722333145 or email douglas.katho@parliament.go.ke.

Yours


SERAH M. KIOKO, MBS
FOR: CLERK OF THE NATIONAL ASSEMBLY

ANNEXURE 7: MEMORANDA BY STAKEHOLDERS

Chairperson: Hon. Florence Kajuku, MBS
Vice-Chairperson: Mr. Washington Sati, MBS
Commissioner: Mrs. Lucy Ndung'u, EBS, HSC



THE
COMMISSION ON ADMINISTRATIVE JUSTICE
"Office of the Ombudsman"

Our Ref: CAJ/LEG/5 VOL.VI (72)

16th March, 2023

Clerk of the National Assembly
Parliament Buildings
P.O. Box 41842 - 00100
NAIROBI



DD C-11001
8
17/03

Dear Sir,

RE: VIEWS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILSS NO. 60 OF 2022)

Receive warm compliments from the Commission on Administrative Justice (Office of the Ombudsman).

We acknowledge receipt of your letter Ref No. NA/DDC/JLAC/2023/025 dated 9th March 2023, on the above captioned subject.

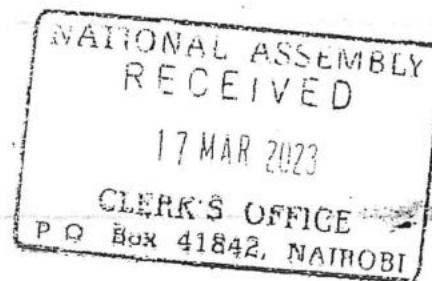
The Commission is in concurrence with the proposed amendments, as stipulated in the letter under reference.

We thank you for your continued support and assure you of our highest regards.

Yours faithfully,

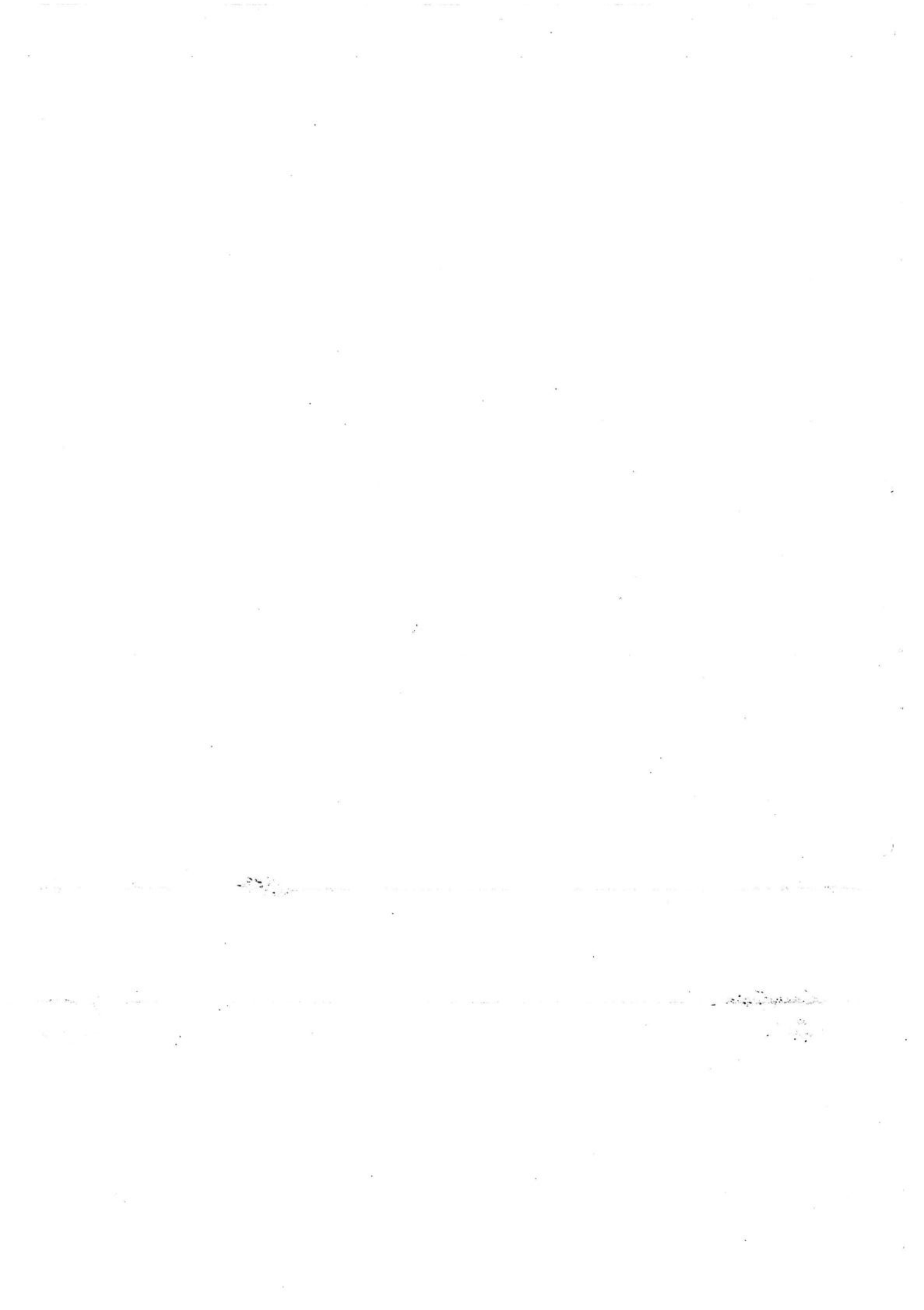
D. M. KAROMO

FOR: COMMISSION SECRETARY/CEO



Mr. Douglas Katho

Pls TNA 20/03/2023



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



Ref. No. IEBC/CS/CEO/16/3/23

16th March, 2023

The Clerk of the National Assembly
Clerk's Chambers
National Assembly
Parliament Buildings
P. O. Box 41842-00100
NAIROBI

Att: Mr. Peter K. Chemweno

*DD Chemweno
8
17/03*



**RE: SUBMISSION OF VIEWS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
BILL (NATIONAL ASSEMBLY BILLS NO. 60 OF 2022)**

We acknowledge receipt of your letter Ref. No. NA/DDC/PAC/JLAC/2023/025 dated 9th March, 2023 on the above subject matter.

The Commission has noted the contents of your letter, and therefore, submits its views on the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills No. 60 of 2022).

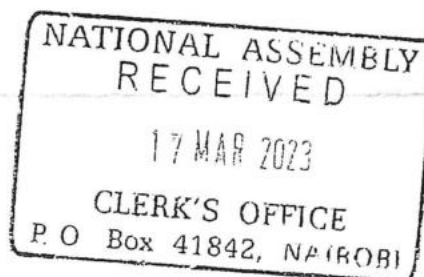
In view of the above, the Commission also confirms its availability to attend the meeting scheduled on Friday 17th March, 2023 at 10.00 at a venue to be confirmed by your office.

Thank you for your continued support.

CPA Marjan Hussein Marjan, MBS
Commission Secretary/CEO

Mr. Douglas Katho

Pls TNA. 20/03/2023



INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



**THE INDEPENDENT ELECTORAL AND BOUNDARIES
COMMISSION (IEBC)**

MEMORANDUM

TO THE NATIONAL ASSEMBLY

ON

**THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL
(NATIONAL ASSEMBLY BILLS NO. 60 OF 2022)**

Dated 17th March, 2023

Independent Electoral & Boundaries Commission (I.E.B.C)

Anniversary Towers, Off University Way

P.O. Box 45371-00100, Nairobi-Kenya

Telephone: +254 (0) 20 29925

INTRODUCTION

1. The Independent Electoral and Boundaries Commission (IEBC) established under Article 88 of the Constitution of Kenya, 2010 is responsible for the conduct or supervision of referenda and elections to any elective body or office established by the Constitution and any other elections prescribed by an Act of Parliament.
2. The IEBC is a Constitutional Commission established under Chapter 15 of the Constitution with particular reference to Article 249, which sets out the objects of Constitutional Commissions.
3. The general functions of the IEBC and other Commissions are set-out under Article 252(1). However, the specific mandate of the Commission is primarily governed by Article 88(4) of the Constitution and Section 4 of the IEBC Act, 2011.
4. The IEBC notes the Bill under reference and makes the following submissions:

Purpose of the Bill

5. The Bill seeks, among others, to amend an array of Statutes and seeks to better improve the said statutes.
6. The Commission welcomes this Bill and wish to make some general comments on the laws that directly affect the mandate of the Commission as follows:

General Comments

7. While the Statute Law (Miscellaneous Amendments) 2022 makes proposals on several Acts of Parliament, the only provision that directly affects the Commission is the proposal on review of timelines for the Commission to submit the Annual Report to Parliament.

Specific Comments

8. This Bill intends to review provisions of Section 24 (1) of the IEBC Act, 2011 taking into account emerging reforms and to this we make the following specific comments on proposals that have an impact on the said Act.
9. The IEBC has endeavored to highlight, in matrix form, the relevant clause, the provision of the IEBC Act affected, our observation on the proposed amendments to the Act and the consequential impact of the proposed amendment to Act aforesaid.

S No	Statute	Current Provision	Proposed Amendment	Observation	Impact on the IEBC Processes
1.	Independent Electoral and Boundaries Commission Act, 2011	Within <u>three</u> months after the end of each financial year, the Commission shall present its annual report to the President and submit the same to Parliament	Section 24 (1) Replace the word 'three' months with 'six'(months at the end of each financial year)	Extends the time within which the Commission is expected to comply.	This is a welcome amendment by the Commission as it affords the Commission more time to prepare and finalize its Annual Report after the close of the financial year.

CONCLUSION

10. The Commission submits that it has no objection to the proposed amendment to the Independent Electoral and Boundaries Act, 2011 and urge this Honourable House to consider the proposals herein.



CPA Marjan Hussein Marjan, MBS
Commission Secretary/CEO

Justice

KENYA LAW REFORM COMMISSION



"A Vibrant Agency for Responsive Law Reform"

Telegrams: "LAWREFORM" NAIROBI
Telephone: Nairobi, +254-20-2241186/2241201
Fax: +254-20-2225786
www.info@klrc.go.ke

When replying please quote

Ref. No. **KLRC/RES/93 VOL.VI (38)**

and Date

The Clerk of National Assembly
Clerk's Chambers
National Assembly
Parliament Building
P.O Box 41842 -00100
Nairobi

(Attn: Mr. Jeremiah W. Ndombi, MBS)

Dear *Jerem*,

RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILLS NO.60 OF 2022)

We acknowledge with thanks receipt of your letter Ref.No.NA/DDC/JLAC/2022/010 dated 20th December, 2022 on the above subject.

Enclosed herein please find the Commission's comments on Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills No.60 Of 2022) for further action.

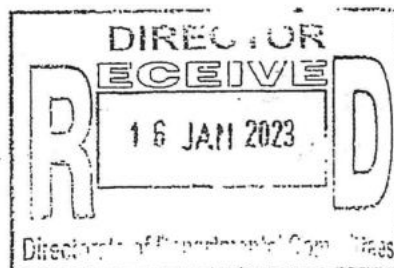
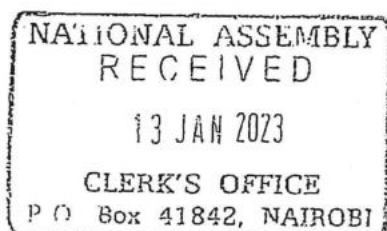
As always, we are grateful for your continued support and collaboration.

