

SPECIAL ISSUE

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REPUBLIC OF KENYA

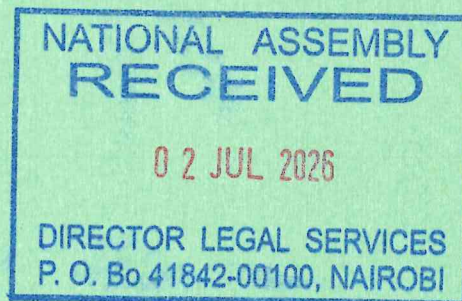
KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2026

NAIROBI, 5th June, 2026

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REPUBLIC OF KENYA

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**THE EAST AFRICAN DEVELOPMENT BANK
(AMENDMENT) BILL, 2026**

A Bill for

**AN ACT of Parliament to amend the East African
Development Bank Act and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the East African Development Bank (Amendment) Act, 2026.

Short title.

2. The East African Development Bank Act, hereinafter referred to as “the principal Act” is amended by deleting section 2 and substituting therefor the following new section —

Amendment of section 2 of Cap. 493A.

Financial provisions.

2. (1) The Cabinet Secretary may from time to time charge on and pay out of the Consolidated Fund all payments required to be made to the Bank under the terms of the Treaty.

(2) The money payable by the Cabinet Secretary to the Bank shall be paid—

(a) as provided for in an Appropriation Act; and

(b) on the approval of the Controller of Budget.

(3) The Cabinet Secretary shall, not later than three months after the end of every financial year, submit a report to the National Assembly giving details of all payments paid out of the Consolidated Fund by the national government to the Bank.

(4) For the purpose of providing any sums required for making payments under this section, the Cabinet Secretary, with the approval of the National Assembly, may make such arrangements as are necessary, or raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to repayment,

redemption, and the principal and interest of those securities and the charges and expense incurred in connection with their issued shall be charged on and issued out of the Consolidated Fund.

(5) Subject to subsection (4), the relevant Committee of the National Assembly shall consider and table its report for debate within thirty days from the date on which the notification for approval was sought.

(6) If, after expiry of the period specified in subsection 5, the National Assembly has not passed a resolution, the approval shall be deemed to have been given.

(7) Monies received by the national government from the Bank or raised under subsection (4), shall be paid into and form part of the Consolidated Fund and shall be available in any manner in which the Consolidated Fund is available.

(8) In this Section, unless the context otherwise requires, “Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to finance.

3. The Schedule to the principal Act is amended—

- (a) in Article 24, by deleting paragraph 5 and substituting therefor the following new paragraph—

“5. The Bank shall be accorded, in the territories of the Member States, a creditor status no less than that accorded to the International Monetary Fund, the International Bank of Reconstruction and Development, the International Development Association, the African Development Bank and the African Development Fund.”

- (b) in Article 44, by deleting paragraph 1 and substituting therefor the following new paragraph —

“1. The Bank shall enjoy immunity from every form of legal process except in any case where it has expressly waived its immunity in writing, when it may be sued in a court of competent jurisdiction in a Member State in which the Bank has an office, and has appointed an agent for the purpose of accepting service or notice of process. It is however understood that no waiver of immunity shall be implied or extend to any measure of execution.”

- (c) in Article 45 —

- (i) by deleting paragraph 1 and substituting therefor the following new paragraph —

“1. Property and other assets of the Bank, wheresoever located and by whomsoever held, shall be immune from interference, search, requisition, confiscation, expropriation, nationalization or execution or any other form of taking or foreclosure by executive, legislative, judicial or administrative action, and premises used for the business of the Bank shall be immune from search, provided that in legal proceedings brought within the terms of the Charter such immunity shall apply before delivery of a final judgment against the Bank by the highest court of competent jurisdiction.”

- (ii) by deleting paragraph 3 and substituting therefor the following new paragraph —

“3. For the purpose of this Charter, the terms “property and assets of the Bank” shall include property and assets owned or held by the Bank, the Bank's premises, and deposits and funds entrusted to the Bank in the ordinary course of fulfilling its mandate.”

MEMORANDUM OF OBJECTS AND REASONS**Statement of objects and reasons**

The principal objective of this Bill is to amend the East African Development Bank Act, Cap. 493A, to require the approval of the National Assembly prior to the Cabinet Secretary authorizing a charge or issuance of public funds from the Consolidated Fund to the East African Development Bank. Section 2 of the Act currently authorizes the Cabinet Secretary for the National Treasury to commit and disburse funds from the Consolidated Fund to the East African Development Bank without the approval of the National Assembly. The proposed amendment therefore seeks to enhance legislative oversight and accountability in line with the principles of public finance as set out under the Constitution.

The amendments to the Schedule to the Act seek to introduce measures for to ensure the safeguard of assets of the East Africa Community and its institutions.

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

The Bill does not delegate legislative powers and does not limit any rights and fundamental freedoms.

Statements on whether the Bill concerns county governments

This Bill does not concern county governments in terms of Article 110 (1)(a) of the Constitution as is does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution

Statement whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 14th May, 2026.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

Section 2 of the Act which it is proposed to amend—

Financial provision

(1) There shall be charged on and paid out of the Consolidated Fund without further appropriation than this Act all payments required to be made from time to time by the Government to the Bank under the terms of the Treaty.

