

SPECIAL ISSUE

Kenya Gazette Supplement No. 134 (Senate Bills No. 15)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2025

NAIROBI, 5th August, 2025

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**THE NATIONAL CONSTRUCTION AUTHORITY
(AMENDMENT) BILL, 2025**

A Bill for

AN ACT of Parliament to amend the National Construction Authority Act; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Construction Authority (Amendment) Act, 2025.

Short title.

2. Section 5 of the National Construction Authority Act, in this Act referred to as the “principal Act”, is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (h)—

Amendment to section 5 of Cap 118.

(ha) promote and enforce the use of environmentally sustainable construction materials, designs, standards and practices that enhance resilience against climate change risks.

3. The principal Act is amended by inserting the following new section immediately after section 23A—

Insertion of a new section 23B in Cap. 118.

Mandatory Solar System Installation zones.

23B. (1) The Authority shall, in consultation with relevant agencies, designate zones within which all new buildings constructed shall be required to install solar energy systems.

(2) The zones designated under subsection (1) shall include areas that receive an average of sufficient sunshine hours per day to support the effective generation of solar energy.

(3) The Cabinet Secretary shall prescribe regulations as may be necessary for the effective implementation of this section.

4. Section 42 of the principal Act is amended in subsection 2 by—

Amendment of section 42 of Cap 118.

(a) inserting in paragraph (aa) the words “that include climate change responsive mechanisms” immediately after the word “industry”;

- (b) inserting the following new paragraph immediately after paragraph (ab)—
- (ac) the manner of incorporating climate change responsive mechanisms into construction activities as set out in the Fourth Schedule;

5. The principal Act is amended by inserting the following new Schedule immediately after the Third Schedule—

Insertion of a new
schedule of Cap.
118.

FOURTH SCHEDULE (s.42)

CLIMATE CHANGE RESPONSIVE MECHANISMS TO BE CONSIDERED IN CONSTRUCTION ACTIVITIES

A — Climate Resilience:

- (a) Designs that withstand extreme weather conditions.
- (b) Incorporation of green spaces and natural buffers.

B — Energy Efficiency:

- (a) Implementation of energy-saving technologies and designs.
- (b) Utilization of renewable energy sources.

C — Water Conservation:

- (a) Adoption of water-efficient appliances and systems.
- (b) Rainwater harvesting and greywater recycling.

D — Sustainable Materials:

- (a) Use of recycled, renewable, and locally sourced materials.
- (b) Minimizing waste through efficient design and construction practices.

E — Pollution Control:

- (a) Measures to reduce air, water, and soil pollution during construction.
- (b) Safe disposal and management of construction waste.

F— Biodiversity Protection:

- (a) Preservation of existing natural habitats and ecosystems.
- (b) Integration of green roofs and walls to support urban biodiversity.

H— Health and Safety:

- (a) Ensuring indoor air quality and natural lighting.
- (b) Use of non-toxic and low-emission materials.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The National Construction Authority (Amendment) Bill, 2025 seeks to amend the National Construction Authority Act, Cap 118 to include provisions related to environmentally sustainable construction practices and resilience against climate change risks within the construction industry.

The construction sector plays a crucial role in the development of Kenya's infrastructure and economy. However, it also significantly impacts the environment and is vulnerable to climate change risks. Therefore, there is a pressing need to integrate environmental sustainability and climate resilience into construction activities.

Clause 2 of the Bill proposes to amend Section 5 to empower the National Construction Authority to promote and enforce the use of environmentally sustainable construction materials, designs, standards, and practices. By doing so, the construction industry will be encouraged to adopt practices that reduce environmental impact and enhance resilience against climate change effects.

Further, clause 3 of the Bill aims to amend Section 42 of the Act by inserting specific requirements related to climate change responsiveness. This amendment ensures that standards, guidelines, and regulations developed by the National Construction Authority for the construction industry include mechanisms that address climate change risks. Such mechanisms will enable the industry to adapt to changing environmental conditions and contribute to national efforts aimed at mitigating climate change impacts.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill delegates power to the Cabinet Secretary to make regulations but does not limit fundamental rights and freedoms. The proposed amendments aim to enhance the regulatory framework of the National Construction Authority by promoting environmentally sustainable construction practices and incorporating climate change resilience measures within the construction industry.

Statement of how the Bill concerns County Governments

Under Paragraph 8 of Part 2 of the Fourth Schedule of the Constitution, counties have explicit responsibilities in planning and development, including housing. The amendments introduced by this Bill, which emphasize the integration of climate change responsive

mechanisms into building codes and standards, directly impact counties' abilities to enforce environmentally conscious construction practices and ensure climate change resilience of local infrastructure.

Therefore, the proposed amendments align closely with the constitutional mandate of counties in overseeing land-use planning and infrastructure development, as articulated in Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution. It primarily seeks to amend regulatory and operational provisions related to the National Construction Authority Act, focusing on matters concerning construction standards, practices, and climate change responsiveness. The amendments proposed in this Bill do not involve the appropriation, imposition, or alteration of taxes, levies, duties, or public expenditure. Therefore, the Bill does not fall within the definition of a money Bill as specified under Article 114 of the Constitution.

Dated the 20th March, 2025.

EDDY GICHERU OKETCH,
Senator.

Section 5 of Cap 118 which it is proposed to amend:

5. Functions of the Authority.

(1) The object for which the Authority is established is to oversee the construction industry and coordinate its development.

(2) Without prejudice to the generality of subsection (1), the Authority shall—

- (a) promote and stimulate the development, improvement and expansion of the construction industry;
- (b) advise and make recommendations to the Cabinet Secretary on matters affecting or connected with the construction industry;
- (c) undertake or commission research into any matter relating to the construction industry;
- (d) prescribe the qualifications or other attributes required for registration as a contractor under this Act;
- (e) assist in the exportation of construction services connected to the construction industry;
- (f) provide consultancy and advisory services with respect to the construction industry;
- (g) promote and ensure quality assurance in the construction industry;
 - (ga) enforce the prescribed Building Code in the construction industry;
- (h) encourage the standardisation and improvement of construction techniques and materials;
- (i) initiate and maintain a construction industry information system;
- (j) provide, promote, review and co-ordinate training programmes organized by public and private accredited training centers for skilled construction workers and construction site supervisors;
- (k) accredit and register contractors and regulate their professional undertakings;
- (l) accredit and certify skilled construction workers and construction site supervisors;
- (m) develop and publish a code of conduct for the construction industry; and

- (n) do all other things that may be necessary for the better carrying out of its functions under the Act.

Section 42 of Cap 118 which it is proposed to amend:

42. Power to make Regulations.

(1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying out of the purposes of this Act.

(2) Without prejudice to the generality of the foregoing, regulation made under this section may provide for—

- (a) the manner of payment of the levy imposed under section 31;
 - (aa) the Building Code in the construction industry;
 - (ab) the manner of conducting mandatory inspections by the Authority;
- (b) the manner of service of any notice required under Act;
- (c) the fees and charges to be paid in respect of any matter required for purposes of this Act;
- (d) the manner and forms of accreditation and certification of contractors, skilled construction workers and construction site supervisors;
- (e) the responsibilities and control of the officers and servants of the Authority;
- (f) the performance of the functions, the exercise of the powers and discharge of the duties of the Authority under this Act; and
- (g) any other matter to give effect to the provisions of this Act.

(3) Regulations made under this section shall be tabled in Parliament for approval before taking effect.