Yours

Sincerely,
Joash Dache

Joash Dache, MBS
Secretary/Chief Executive Officer

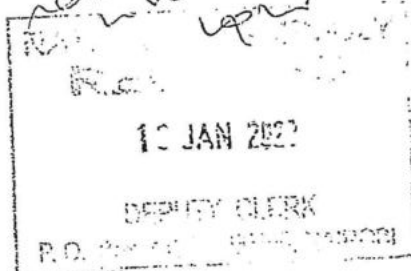
Encl.



KENYA LAW REFORM COMMISSION
REINSURANCE PLAZA
3RD FLOOR
TALFA ROAD
P.O. Box 34999-00100
NAIROBI, KENYA
12th January, 2023

Lihan seurei

*make copies and
distribute to all
relevant committees
involved*



17/1/23



THE KLRC COMMENTS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, 2022

I. INTRODUCTION

This memorandum is issued in furtherance of the Kenya Law Reform Commission's mandate under section 6 of the Kenya Law Reform Commission Act, No. 19 of 2013, to keep under review all the law and recommend its reform to ensure, among others, that the law systematically develops in compliance with the values and principles enshrined in the Constitution and that the law is consistent, harmonized, just, simple, accessible, modern and cost-effective in application.

The Kenya Law Reform Commission (KLRC) is in receipt of a letter from the National Assembly dated 20 December 2022 (ref: NA/DDC/JLAC/2022/010) seeking its comments on the Statute Law (Miscellaneous Amendments) Bill, 2022, National Assembly Bill, No. 60 of 2022. The Bill seeks to "amend various statutes in keeping with the practice of making minor amendments which do not merit the publication of several separate Bills". The National Assembly has sought KLRC's comments on the Bills under the purview of the Departmental Committee on Justice and Legal Affairs.

Against this background and pursuant to the KLRC's mandate, KLRC has undertaken an analysis of the relevant Bills as set out below.

II. ANALYSIS

	LAW	S.	PROPOSED AMENDMENT	KLRC COMMENT	JUSTIFICATION
1.	The Judicature Act (Cap.8)	7(1)	Delete the word "thirty" and substitute therefor the word "seventy".	No objection to the proposed amendment.	Increasing the number of judges at the Court of Appeal will facilitate speedy delivery of justice.
2.	The Appellate Jurisdiction Act (Cap. 9)	59(7)	Delete the expression "Attorney-General" wherever it appears and substitute therefor the expression "Director of Public Prosecutions".	This section does not exist in the Act and is instead found in the Court of Appeal Rules. KLRC has no objection to the amendment of the Court of Appeal Rules in the requisite	The proposed amendment would align the Rules to Article 157(6) of the Constitution which provides that the Director of Public Prosecutions is the one to exercise State powers of prosecution.

			<p>Delete the definition of "police officer" and substitute therefor the following new definition—</p> <p>"police officer" has the meaning assigned to it under the National Police Service Act, 2012.</p>	No objection to the proposed amendment.	The proposed amendment would align the Code to the National Police Service Act, 2012.
			<p>Delete the definition of "police station" and substitute therefor the following new definition—</p> <p>"police station" has the meaning assigned to it under the National Police Service Act, 2012.</p>	No objection to the proposed amendment.	The proposed amendment would align the Code to the National Police Service Act, 2012.
		83	<p>Delete and substitute therefore the following new section—</p> <p>83.(1) The Director of Public Prosecutions may order in writing that all or any of the powers vested in him by sections 81 and 82, and by Part VIII, be vested for the time being in the Secretary of Prosecution Services, the Deputy Director of Public Prosecutor, the Senior Assistant Director of Public Prosecutions, the Senior Principal Prosecution Counsel, Senior Prosecution Counsel and Prosecution Counsel, and the exercise of those powers by the specified officers shall then operate as if they had been exercised by the Director of Public Prosecutions.</p>	No objection to the proposed amendment.	The proposed amendment would align the Act to the Office of the Director of Public Prosecutions Act, 2013.

		10	Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".	No objection to the proposed amendment.	The proposed amendment would align the Act to Article 157 of the Constitution.
7.	Official Secrets Act (Cap. 187)	10(1). 49(1)	Deleting the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".	No objection to the proposed amendment.	The proposed amendment would align the Act to Article 157 of the Constitution.
8.	The Evidence Act (Cap. 80)	3	Insert the following definition in proper alphabetical sequence— "photograph" means an image created by light falling on a light sensitive surface, either photographic film or an electronic medium and made visible and permanent by chemical treatment or stored digitally,	No objection to the proposed amendment.	The proposed amendment takes into account technological advances in photography.
		78(1)	Insert the words "or an electronic and digital medium" immediately after the word "film".	No objection to the proposed amendment.	The proposed amendment takes into account technological advances in photography.
		125 (2)	Insert the word "a mentally disordered person or a lunatic" and substitute therefor the words "a person with a mental disability".	No objection to the proposed amendment.	The proposed amendment aligns the Act with constitutional provisions on persons with disabilities, the Persons with Disabilities Act (No.14 of 2003) and the conventions that Kenya has ratified on persons with disabilities.
9.	The Vetting of Judges and Magistrates Act (No. 2 of 2011)		Delete the expression "Attorney-General" and substitute therefor the expression "Director of Public Prosecutions".	No objection to the proposed amendment save that the citation of the Act is wrong. It should read No. 2 of 2011 and not 2010).	The proposed amendment would align the Act to Article 157 of the Constitution.

				Consider standardizing the provision for all constitutional commissions and independent offices.	This ensures uniformity in legislation.
13.	Ethics and Anti-Corruption Commission Act (No. 22 of 2011)	27(2)	Delete the word "three" and substitute therefor the word "six".	No objection to the proposed amendment.	Three months is too short a period to file the annual report in view of the magnitude of work involved.
14.	Anti-Corruption and Economic Crimes Act (No. 3 of 2003)	25A.	Deleting the expression "Attorney-General" and substituting therefore the expression "Director of Public Prosecutions".	No objection to the proposed amendments.	The proposed amendment would align the Act to Article 157 of the Constitution.
		37(6)			
		62(5)			
		62(6)	<p>(6A) Notwithstanding the provisions of any other law, where a state officer is under investigation for, or has been charged with corruption or economic crime, the Commission may, by an <i>ex parte</i> application in the High Court, seek for an order barring the officer from accessing his or her office or exercising the powers of that office including participating in decision making, voting and supervising staff.</p> <p>(6B) The provisions of subsection (6A) shall apply where the Commission upon preliminary investigations has established grounds to reasonably suspect that the public or state officer is likely to—</p> <p>(a) conceal, alter, destroy, or remove</p>	No objection to the proposed amendment. However, consider including the expression "public officer" in subsection (6A) as has been proposed in subsection (6B).	This offence should apply to both State and public officers. In addition, the proposed amendment is in line with the Court of Appeal decision in the case of <i>Moses Kasaine Lenolkulal vs Republic</i> , Criminal Appeal No. 109 of 2019.

				<p>Act to provide for clarifications on the attendance of the <i>ex officio</i> members at the Commission meeting, the Bill does not contain any proposed amendments.</p> <p>Further, the Kenya Law Reform Commission Act is erroneously cited as Act, No. 35 of 2013 instead of No. 19 of 2013.</p>	
19.	Bribery Act (No. 47 of 2016)	1.	Delete the expression "Bribery Act" and substitute "Anti-Bribery Act".	No objection to the proposed amendment.	The proposed amendment describes what the Act is about and avoids any misrepresentation.
		5.	Delete the word "who" and substitute therefore the word "if the person offering, promising or giving knows".	The word "who" appears in both subsection (1) and (2), hence there is need for clarity on where the phrase "if the person offering, promising or giving knows" is to be inserted.	This will clarify the provision.



In the Matter of Consideration by the National Assembly of the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 60 of 2022)

Article 116(T) (b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

The Statute Law (Miscellaneous Amendments) Bill, 2022 contains proposed amendments to the following statutes-

- | | | |
|------|--|---|
| i. | The National Flag, Emblems and Hymns Act (Cap 59) | Departmental Committee on Administration and Internal Affairs |
| ii. | The Public Holidays Act (Cap 110) | |
| iii. | The Counter-Trafficking in Persons Act, 2010 (No. 8 of 2010) | |
| iv. | The Prevention of Organized Crimes Act, 2010 (No. 6 of 2010) | |
| v. | The National Polluting Service Commission Act, 2011 (No. 30 of 2011) | |
| vi. | The Prevention of Fraud (Investments) Act, 1977 (No. 1 of 1977) | |
| | | |
| i. | The Marine Insurance Act (Cap 390) | Departmental Committee on Transport and Infrastructure |
| ii. | The Kenya Roads Board Act, 1999 (No. 7 of 1999) | |
| iii. | The National Transport and Safety Authority Act, 2012 (No. 23 of 2012) | |
| iv. | The Merchant Shipping Act, 2009 (No. 4 of 2009) | |
| | | |
| i. | The Higher Education Loans Board Act, 1993 (No. 3 of 1993) | Departmental Committee on Education |
| ii. | The Teachers Service Commission Act, 2012 (No. 20 of 2012) | |
| | | |
| i. | The Land Adjudication Act (Cap 283) | Departmental Committee on Lands |
| ii. | The Land Acquisition Act (Cap 236) | |
| iii. | The National Land Commission Act, 2012 (No. 5 of 2012) | |
| | | |
| i. | The Co-operatives Societies Act, 1997 (No. 12 of 1997) | Departmental Committee on Trade, Industry and Cooperatives |
| ii. | The Society Act, 2015 (No. 1 of 2015) | |
| iii. | The Local Manufacturers (Export Compensation) Act (Cap 482) | |
| | | |
| i. | The Pharmacy and Poisons Act (Cap 244) | Departmental Committee on Health |
| ii. | The Mental Health Act (Cap 248) | |
| | | |
| i. | The Labour Institutions Act, 2007 (No. 12 of 2007) | Departmental Committee on Labour |
| ii. | The Public Service Commission Act, 2017 (No. 1 of 2017) | |

The Kärnten Duty Act, 2015 (No. 23 of 2015)

13. The Merchant Shipping Act, 2009 (No. 4 of 2009). The Bill seeks to amend the Act by deleting section 16 which restricts ship owners from providing crewing agencies, pilotage, clearing and forwarding, port facility operator and shipping agencies among other services in the maritime industry. This is after the High Court in September, 2020 declared the section unconstitutional and to allow for the revival of the Kenya National Shipping Line.

SCHEDULE

- | | | |
|----|---|--|
| L. | The Capital Markets Act [Cap.485A] | Departmental Committee on Finance and Statistical Planning |
| M. | The Retirement Benefits Act, 1997 (No. 2 of 1997) | |
| N. | The Central Depositories Act, 2000 (No. 1 of 2000) | |
| o. | The Accountants Act, 2004 (No. 15 of 2007) | |
| p. | The Corrupt Practices and Revenue Allocation Act, 2011 (No. 16 of 2011) | |
| q. | The Salaries and Remuneration Commission Act, 2011 (No. 10 of 2011) | |
| r. | The Controller of Budget Act, 2010 (No. 26 of 2010) | |
| s. | The Excise Duty Act, 2015 (No. 23 of 2015) | |

The Honorable J. Edgar Hoover Director, Federal Bureau of Investigation U. S. Department of Justice Washington, D. C. 20535	Departmental Committee on Agriculture and Livestock
--	---

The memoranda may be forwarded to the Clerk of the National Assembly, P.O. Box 41042, 00100, Nairobi, or hand-delivered to the Office of the Clerk, Main Parliament Building, Nairobi, or e-mailed to cpa@parliament.go.ke to be received on or before Friday, 6th January 2023 by 5.00 pm.

16th December 2022



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT (FIRST SESSION)
DEPARTMENTAL COMMITTEE ON ENVIRONMENT, FORESTRY AND MINING

In the Matter of Articles 2 (5) and (6) and 118 (1) (b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012, the following in the Matter of Consideration by the National Assembly of:

- 1) The Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer;
- 2) The Bamako Convention on the Ban on the Import into Africa and the Control of the Transboundary Movement and Management of Hazardous Wastes Within Africa;
- 3) The Amended Nairobi Convention and the Protocol for the Protection of Marine and Coastal Environment of the Western Indian Ocean from Land Based Sources and Activities.

PUBLIC PARTICIPATION SUBMISSION MEMORANDUM

Pursuant to Articles 2 (5) and (6) and 118 (1) (b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012, the following Agreements were submitted to the Speaker of the National Assembly on 29th November, 2022 and consequently committed to the Departmental Committee on Environment, Forestry and Mining for consideration and reporting to the House:

1. Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer;
2. The Accession of the Bamako Convention on the Ban on the Import into Africa and the Control of the Transboundary Movement and Management of Hazardous Wastes Within Africa;
3. The Amended Nairobi Convention and the Protocol for the Protection of Marine and Coastal Environment of the Western Indian Ocean from Land Based Sources and Activities.

The Kigali Amendment to the Montreal Protocol on Substances that Deplete the Ozone Layer seeks out to significantly limit future production and consumption of hydrofluorocarbons (HFCs). It also contains the manner in which countries are to carry out the process of phasing down on the production and usage of HFCs. The amendment further includes target baselines and emission levels that states in agreement with it are to achieve.

The Bamako Convention on the Ban on the Import into Africa and the Control of the Transboundary Movement and Management of Hazardous Wastes Within Africa aims to prohibit the import into Africa of any hazardous waste and to specifically ban the transboundary movement of hazardous wastes.

The Amended Nairobi Convention and the Protocol for the Protection of Marine and Coastal Environment of the Western Indian Ocean aims to enhance the management of the marine and coastal environment and natural heritage including its biological diversity for the sustainable use and benefits of present and future generations.

The Departmental Committee on Environment, Forestry and Mining hereby invites the public and stakeholders to submit Memoranda on the three Agreements. The full text of the Agreements and the accompanying Memorandum to Parliament may be accessed at <http://www.parliament.go.ke> to be received on or before Friday, 6th January, 2023.

SAMUEL MURAGE
CLERK OF THE NATIONAL ASSEMBLY

16th December, 2022

D/DC

Please deal.

Sl.

19/01/23

Justice



LAW SOCIETY OF KENYA

Lavington, Opposite Valley Arcade

Gitanga Road

P.O. Box 72219-00200

NAIROBI

Tel. 387 4664

0720 904983

Lilian

to distribute to relevant
committees.

up with
20/1/23

MEMORANDUM

TO

THE CLERK OF THE NATIONAL ASSEMBLY

ON

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL
(NATIONAL ASSEMBLY BILLS NO. 60 OF 2022)

JANUARY 2022

Eric Theuri, President Law Society of Kenya

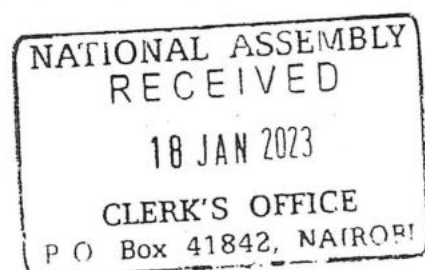
Lavington, opp Valley Arcade,

Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya

Tel: +254 111 045 300

Email: lskpresidenttheuri@gmail.com/ president@lsk.or.ke

Website: www.lsk.or.ke



18 JAN 2023

annual report to the National Assembly from three to six months in various Acts, it is worthy to note that amendments of other Acts were on substantive issues. Do find below our specific comments on the same.

SPECIFIC COMMENTS ON THE DRAFT MOTOR VEHICLE INSPECTION
REGULATIONS, 2022 & DRAFT TRAFFIC (DRUNK DRIVING) RULES, 2022

ACT	AMENDMENT	NEW PROVISION	COMMENTS
The Judicature Act (Cap. 8)	<p>Section 7</p> <p>Delete the word "thirty" and substitute therefore the word "seventy".</p>	<p>Section 7</p> <p>Number of Judges of Appeal and the High Court</p> <p>7(1) The Court of Appeal shall consist of not more than thirty seventy judges.</p>	<p>While increasing the number of judges is a transformative judiciary reform, it is to be noted that this is not a minor amendment and further, its enactment will occasion additional expenditure of public funds.</p> <p>This needs to be expressly stated within this Bill and a further provision is needed to indicate that this additional expenditure will be provided for by budgetary estimates or else it will be a means to no end.</p>
The Appellate Jurisdiction Act (Cap. 9).	<p>Section 59(7)</p> <p>Delete the expression "Attorney-General" and substitute therefore the expression "Director of Public Prosecutions".</p> <p>Section 73</p> <p>Delete the expression "Attorney-General" wherever it appears and substitute</p>		<p>This amendment doesn't make sense. The Appellate Jurisdiction Act doesn't contain section 59 and 73.</p>

			the Mwongozo code for state corporations.
The Energy Act, 2019 (No. 1 of 2019)	<p>Section 4(1)</p> <p>Insert new paragraph immediately after paragraph (e)</p> <p>(ea) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance or his or her representative.</p> <p>Section 4(1)(f)(i)</p> <p>Delete the word "the" and substitute therefor the word "a".</p> <p>Section 4(1)(f)(v)</p> <p>Delete.</p> <p>Section 6(1)(a)(ii)</p> <p>Delete the word "utility" and substitute therefor the words "critical national".</p>	<p>Section 4</p> <p>National energy policy</p> <p>(1) The Cabinet Secretary shall in consultation with the relevant stakeholders develop and publish a national energy policy which shall be reviewed every five years.</p> <p>(2) Within three months after the end of each financial year, the Cabinet Secretary shall prepare and publish a report on the implementation of the national energy policy</p> <p>Section 6</p> <p>Monitoring implementation of National integrated energy plan</p> <p>Within three months after the end of each financial year, the Cabinet Secretary shall prepare and publish a report on the implementation of the national integrated energy plan.</p>	<p>There appears to be a wrong reference as Section 4 does not contain paragraphs.</p> <p>Section 6 does not contain paragraphs, neither does it contain the word "utility"</p>

	<p>Section 18(3)(a)</p> <p>Delete the words "one million" and substitute</p> <p>therefor the words "five million".</p> <p>Section 18(3)(b)</p> <p>Delete the word "five" and substitute therefore the word "ten".</p>	<p>Section 18</p> <p>Protection from personal liability</p> <p>A matter or thing or an act done by a member of the Board or an officer, employee or agent of the Authority shall not, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority, render the members of the Board, officer, employee or agent or any person acting on lawful directions of the Authority personally liable to any action, claim or demand whatsoever.</p>	<p>Section 18 does not have sub-sections</p>
--	---	--	--

		<p>to the Tribunal within thirty days of receipt of the decision.</p> <p>(2) Notwithstanding subsection (1), the Tribunal may entertain an appeal after the expiry of the thirty-day period if it is satisfied that there was sufficient cause for not filing it within that period.</p>	
	<p>Section 24(2)</p> <p>Delete the word "ten" and substitute therefor the word "twenty"</p> <p>Delete the word "three" and substitute therefor the word "seven".</p>		<p>Section 24(2) doesn't have the word "ten" or the word "three"</p>
	<p>Section 26(1)</p> <p>Insert the words "or import" immediately after the word "export".</p> <p>Section 26(2)</p>	<p>Section 26.</p> <p>Members of the Tribunal</p> <p>(1) The Tribunal shall consist of not more than seven members as follows—</p> <p>(a) a chairperson who shall be appointed by the President from</p>	<p>Wrong cross-reference</p> <p>Word "export" doesn't exist.</p> <p>No sub-sections 2 or 3</p>

	appointment and in accordance with the guidelines made by the Salaries and Remuneration Commission."	conditions as the Cabinet Secretary responsible for public service may determine upon consideration of advice from the Salaries and Remuneration Commission may be specified in the instrument of appointment and in accordance with the guidelines made by the Salaries and Remuneration Commission.	
The Bribery Act, 2016 (No. 47 of 2016).	Section 1 Delete the expression "Bribery Act" and substitute thereof the expression "Anti-Bribery Act".	Section 1 Short title This Act may be cited as the Bribery Act Anti-Bribery Act, 2016.	Cannot change the citation of the Act within the Short Title without changing the title of the Act. Anti-Bribery Act, 2016 (No. 47 of 2016)
	Section 5 Delete the word "who" and substitute therefor the words "if the person offering, promising or giving knows"	Section 5 Giving a bribe (1) A person commits the offence of giving a bribe if the person offers, promises or gives a financial or other advantage to another person, who if the person offering, promising or giving knows knows or	Is the amendment for subsection 5(1) alone or both because inclusion of the amendment in subsection 2 does not make sense.





OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Telegraphic address: "Personnel", Nairobi
Telephone: Nairobi 2732090/2732240
Mobile: 0723202888/ 0787880580
Fax: 2243524/2251808
Email: info@odpp.go.ke
When Replying please quote
Ref. No. ODPP/CONF/6/172A

ODPP House, Upper Hill
Ragati Road
P.O. BOX 30701 - 00100
NAIROBI, KENYA

Date: 15th March, 2023

The Clerk
National Assembly
Parliament Building
P.O. Box 41842 - 00100
NAIROBI

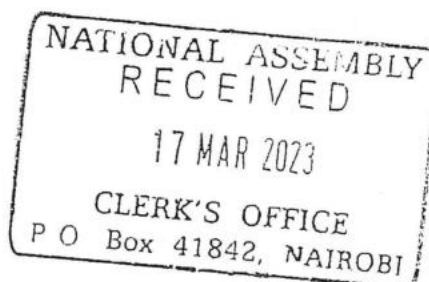
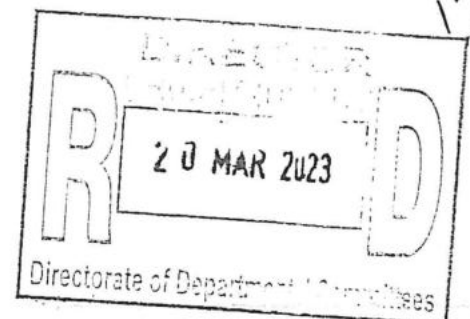
*DDC matter
Let's avoid these
repetitions. I have
again signed several
other letters*

**RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW
(MISCELLANEOUS AMENDMENTS) BILL (NATIONAL
ASSEMBLY BILLS NO. 60 OF 2022)**

Reference is made your letter Ref. NA/DDC/JLAC/2022/025 dated 9th March, 2023 on the above-mentioned matter calling for written submission on the proposed amendments. *in this respect officer should more*

The ODPP submitted written submission vide a letter dated 9th January, 2023. A copy enclosed for ease of reference. That notwithstanding we herewith resubmit The Statute Law (Miscellaneous Amendments) Bill, 2022 dated 9th January, 2023 for your further action. *disg 17/10*

NOORDIN M. HAJI, CBS, OGW
DIRECTOR OF PUBLIC PROSECUTIONS



*Mr. Douglas Katko
Pls note the remarks of the DC
& take the necessary action 20/03/23*



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Telegraphic address: "Personnel", Nairobi
Telephone: Nairobi 2732090/2732240
Mobile: 0723202888/ 0787880580
Fax: 2243524/2251808
Email: info@odpp.go.ke

ODPP House,
Ragati Road, Upper Hill
P.O. BOX 30701 – 00100
NAIROBI

When replying please quote:

REF. ODPP/ES/GEN

9th January, 2023

The Clerk,
National Assembly,
Parliament Building,
P.O. Box 41842 – 00100,
NAIROBI

ATTN: Mr. Jeremiah W. Ndombi

**RE: INVITATION TO SUBMIT VIEWS ON THE STATUTE LAW
(MISCELLANEOUS AMENDMENTS) BILL (NATIONAL
ASSEMBLY BILLS NO. 60 OF 2022)**

Reference is made to your letter Ref. NA/DDC/LABOUR/2022/005 and dated **21st December 2022** on the above subject calling for written submissions on the proposed amendments.

Pursuant to **Article 118 (1) (b) of the Constitution**, the Office of the Director of Public Prosecutions (ODPP) hereby submits views for your consideration in respect of the proposed amendments.

NOORDIN M. HAJI, CBS, OGW
DIRECTOR OF PUBLIC PROSECUTIONS

Encl.



OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

COMMENTS ON

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, 2022

9TH JANUARY, 2023

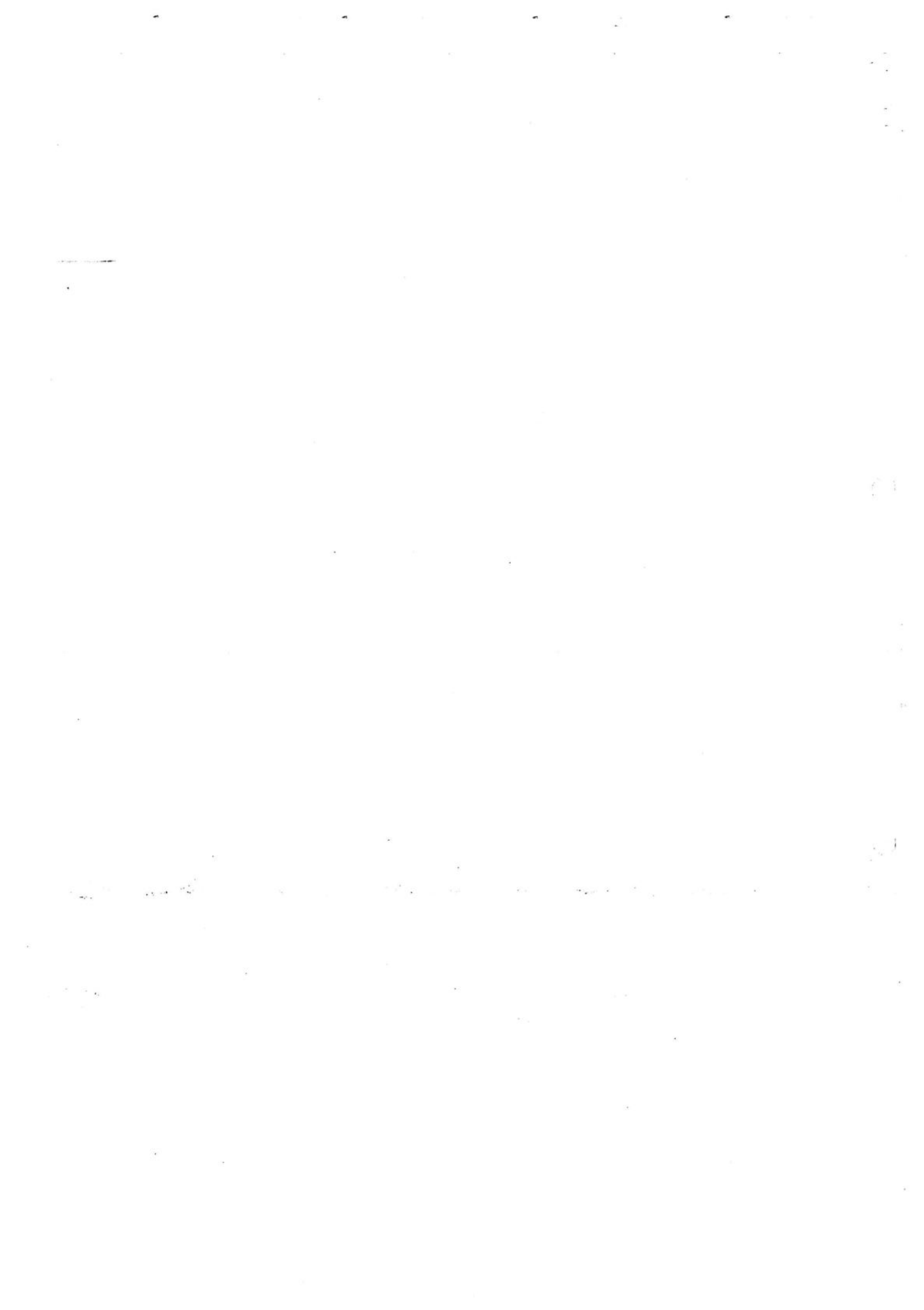
S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
1.	Judicature Act (Cap 8)	7 (1)	Delete the word "thirty" and substitute therefor the word "seventy".	<p>This proposal will enhance the access to justice in the Court of Appeal and reduce case backlog.</p> <p>The ODPP will benefit from speedy resolution of criminal Appeals pending at the Court of Appeal.</p> <p>The proposal is acceptable.</p>
2.	Appellate Jurisdiction Act (Cap 9)	59 (7)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions"	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
		73	Delete the expression "Attorney General" wherever it appears and substitute therefor the expression "Director of Public Prosecutions"	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				Constitution.
3.	Vexatious Proceedings Act (Cap 41)	4	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
4.	Penal Code (Cap 63)	146	Delete the word "idiot" or "imbeciles" wherever it appears and substitute therefor the words "persons with mental disability".	<p>Mental disability is still a dated term. The preferred word is "persons differently abled mentally".</p> <p>The emphasis would be on the person's humanity while recognizing and describing their situation without being insensitive. We would propose that the words to be used be "persons with different mental ability".</p>
5.	Criminal Procedure Code (Cap 75)	2	Delete the word "State Counsel" appearing in the definition of the term "public prosecutor" and substitute therefor the expression "Prosecution Counsel".	<p>The words "State Counsel", "Police Officer" and "Police Station" are being streamlined with the existing legislations.</p> <p>This proposal aligns the definitions with the relevant provisions of the</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			<p>Delete the Definition of "police officer" and substitute therefor the following new definition –</p> <p>"police officer" has the meaning assigned to it under the National Police Service Act, 2012</p> <p>Delete the definition of "police station" and substitute therefor the following new definition –</p> <p>"police station" has the meaning assigned to it under the National Police Service Act, 2012.</p>	Office of the Director of Public Prosecutions Act, 2013 (<i>hereinafter</i> the ODPP Act) and the National Police Service Act, 2011.
		83	<p>Delete and substitute therefor the following new section -</p> <p>(1) The Director of Public Prosecutions may order in writing that all or any of the powers vested in him by sections 81 and 82, and by Part VIII, be vested for the time being in the Secretary of Prosecution Services, the Deputy Director of</p>	<p>The provision seeks to bring the Criminal Procedure Code in tandem with the Office of Director Public Prosecutions Act.</p> <p>However, it leaves out a cadre of officers "Principal Prosecution Counsel" which is also a cadre of prosecution counsel under the ODPP Act.</p> <p>We propose that this cadre be factored in the</p>



S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			Public Prosecutions, the Senior Assistant Deputy Director of Public Prosecutions, Assistant Deputy Director of Public Prosecution, Senior Principal Prosecution Counsel, Senior Prosecution Counsel, and Prosecution Counsel, and the exercise of those powers by the specified officers shall then operate as if they had been exercised by the Director of Public Prosecutions. (2) The Director of Public Prosecutions may in writing revoke an order made by him under this section.	description so that the section is aligned with section 13 (b), (c) and (d) of the ODPP Act.
		90 (3)	Delete the words "a Sunday" and substitute therefor the words "any other day of the week including Sunday".	This is acceptable
		123 (1)	Delete the words "a person accused of murder, treason, robbery with violence, attempted robbery with violence, and any related offences".	This amendment is acceptable as it brings the legislation into conformity with the Constitution of Kenya, existing precedents and practice.
		131 (2)	Delete the word "movable".	



S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
		137	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	
		184	Delete What is deleted is:- <i>"Charge of rape</i> <i>Where a person is charged with rape and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence under one of the sections of the Sexual Offences Act, he may be convicted of that offence although he was not charged with it."</i>	Although no equivalent provision has been proposed, the deletion gives more prominence to the Sexual Offences Act, No. 3 of 2006 to deal with such offences.
		186	Delete What is deleted is:- <i>"Charge of defilement of a girl under 14 years of</i>	Although no equivalent provision has been proposed, the deletion gives more prominence to the Sexual Offences Act, No. 3 of 2006 to deal with such offences

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			<p>age</p> <p><i>When a person is charged with the defilement of a girl under the age of fourteen years and the court is of the opinion that he is not guilty of that offence but that he is guilty of an offence under the Sexual Offences Act, he may be convicted of that offence although he was not charged with it."</i></p>	
6.	Extradition (Commonwealth Countries) Act (Cap 77)	7, 8, 9, and 10	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring these provisions of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
7.	Evidence Act (Cap 80)	3	<p>Insert the following definition in proper alphabetical sequence -</p> <p>"Photograph" means an image created by light falling on a larger sensitive surface either photographic film or an electronic medium and made visible and permanent by chemical treatment or stored</p>	<p>This is a good proposal as it seeks to bring clarity to the definitions.</p> <p>There have been several contests as to what amounts to a photograph.</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			digitally.	
		78 (1)	Insert the words "or an electronic and digital medium" immediately after the word "film",	
		125 (2)	Delete the words "a mentally disordered person or a lunatic" and substitute therefor the words "a person with a mental disability".	<p>Mental disability is still a dated term. The preferred word is "persons differently abled mentally".</p> <p>The emphasis would be on the person's humanity while recognizing and describing their situation without being insensitive. We would propose that the words to be used be "persons with different mental ability"</p>
8.	National Flag, Emblems and Names Act (Cap 99)	6	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provisions of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
9.	Public Holidays Act (Cap 110)	Schedule	Delete the expression "Utamaduni Day" and substitute therefor the	This is acceptable

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			expression "Huduma Day".	
10.	Housing Act (Cap 117)	2	<p>Insert the following definitions in proper alphabetical sequence –</p> <p>"affordable housing" means housing that is adequate, targeted for the population whose income is below the median individual or house income, and whose cost does not exceed more than thirty per cent of household or individual income per month to rent or acquire.</p> <p>"affordable housing development project" means a housing development project targeted to construct and deliver affordable housing and approved by the Cabinet Secretary responsible for matters relating to housing.</p>	This is a good proposal as it seeks to bring clarity to the definitions.
11.	Official Secrets Act (Cap 187)	10 (1) and 49 (1)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring these provisions of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				as it aligns the Act with the Constitution.
12.	Geneva Convention Act (Cap 198)	3 (3)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
13.	Pharmacy and Poisons Act (Cap 244)	40 (4)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
14.	Mental Health Act (Cap 248)	42 (5)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p> <p>In addition, we propose that the definition of persons with different</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				mental abilities be included in the definition section.
15.	Land Consolidation Act (Cap 283)	14 (6) (b)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
16.	Land Adjudication Act (Cap 284)	33	Delete the expression "Attorney General" appearing in the proviso and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
17.	Marine Insurance Act (Cap 390)	91 (3)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
18.	Local Manufacturers (Export	10 (2)	Delete the expression "Attorney General" and substitute therefor the	This proposal will bring the provision of the Act into conformity with

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
	Compensation) Act (Cap 482)		expression "Director of Public Prosecutions".	Article 157 of the Constitution. The proposal is acceptable as it aligns the Act with the Constitution.
19.	Capital Markets Act (Cap 485A)	38	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution. The proposal is acceptable as it aligns the Act with the Constitution.
20.	Architects and Quantity Surveyors Act (Cap 525)	3 (3)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution. The proposal is acceptable as it aligns the Act with the Constitution.
21.	Prevention of Fraud (Investments) Act, 1977	27 (3)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution. The proposal is acceptable as it aligns the Act with the Constitution.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
22.	Higher Education Loans Board Act, 1995	24	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
23.	Retirement Benefits Act, 1997	54 (1)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
24.	Co-operative Societies Act, 1997	94 (3)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
25.	Central Depositories Act, 2000	63	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				The proposal is acceptable as it aligns the Act with the Constitution.
26.	Copyright Act, 2001	2, 30AA, 30B, 46, 46A, 46B, 46C, and 46E		The proposed amendments are not within the mandate of the ODPP
27.	Anti-Corruption and Economic Crimes Act, 2003	25A (1), 37 (6), and 62 (5)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution, 2010.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution, 2010.</p>
		62	<p>Delete subsection (6)</p> <p>Insert the following new subsections (6A) Notwithstanding the provisions of any other law where a state officer is under investigations for or has been charged with corruption or economic crimes, the Commission may by an <i>ex-parte</i> application in the High Court seek an order barring the officer from accessing his or her office or exercising the powers of that office including participating in decision making, voting and</p>	<p>The deletion of subsection (6) is progressive as it ensures that the law is applied equally irrespective of status and office.</p> <p>It is unconstitutional to bar a state officer from accessing his or her office or exercising the powers of that office when the matter is pending investigations, as it infringes on the right to fair hearing under Article 50 (2) of the Constitution. However, the EACC is at liberty to make an <i>ex-parte</i> application for</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			<p>supervising staff</p> <p>(6B) The provisions of subsection (6A) shall apply where the commission upon preliminary investigations has established grounds reasonably suspect that the public or state officers is likely to</p> <p>a) Conceal, alter, destroy or remove records, documents or other evidence</p> <p>b) intimidate, threaten or otherwise interfere with witnesses or</p> <p>c) Interfere with investigations in any other manner.</p>	<p>warrant of search of the office or investigate accounts or any other matters attendant thereto.</p> <p>The insertion of section (6A) should only apply to individuals who have been charged in a court of law. In this regard, the application to the High Court seeking to bar the officer from accessing their office or exercising the powers of that office, being criminal in nature should be made by the Director of Public Prosecutions so as to avoid duplicity of the matter which could affect the outcome of the case, as well as to enhance efficiency.</p> <p>The provision of subsection (6B) should be amended to read that, "The provisions of subsection (6A) shall apply where the Director of Public Prosecutions has established that there is evidence of:</p> <p>a) Conceal, alter, destroy, or remove records, documents or other evidence</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				b) intimidate, threaten or otherwise interfere with witnesses or c) interfere with investigations in any other manner"
28.	Sexual Offences Act, 2006	40	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution. The proposal is acceptable as it aligns the Act with the Constitution.
29.	National Museums and Heritage Act, 2006	57 (2)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution. The proposal is acceptable as it aligns the Act with the Constitution.
30.	Labour Institutions Act, 2007	35 (1) (k)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution, 2010. The Cases SHALL be instituted with the consent of the Director of

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				Public Prosecutions or officers acting on delegated authority by the DPP Pursuant to Article 157 (9) of the Constitution and Section 22 of the ODPP Act, 2013.
31.	Accountants Act, 2008	43	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
32.	International Crimes Act, 2008	5, 19 (2) & (3), 21(1)(b), 23 (2), 24, 25 (3)(a), 26 (1) & (2), 76, 77 (2), 78, 79, 84, 85 (4), 86, 87 (1), 88, 89, 90, 91, 92, 93 (2)(b), 94, 95, 96 (1) & (2), 102 (2) & (3), 103, 104, 105, 106, 107, 108, 109, 110, 111, 112 (1), (3), & (4), 113 (2) & (3), 114 (1) & (2), 115 (1), 116, 118 (2), 119, 120, 121 (b), 122, 124, 126, 127 (6), 129, 153 (1) & (2),	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring these provisions of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p> <p>Further, we propose that the definition of "prosecutor" under section 2 of the Act be expanded to include the Director of Public Prosecutions under Article 157 of the Constitution.</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
		154, 155, 156, 157, 158, 159, 160, 168, and 171.		
33.	Biosafety Act, 2009	53	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
34.	Merchant Shipping Act, 2009	16	Delete	
35.	The Vetting of Judges and Magistrates Act 2011 (No. 2 of 2010)	18 (1)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
36.	Prevention of Organised Crimes Act, 2010	14	Delete the expression "five hundred thousand" and substitute thereof the words "ten million shillings".	<p>This increases the fine amount substantially.</p> <p>This is a good proposal as it enhances the discretion of the magistrate where the situation demands a stiffer penalty and guides</p>

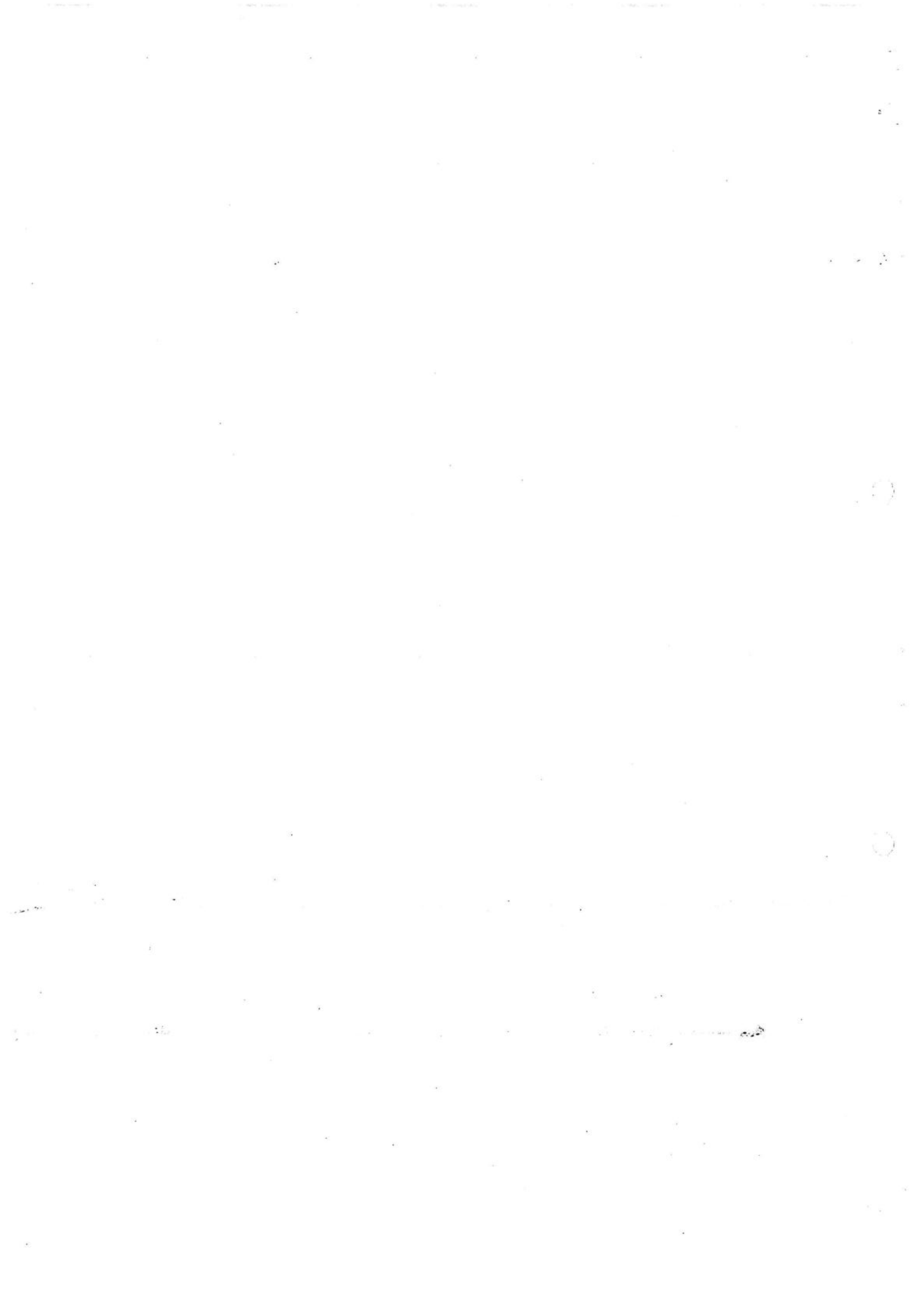
S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				in terms of severity of the offences under the sections of the Act.
		14 (3)	Delete the expression "thirty days" and substitute thereof the words "ninety days".	Not provided in the Act.
		17 (9)	Delete paragraph (b) and substitute therefor the following new paragraph - (b) Inspector General of the National Police Service.	This section regularizes the provisions of the Act with the National Police Services Act. However, it is noted that it still makes reference to the "Attorney General" instead of "Director of Public Prosecutions" as an authorized officer. The section relates to seizure and detention of organized criminal group cash which relates to a matter dealt with by the Director of Public Prosecutions, and would be retained in the Prosecutors Fund under section 40 or 45 of the ODPP Act
37.	Counter-Trafficking in Persons Act, 2010	19 (2) (e)	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				The proposal is acceptable as it aligns the Act with the Constitution.
38.	Judicial Service Commission Act, 2011	38	<p>Insert the following new subsection immediately after subsection (1) -</p> <p>(1A) The commission shall submit the annual report to the President and the National Assembly within six months after the end of the year to which it relates.</p>	<p>The proposal seeks to have the JSC annual report presented within 6 months of the end of the year to which it relates.</p> <p>The proposal is acceptable.</p>
39.	Independent Electoral and Boundaries Commission Act, 2011	24 (1)	Delete the word "three" and substitute therefore the word "six".	<p>The proposal seeks to have the IEBC annual report presented within 6 months of the end of the year to which it relates.</p> <p>The proposal is acceptable.</p>
40.	Salaries and Remuneration Commission Act, 2011	24	<p>Insert the following new subsection immediately after subsection (1) -</p> <p>(1A) The Commission shall submit the annual report in subsection (1) to the President and the National Assembly within six months after the end</p>	<p>The proposal seeks to have the SRC annual report presented within 6 months of the end of the year to which it relates.</p> <p>The proposal is acceptable.</p>

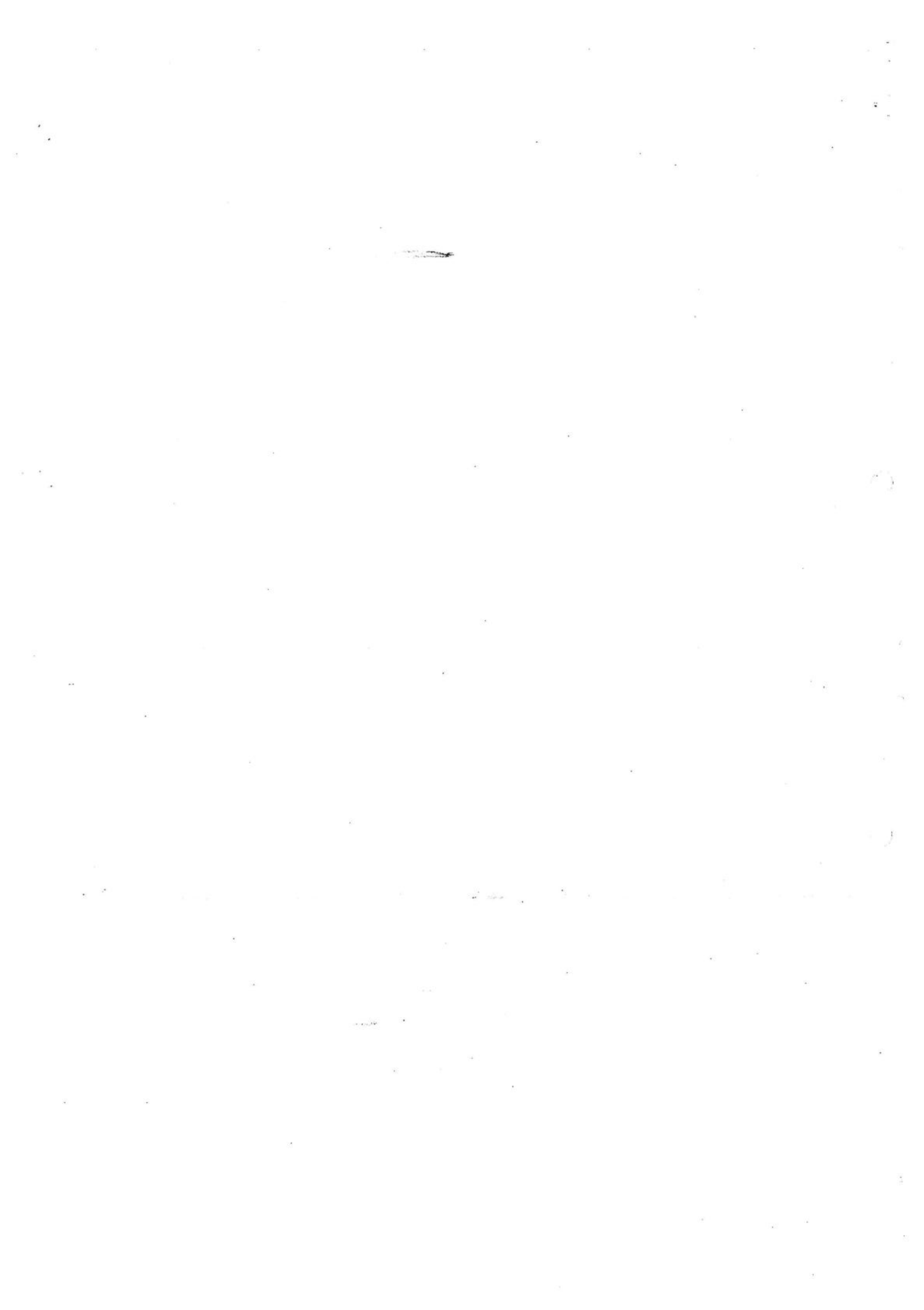
S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			of the year to which it relates.	
41.	Kenya National Commission on Human Rights Act, 2011	53	<p>Insert the following new subsection immediately after subsection (1) -</p> <p>(1A) The Commission shall submit the annual report in subsection (1) to the President and the National Assembly within six months after the end of the year to which it relates.</p>	<p>The proposal seeks to have the KNCHR annual report presented within 6 months of the end of the year to which it relates.</p> <p>The proposal is acceptable.</p>
42.	National Gender and Equality Commission Act, 2011	53	<p>Insert the following new subsection immediately after subsection (1) -</p> <p>(1A) The Commission shall submit the annual report in subsection (1) to the President and the National Assembly within six months after the end of the year to which it relates.</p>	<p>The proposal seeks to have the NGEC annual report presented within 6 months of the end of the year to which it relates.</p> <p>The proposal is acceptable.</p>
43.	Commission on Revenue Allocation Act, 2011	23	<p>Renumber the existing provision as subsection (1).</p> <p>Insert the following new subsection immediately after subsection (1) -</p>	<p>The proposal seeks to have the CRA annual report presented within 6 months of the end of the year to which it relates.</p> <p>The proposal is acceptable.</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			(1A) The Commission shall submit the annual report in subsection (1) to the President and the National Assembly within six months after the end of the year to which it relates.	
44.	Ethics and Anti-Corruption Commission Act, 2011	27 (2)	Delete the word "three" and substitute therefore the word "six".	<p>The proposal seeks to expand the time allotted to the EACC for the presentation of its annual report from three (3) to six (6) months.</p> <p>The proposal is acceptable.</p>
45.	Tourism Act, 2011	116	Delete the expression "Attorney General" and substitute therefor the expression "Director of Public Prosecutions".	<p>This proposal will bring the provision of the Act into conformity with Article 157 of the Constitution.</p> <p>The proposal is acceptable as it aligns the Act with the Constitution.</p>
46.	National Police Service Commission Act, 2011	26 (2)	Delete the word "three" and substitute therefor the word "six".	The proposal seeks to expand the time allotted to the NPS Commission for the presentation of its annual report from three (3) to six (6) months.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				The proposal is acceptable.
47.	National Land Commission Act, 2012	33	<p>Insert the following new subsection immediately after subsection (1) -</p> <p>(1A) The Commission shall submit the annual report in subsection (1) to the President and the National Assembly within six months after the end of the year to which it relates.</p>	<p>The proposal seeks to have the NLC annual report presented within 6 months of the end of the year to which it relates.</p> <p>The proposal is acceptable.</p>
48.	Leadership and Integrity Act, 2012	12A	<p>Renumber the provision as subsection (1) and insert the words "or public office" after the words "state office".</p> <p>Insert the following new subsections -</p> <p>(2) Where a public entity is recruiting staff, it shall, within seven days after shortlisting of candidates for any position for which appointment is considered, submit the list of all shortlisted candidates to the Commission for integrity suitability verification.</p>	The proposal is not acceptable as this may impede the independence of the Offices.



S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			<p>(3) The Commission shall upon receipt of the list of shortlisted candidates verify the information regarding them and make recommendations to the public entity on the integrity suitability of the shortlisted persons.</p> <p>(4) In making recommendations under subsection (3), the Commission may consider any other information with respect to the integrity suitability of the applicant.</p> <p>(5) The recruiting entity shall take into account the recommendations on the integrity suitability of the candidates in making appointment decisions.</p>	
		19 (6)	Delete the words "fail to submit annual statements of account" and substitute therefor the words "fails to submit statements of account annually as required under section 19 (3)".	This proposal makes grammatical corrections and is acceptable.
		40	Renumber the provision as subsection (1) and insert the following new subsection -	This proposal seeks to empower the High Court to invalidate a state officer's appointment for



S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			(2) The High Court may upon application by any person, declare the assumption of office by a state officer to be invalid for want of executing a commitment to the specific leadership and integrity code.	failure to execute a commitment to a specific leadership code. This proposal is unclear as it fails to specify which codes are to be executed by the said state officials.
49.	Teachers Service Commission Act, 2012	41	Insert the following new subsection immediately after subsection (1) - (1A) The Commission shall submit the annual report in subsection (2) to the President and the National Assembly within six months after the end of the year to which it relates.	The proposal seeks to have the TSC annual report presented within 6 months of the end of the year to which it relates. The proposal is acceptable.
50.	National Transport and Safety Authority Act, 2012	16	Delete the word "three" and substitute therefor the word "five".	It seeks to expand the period for the appointment of the Director General for a renewable period of 5 years rather than the current 3 years.
51.	Kenya Law Reform Commission Act, 2015	N/A	N/A	N/A
52.	Scrap Metal Act,	2	Insert the following new definitions in proper	The proposal in the Bill seeks to provide accurate

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
	2015		<p>alphabetical sequence -</p> <p>“Authority” means the Kenya Revenue Authority established under section 3 of the Kenya Revenue Authority Act;</p> <p>“critical national infrastructure” means physical and virtual assets or facilities, whether owned by private or public entities which are essential to the provision of vital services to the public for their social and economic wellbeing, and which if destroyed, degraded or rendered unavailable, would impact on the social or economic wellbeing of the nation or affect government’s ability to undertake national defence and security;</p> <p>“electrical rewinder” means a person who deals in the repair or rewinding of electric motors;</p> <p>“smelter” means an installation or factory for smelting metal from its ore or means a person engaged in the business</p>	<p>definitions of various terms to protect critical infrastructure.</p> <p>It is however noteworthy that although the Memorandum of Objects and reasons indicates that the Bill seeks to provide for a special license for dealing in copper, aluminium and their alloys, this proposal is not included in the text of the Bill.</p> <p>The Memorandum also indicates that the Bill intends to restrict the disposal of critical infrastructure to the Numerical Machining Complex and the Kenya Shipyard Limited. Further, that the Bill had proposed regulation of imports and exports.</p> <p>These proposals are not included in the text of the Bill.</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			<p>of smelting;</p> <p>“steel fabricators” means an installation of factory for the production of metal structures using a range of processes such as cutting, bending or assembling, which generates scrap metal in their processes.</p>	
53.	Excise Duty Act, 2015	Paragraph 1 of Part I of the First Schedule	<p>Delete -</p> <p>(a) the expression “3905.91.00 Emulsion VAM” and substitute therefor the expression “3905.91.00 Imported copolymers”;</p> <p>(b) the expression “3905.19.00 Homopolymers” and substitute therefor the expression “3905.19.00 Imported polymers”; and</p> <p>(c) the expression “3906.90.00 Emulsion B.A.M” and substitute therefor te expression “3906.90.00 Imported acrylic polymers”.</p>	
54.	Controller of Budget Act, 2016	19	Insert the following new subsection immediately	The proposal seeks to have the Controller of Budget’s annual report

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			after subsection (2) - (2A) The Commission shall submit the annual report in subsection (2) to the President and the National Assembly within six months after the end of the year to which it relates.	presented within 6 months of the end of the year to which it relates. The proposal is acceptable.
55.	Water Act, 2016	14 (1) (f)	Insert the following new paragraph immediately after paragraph (e) - (ea) the Attorney-General or his representative.	The proposal seeks to include the Attorney General as a member of the Water Resources Management Board. The proposal is acceptable.
		17 (1)	Insert the words "and in accordance with the guidelines made by the Salaries and Remuneration Commission" immediately after the word "appointment".	The proposal seeks to bring the section on appointment of the Chief Executive Officer into the ambit of the SRC recommendations. The proposal is acceptable.
		31 (1)	Delete and substitute therefor the following subsection - (1) The powers and functions of the Water	The proposal seeks to allow the representatives to sit in the board in place of the designated office holder.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			<p>Storage Authority shall be exercised and performed under the direction of a Water Harvesting and Storage Boards which shall consist of -</p> <ul style="list-style-type: none"> (a) a chairperson, who shall be appointed by the President; (b) the Principal Secretary responsible for matters relating to finance or his representative; (c) the Principal Secretary responsible for matters relating to water or his representative; (d) the Principal Secretary responsible for matters relating to land; (e) five other members appointed by the Cabinet Secretary; (f) the Chief Executive Officer 	
		33 (1)	Delete the words "the Cabinet Secretary for Public Service may determine on the advice of the Salaries and Remuneration Commission" and substitute therefor the	

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			words "may be specified in the instrument of appointment and in accordance with the guidelines made by the Salaries and Remuneration Commission."	
		66 (1)	<p>Delete and substitute the following new subsection -</p> <p>(1) Each water works development agency shall consist of -</p> <ul style="list-style-type: none"> (a) a chairperson, who shall be appointed by the President; (b) the Principal Secretary responsible for matters relating to finance or his representative; (c) the Principal Secretary responsible for matters relating to water or his representative; (d) the Attorney-General or his representative; (e) the Chief Executive Officer; and (f) six other members who shall be appointed by the 	

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			Cabinet Secretary from counties within the basin area.	
		66	<p>Insert the following new subsection immediately after subsection (2) -</p> <p>(3) The Cabinet Secretary shall, on the recommendation of the respective Board of Water Development Agency appoint a Chief Executive Officer of the respective water works agency on such terms and conditions as may be specified in the instrument of appointment and in accordance with the guidelines made by the Salaries and Remuneration Commission.</p>	
		71 (1)	<p>Delete and substitute the following new subsection -</p> <p>(1) The powers and functions of the Regulatory Board shall be exercised and performed under the direction of the Regulatory Board, which shall consist of -</p>	

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			<ul style="list-style-type: none"> (a) a chairperson, who shall be appointed by the President; (b) the Principal Secretary responsible for matters relating to finance or his representative; (c) the Principal Secretary responsible for matters relating to water or his representative; (d) the Attorney-General or his representative; (e) the Chief Executive Officer; and (f) six other members appointed by the Cabinet Secretary. 	
		73	Delete the words "the Cabinet Secretary for Public Service may determine on the advice of the Salaries and Remuneration Commission" and substitute therefor the words "may be specified in the instrument of appointment and in accordance with the guidelines made by the Salaries and Remuneration	

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			Commission."	
		115 (2)	<p>Delete and substitute therefor the following new subsection -</p> <p>(2) The Board of Trustees shall consist of -</p> <ul style="list-style-type: none"> (a) a chairperson, who shall be appointed by the President; (b) the Principal Secretary responsible for matters relating to finance or his representative; (c) the Principal Secretary responsible for matters relating to water or his representative; (d) the Attorney-General or his representative; (e) the Chief Executive Officer; and (f) six other members recruited in accordance with the First Schedule and appointed by the Cabinet Secretary. 	
		118 (1)	Delete and substitute therefor the following new subsection -	

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			(1) The fund shall have a Chief Executive Officer who shall be appointed by the Cabinet Secretary on the recommendation of the Board of Trustees on such terms and conditions of service as may be specified in the instrument of appointment and in accordance with the guidelines made by the Salaries and Remuneration Commission.	
56.	Bribery Act, 2016	1	Delete the expression "Bribery Act" and substitute therefor the expression "Anti-Bribery Act".	The proposal seeks to amend the title of the bill from the Bribery Act to Anti-Bribery Act. This proposal is acceptable to reflect the intent of the Act.
		4	Insert the words "public entity" immediately after the words "public officers".	Seeks to include public entities as those to whom the Act applies. The proposal is acceptable.
		5	Delete the word "who" and substitute therefor the words "if the person offering, promising or	Indicates clarity in the description of the offender.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			giving knows"	The proposal is acceptable.
		7 (1)(a)(v)	Delete the word "and" and substitute therefor the word "or"	Provides clarity in the function or activity to which the offence relates. The proposal is acceptable.
		7 (1)(b)(i)	Delete the word "and" and substitute therefor the word "or"	The proposal refers to s.7(1)(b)(i) rather than s.7(1)(b)(ii). This should be corrected.
		10	Delete the marginal note and substitute therefor the words "bribery by a private entity".	Seeks to provide better clarity on the offence. The proposal is acceptable.
		14 (1)	Delete the words "holding a position of authority".	Allows every individual whether public or private to report instances of bribery.
		15 (1)	Delete the words "within the meaning of sections 11 and 12"	Expands the criminality of offences under the Act, to apply to both public and

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				private individuals. The proposal is acceptable.
57.	Public Service Commission Act, 2017	90 (1)	Delete the word "three" and substitute therefor the word "six".	<p>The proposal seeks to expand the time allotted to the PSC for the presentation of its annual report from three (3) to six (6) months.</p> <p>The proposal is acceptable.</p>
58.	Energy Act, 2019	2	<p>Delete the definition of the term "distribution licence".</p> <p>Insert the following new definition in proper alphabetical sequence -</p> <p>"distribution licence" means a document or instrument authorising a person to distribute energy in the manner described in the document or instrument, in that person's authorised area of supply for the purpose of enabling supply to premises in that area and to also receive bulk supply from another licensee;</p>	The proposal expands the definition of the licence to an acceptable scope.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
		4 (1)	Insert the following new paragraph immediately after paragraph (e) - (ea) the Principal Secretary of the Ministry for the time being responsible for matters relating to finance or his or her representative.	The proposal does not fit the section it intends to amend. This should be corrected.
		4 (1)(f)(i)	Delete the word "the" and substitute therefor the word "a".	The proposal does not fit the section it intends to amend. This should be corrected.
		4 (1)(f)(v)	Delete	There is no such section in the Act. This should be corrected.
		6 (1)(a)(ii)	Delete the word "utility" and substitute therefor the words "critical national". Insert the following new section immediately after section 6 - 6A. The Cabinet Secretary, in consultation with the relevant statutory authorities and stakeholders, shall coordinate the	No such section exists in the Act. This should be corrected.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			development and implementation of a national energy efficiency and conservation action plan.	
		9 (1)	Insert the word "a" immediately after the word "of".	The proposal does not fit into the section it seeks to amend and the same is rejected.
		10	<p>Delete the word "with the exception of crude oil" appearing in paragraph (a) (ii);</p> <p>Delete paragraph (ii) and substitute therefor the following new paragraph -</p> <p>(ii) make proposals to the Cabinet Secretary for purposes of making regulations on energy efficiency and conservation.</p>	<p>The proposal aims to expand the mandate of the Authority.</p> <p>The proposal is acceptable.</p>
		11	<p>Renumber the provision as subsection (1) and add the following subsections -</p> <p>(2) Notwithstanding subsection (1), the Cabinet Secretary shall issue a special licence for dealing in copper,</p>	<p>The amendment seeks to regulate the dealing of copper, aluminium and their alloys.</p> <p>The proposal is acceptable.</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			aluminium and their alloys. (3) An application for a special licence shall be made in accordance with section 10.	However, there is a need for clarity on the specific paragraph in section 10 for the application of a special licence.
		12 (1)(e)	Delete	The proposal aims to remove the position of CEC member for the Board of the Energy and Petroleum Regulatory Authority. There is no objection.
		18 (3)(a)	Delete the words "one million" and substitute therefor the words "five million".	The proposal does not fit into the section it seeks to amend and the same is rejected.
		18 (3)(b)	Delete the word "five" and substitute therefor the word "ten".	The proposal does not fit into the section it seeks to amend and the same is rejected.
		20 (1)	Delete the phrase "half of a" appearing in paragraph (a).	The proposal seeks to increase the funds of the EPRA from the levies received from the the sale of electricity and petroleum products.
		20	Delete the word "levies" appearing in the provisio.	The proposal will cause the section incomprehensible.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				This should be corrected.
		20 (4)	Delete the word "one" and substitute therefor the word "five".	The proposal does not fit into the section it seeks to amend and the same is rejected.
		22 (2)	Delete the words "one million" and substitute therefor the words "five million".	The proposal does not fit into the section it seeks to amend and the same is rejected.
		24	<p>(1) Insert the words "critical national" immediately after the word "the".</p> <p>Insert the following new sections immediately after section (1) -</p> <p>(1A) A state entity responsible for critical national infrastructure shall dispose scrap metal from critical national infrastructure to the Numerical Machining complex and the Kenya Shipyard Limited for smelting into billets.</p> <p>(1B) Where there is inadequate capacity at the Numerical Machining complex and Kenya</p>	<p>The proposal does not fit into the section it seeks to amend.</p> <p>This should be corrected.</p>

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			Shipyard Limited, the respective state entity through a written consent from the Numerical Machining Complex and the Kenya Shipyard Limited, shall seek approval from the Council to partner with a local smelter directly without involving a broker.	
		24 (2)	<p>Delete the word "ten" and substitute therefor the word "twenty".</p> <p>Delete the word "three" and substitute therefor the word "seven".</p>	<p>The proposal does not fit into the section it seeks to amend and the same is rejected.</p> <p>This should be corrected.</p>
		26 (1)	Insert the words "or import" immediately after the word "export".	<p>The proposal does not fit into the section it seeks to amend and the same is rejected.</p> <p>This should be corrected.</p>
		26 (2)	Insert the words "or import" immediately after the word "export".	<p>The proposal does not fit into the section it seeks to amend and the same is rejected.</p> <p>This should be corrected.</p>
		26 (3)	Insert the words "in consultation with the Authority." immediately	The proposal does not fit into the section it seeks to amend and the same is

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			after the word "Secretary"	rejected. This should be corrected.
		26	Insert the following new subsection immediately after subsection (3) - (3A) The certificate issued under subsection (3) shall indicate the nature, quantity and consideration from scrap metal to ensure compliance with the approved limits.	The proposal does not fit into the section it seeks to amend and the same is rejected. This should be corrected.
		26 (4)	Insert the word "of" immediately after the word "terms".	The proposal seeks to correct a grammatical error. This amendment is acceptable.
		30 (1)(a)	Insert the words "critical national" immediately after the word "vandalized".	The proposal does not fit into the section it seeks to amend and the same is rejected. This should be corrected.
		30 (1)(e)(ii)	Insert the words "smelter, electrical rewinder, steel fabricator" immediately after the word "miller".	The proposal does not fit into the section it seeks to amend and the same is rejected.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
				This should be corrected.
		45 (1)	Delete the words "who shall be the Secretary to the Board" appearing in paragraph (d).	The amendment is acceptable.
		45 (1)(e)	Delete the word "three" and substitute therefor the word "seven".	The proposal increases the number of members to be appointed by the Cabinet Secretary to the Board of the Rural Electrification and Renewable Energy Corporation. The amendment is acceptable.
		45	Delete paragraph (f).	The proposal aims to remove the position of members appointed by the Council of Governors to the Board of the for the Board of the Rural Electrification and Renewable Energy Corporation. There is no objection.
		76 (2)	Insert the following new paragraph immediately after paragraph (g) - (h) the Managing Director of Kenya Power and Lighting Company PLC or his or her	The proposal seeks to add the MD of KPLC to the Renewable Energy Resource Advisory Committee.

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			representative.	The amendment is acceptable.
		82	Delete the word "Authority" and substitute therefor the expression "Renewable Energy Resource Advisory Committee".	The amendment aims to correct an error on the mandate of the Renewable Energy Resource Advisory Committee. The amendment is acceptable.
		98 (1)(d)	Insert the word "with" immediately after the word "compliance".	The proposal seeks to correct a grammatical error. This amendment is acceptable.
		100 (1)(b)	Insert the word "of" immediately after the word "type".	The proposal seeks to correct a grammatical error. This amendment is acceptable.
		117	Delete the word "one" and substitute therefor the words "one half of a".	The proposal seeks to reduce the capacity of electrical energy that does not require a licence. There is no objection to the amendment.
		129 (2)	Delete the word "three" and substitute therefor	The proposal increases the period for one to

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			the word "four".	submit audited accounts after the end of each financial year. The amendment is acceptable.
		149 (3)	Delete the word "licence" and substitute therefor the word "certificate".	The amendment is acceptable to ensure better comprehension of the section.
		154 (2)	Delete the word "meters" and substitute therefor the word "metres".	
		166 (3)	Delete and substitute therefor the following new subsection - (3) For the avoidance of doubt, the licensee shall not be liable to any penalty under subsection (1) or to pay compensation under subsection (2) if the failure, poor quality or irregularity of electricity supply was caused by third party interference to the licensee's accident or force majeure, or was so slight as not to materially affect the quality or value of the supply.	The amendment aims to expound on the penalties a licensee is liable to. The amendment is acceptable.
		166 (4)	Delete and substitute	The amendment aims to

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			with the following new subsection - (4) The Cabinet Secretary may make regulations to give effect to this section subject to the grid attaining the quality and reliability of supply and service as prescribed by the Authority.	give the Cabinet Secretary the mandate to enforce the section within given parameters. The amendment is acceptable.
		167 (1)	Delete the expression "(1)". Delete the word "electrician" appearing in paragraph (o) and substitute therefor the words "electrical worker".	The proposal seeks to correct a numerical and grammatical error. This amendment is acceptable.
		169 (2)	Delete and substitute therefor the following new subsection - (2) Any vessel that is used to convey the vandalised or stolen equipment or appliances referred to in subsection (1) shall be forfeited to the State.	The amendment aims to provide clarity to the section. The amendment is acceptable.
		187	Delete the words "coordinate the development and implementation of a" and substitute therefor the words "develop and	The proposal seeks to make the section precise. This amendment is

S/NO.	LEGISLATION	PROVISION TO BE AMENDED	PROPOSED AMENDMENT	COMMENTS/ PROPOSALS
			implement".	acceptable.
		199 (1)	Insert the word "Gazette" immediately after the words "by notification in the".	<p>The proposal seeks to provide clarity on the way of notification.</p> <p>This amendment is acceptable.</p>
		208	Delete the words "on the recommendation of" and substitute therefo the words "in consultation with".	<p>The proposal seeks to provide clarity on the role of the Authority.</p> <p>This amendment is acceptable.</p>
		216 (1)	Delete the word "Consolidated".	

221221
ar@court.go.ke

please quote



REPUBLIC OF KENYA

CHIEF REGISTRAR'S CHAMBERS, JUDICIARY
SUPREME COURT BUILDING
P.O. Box 30041 - 00100
NAIROBI

THE JUDICIARY

15th March, 2023

/DDC/JLAC/2023/025

George
National Assembly
Members

AMENDMENTS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
2022 (NATIONAL ASSEMBLY BILL NO. 60 OF 2022)

I acknowledge receipt of your letter of 9th March 2023 together with the Statute Law (Miscellaneous Amendments) Bill, 2022 (National Assembly Bill No. 60).

Enclosed herewith are our comments on the Bill for the consideration of the Justice & Law Committee of the National Assembly.

I would like to report that

On 29th July 2021, the Clerk of the National Assembly invited the Chief Registrar of the Judiciary to comment on the Criminal Procedure Code (Miscellaneous Amendments) Bill, 2019 (N.A. Bill No. 41 Of 2020) which sought to amend section 36 of the Criminal Procedure Code to make it mandatory for suspects to be granted bond at the police station;

On 1st September 2021, the Senate invited us to comment on a Petition from Hon. Taratisio Ireri Ikawe calling on Parliament to amend the Constitution and various statutory provisions relating to bail and bond so that persons accused of certain offences are automatically denied bail.

The Bill and the National Assembly Bill No. 41 of 2020 confirm that there are challenges bedeviling the administration of bail and bond in our criminal justice system. In the circumstances, we recommend a more holistic approach to the law on bail and bond and reiterate the need for Parliament to enact a standard legislation on bail and bond.

We take this opportunity, once again, to forward to Parliament the Draft Bail & Bond Bill which was prepared by the NCAJ Bail and Bond Implementation Committee

and to request that the Justice & Legal Affairs Committee takes up the Bill as a Committee Bill.

Yours sincerely,



fr ANNE A. AMADI, CBS
CHIEF REGISTRAR OF THE JUDICIARY

Encl.

Copy to: The Attorney General (Your letter of 15th March 2023 Ref.
Attn: Samson Maundu AG/LDD/190/1/85 Refers)
Principal Parliamentary Counsel
AG's Chambers
Sheria House
NAIROBI

Hon. Lady Justice Grace Ngenye
Judge of Appeal & Chairperson,
NCAJ Committee on Criminal Justice Reforms

Hon. Lady Justice Jessie Lessit
Judge of Appeal & Chairperson,
Bail and Bond Implementation Committee

aaa/ko



**MEMORANDUM FROM THE CHIEF REGISTRAR OF THE JUDICIARY ON THE STATUTE LAW
(MISCELLANEOUS MENDMENTS) BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 60)**

PROPOSED AMENDMENT	COMMENTS
1. The Judicature Act (Cap. 8) - s. 7(1)	<p>The Judiciary supports the proposed amendment of the Judicature Act to increase the maximum number of Court of Appeal Judges from 30 to 70 for the following reasons:</p> <p>i. Caseload The Court has jurisdiction over appeals from the High Court, the Environment & Land Court and the Employment & Labor Relations Court. The number of Judges of these three courts has increased in recent years, leading to higher productivity. Consequently, the cumulative cases from these three courts have risen sharply yet the establishment of the appellate court has not increased. The proposed increase will empower the appellate court to deal expeditiously with the increasing number of appeals from the three courts in accordance with the Constitution.</p> <p>ii. Case Clearance & Expeditious Delivery of Justice The FY 2021/ 22 caseload statistics report for the Court of Appeal prepared by the Directorate of Planning and Organizational Performance (DPOP) states that the overall case clearance rate for the Court of Appeal was 43%, which shows rising pendency of cases for the court. The overall Case Clearance Rate (CCR) for criminal cases was 41% while that of civil cases was 43%. The import of this is that a CCR less than 100 per cent shows that the court has a rising pendency of cases.</p>



	PROPOSED AMENDMENT	COMMENTS
		<p>The report further states that the overall average time to disposition of cases in the Court of Appeal was 920 days. On criminal matters, overall the average time to disposition was 1,224 days while in civil cases the time to disposition was 896 days.</p> <p>The Judiciary's vision, "Social Transformation through Access to Justice" on reduction of case backlog, is to ensure that cases in appellate courts do not take more than one (1) year. The increased number of Judges will go a long way towards ensuring this goal is achieved.</p> <p>iii. Physical Access to Justice</p> <p>The Court has stations at Nairobi, Nyeri, Kisumu, Mombasa and Nakuru, with sub-registries in Eldoret, Malindi, Meru, Kakamega, Kisii, Busia and Garissa. Litigants have to travel to these towns to file cases, and to Nairobi, Nyeri, Mombasa, Kisumu and Nakuru for court sessions. The enhanced number of judges will also enable the Judiciary to establish the Court in more towns across the country to bring the services of the court closer to litigants.</p>
2.	The Penal Code (Cap. 63) - s. 146	<p>The Judiciary supports the proposed deletion of the words "idiots or imbeciles" and substitution with "persons with mental disabilities". In line with the Constitution which protects persons with mental disabilities, the law should be amended to repeal demeaning words that were characteristic of colonial era legislation.</p> <p>The Judiciary also notes that the Penal Code was first enacted during colonial times. The Penal Code in use today took effect on 1st August 1930 and though it has been amended nearly 80 times in the 90 years it has been in force, it has not undergone any comprehensive amendment nearly six decades after independence. The Code has equally not been revised to align it with the 2010</p>



PROPOSED AMENDMENT	COMMENTS
	<p>Constitution. This has resulted in a number of challenges on the constitutionality of several provisions of the Code. It also contains numerous petty offences that should be decriminalized. Additionally, the framing of sentences in the Code has made full implementation of plea bargaining difficult.</p> <p>We urge Parliament to consider a comprehensive review of the Penal Code with a view to enacting an entirely new Penal Code. A new Penal Code will complement efforts by the Judiciary and other actors in the justice system who are working to ensure that we have a people centered criminal justice system. This vision cannot be achieved if the substance of our penal laws has not been changed.</p> <p>The NCAJ Committee on Criminal Justice Reforms is reviewing the Penal Code and the Criminal Procedure Code to recommend review, and we request JLAC to support the process by adopting the forthcoming bills as Committee Bills.</p>
3. The Evidence Act (Cap. 80). - S 125(2)	<p>The Judiciary supports the proposed deletion of the words “a mentally disordered person or a lunatic” to substitute therefor the words “a person with a mental disability”. In line with the Constitution which protects persons with mental disabilities, the law should be amended to repeal demeaning words that were characteristic of colonial era legislation.</p>
4. The Criminal Procedure Code (Cap. 75). - s. 123(1)	<p>The Judiciary supports the proposed amendment to section 123 of the Penal Code so that all accused persons are eligible for bail, regardless of the charges they face. The Courts have declared this provision of the CPC unconstitutional in several cases and the proposed amendment is timely.</p> <p>The proposed amendment will align the Criminal Procedure Code with the Constitution which guarantees the right to bail to all offenders, regardless of the charges they face, save where there are compelling reasons not to release the offender.</p>



PROPOSED AMENDMENT	COMMENTS
	<p>This will partly address numerous challenges bedeviling the administration of bail and bond in our criminal justice system. Part of the challenges we face today arise from the fact that no statutory changes have been effected to bring to full effect the provisions of the 2010 Constitution with respect to the rights of arrested persons, particularly the right to bail and bond.</p> <p>Piecemeal amendments have been done on the CPC to attempt to align it with the Constitution of Kenya 2010, including on the question of bail and bond. Before the present Bill, there was the Criminal Procedure Code (Amendment) Bill 2020 sponsored by Hon. Nelson Koech, MP – and the CRJ was invited to give comments on the Bill.</p> <p>On 6th September 2021, the Senate invited us to comment on a Petition from one Taratisio Ireri Ikawe calling on Parliament to amend the Constitution and various statutory provisions relating to bail and bond so that persons accused of certain offences are automatically denied bail.</p> <p>In our comments on the Bill and in response to this petition, we called on Parliament to enact a stand-alone law on bail and bond that will deal once and for all with the emerging gaps and challenges in the administration of bail and bond.</p> <p>In the absence of such clear legislation, our courts have gone to great lengths to delineate the circumstances under which bail may be denied. Despite these efforts, there are still some gaps in the law and practice of the administration of bail and bond, and the Judiciary sought to fill this through the Bail & Bond Policy Guidelines promulgated in March 2015.</p>



PROPOSED AMENDMENT	COMMENTS
	<p>The committee that oversaw the implementation of the Bail & Bond Guidelines identified numerous gaps that persisted in the administration of bail and bond despite the Guidelines, and recommended that the best strategy would be a stand-alone piece of legislation on bail & bond.</p> <p>The committee worked with stakeholders drawn from the criminal justice sector to prepare the Draft Bail & Bond Bill.</p> <p>In the circumstances, we recommend a more holistic approach to reforming the law on bail and bond and reiterate the need for Parliament to enact a stand-alone piece of legislation on bail and bond.</p> <p>We therefore take this opportunity, once again, to forward to Parliament the Draft Bail & Bond Bill which was prepared by the NCAJ Bail and Bond Implementation Committee. We request that the Justice & Legal Affairs Committee takes up the Bill as a Committee Bill.</p>
<p>5. The Judicial Service Commission Act, 2011 (No. 1 of 2011). – S. 38</p>	<p>We note that the statute to be amended is erroneously referred to as The Judicial Service Commission Act. The proper name is The Judicial Service Act. We also note that the amendment will require the Commission to submit its annual reports to the President and the National Assembly within six months after the end of the year to which it relates.</p> <p>Section 38(4) of the Act already has a provision for the submission of the Commission's annual reports to both Houses of Parliament. We propose that this be retained, save for the addition of the timelines for reporting. Section 38(4) can be amended to introduce the six-month timeline for reporting.</p>