(2) For the purpose of providing any sums required for making payments under this section, the Cabinet Secretary may, on behalf of the Government, make such arrangements as are necessary, or raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to repayment, redemption or otherwise as he thinks fit, and the principal and interest of those securities and the charges and expense incurred in connection with their issued shall be charged on and issued out of the Consolidated Fund.

(3) Moneys received by the Government from the Bank or raised under subsection (2), shall be paid into and form part of the Consolidated Fund and shall be available in any manner in which the Consolidated Fund is available.

The Schedule to the Act which it is proposed to amend—

SCHEDULE

[Act No. 7 of 2007, s. 3, Act No. 38 of 2013, s. 30.]

The provisions of the Charter annexed to the Treaty of 1980 which are to have the force of law in Kenya.

Chapter VI

CURRENCIES

Article 24 – Use of Currencies

1. The Member States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank for payments in any country of the following:—

- (a) currencies received by the Bank in payment of subscriptions to its capital stock;
- (b) currencies purchased with the currencies referred to in subparagraph (a) of this paragraph;
- (c) currencies obtained by the Bank by borrowing for inclusion in its ordinary capital resource;

- (d) currencies received by the Bank in payment of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in subparagraphs (a), (b) and (c) of this paragraph or in payment of fees in respect of guarantees made by the Bank; and
- (e) currencies received from the Bank in distribution of the net income of the Bank in accordance with Article 20 of this Charter.

2. The Member States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country, of currency received by the Bank which does not come within the provisions of paragraph 1 of this Article unless such currency forms part of the Special Funds of the Bank and its use is subject to special regulations.

3. The Member States may not maintain or impose any restriction on the holding or use by the Bank, for making amortization payments or for repurchasing in whole or in part the Bank's own obligations, of currencies received by the Bank in repayment of direct loans made out of its ordinary capital resources.

4. Each Member State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred to in Article 15 of this Charter shall be made available in exchange for currency of the Member State concerned.

5. The Bank shall be accorded, in the territories of the Member States, a creditor status no less than that accorded to the International Monetary Fund, the International Bank of Reconstruction and Development, the International Development Association, the African Development Bank and the African Development Fund.

Article 25 – Deleted by Act No. 38 of 2013, s. 30.

Chapter X

STATUS, IMMUNITIES AND PRIVILEGES

Article 42 – Purpose of Chapter

To enable the Bank effectively to fulfil its objectives and carry out the functions with which it is entrusted, the status, immunities, exemptions and privileges set forth in this Chapter shall be accorded to the Bank in territories of each of the Member States.

Article 43 – Legal Status

The Bank shall possess full juridical personality and, in particular, full capacity—

- (a) to contract;
- (b) to acquire, and dispose of, immovable and movable property; and
- (c) to institute legal proceedings.

Article 44 – Judicial Proceedings

1. The Bank shall enjoy immunity from every form of legal process except in any case where it has expressly waived its immunity in writing, when it may be sued in a court of competent jurisdiction in a Member State in which the Bank has an office, and has appointed an agent for the purpose of accepting service or notice of process. It is however understood that no waiver of immunity shall be implied or extend to any measure of execution.

2. No action shall be brought against the Bank by members or persons acting for or deriving claims from members. However, members shall have recourse to such special procedures for the settlement of disputes between the Bank and its members as may be prescribed in this Charter, in the regulations of the Bank or in contracts entered into with the Bank.

Article 45 – Immunity of Assets

1. Property and other assets of the Bank, wheresoever located and by whomsoever held, shall be immune from interference, search, requisition, confiscation, expropriation, nationalization or execution or any other form of taking or foreclosure by executive, legislative, judicial or administrative action, and premises used for the business of the Bank shall be immune from search, provided that in legal proceedings brought within the terms of the Charter such immunity shall apply before delivery of a final judgment against the Bank by the highest court of competent jurisdiction.

2. The Bank shall prevent its premises from becoming refuges for fugitives from justice, or for persons subject to extradition, or persons avoiding service of legal process or a judicial proceeding.

3. For the purpose of this Charter, the terms “property and assets of the Bank” shall include property and assets owned or held by the Bank, the Bank's premises, and deposits and funds entrusted to the Bank in the ordinary course of fulfilling its mandate.

Article 46 – Immunity of Archives

The archives of the Bank and all documents belonging to it, or held by it, shall be inviolable wherever located.

Article 47 – Freedom of Assets from Restriction

To the extent necessary to carry out the objectives and functions of the Bank and subject to the provisions of this Charter, all property and other assets of the Bank shall be free from restriction, regulations, controls and moratoria of any nature.

Article 48 – Personal Immunities and Privileges

1. All directors, alternates, officers and employees of the Bank —
 - (a) shall be immune from civil process with respect to acts performed by them in their official capacity; and
 - (b) shall be accorded such immunities from immigration restrictions or alien registration, and, where they are not citizens of a Member State, such facilities in relation to exchange regulations as are accorded by Member State to the representatives, officials and employees of comparable rank of other Member States.
2. Experts or consultants rendering services to the Bank shall be accorded the same immunities and privileges as in paragraph 1 above, unless the Member State concerned determines otherwise.

Article 49 – Exemption from Taxation

1. The Bank shall be enabled to import free of customs duty any goods required for the purpose of its operations except such goods as are intended for sale, or are sold, to the public.
2. The Bank shall be exempted from income tax and stamp duty.

Article 51 – Waiver of Immunities

1. The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Chapter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.
2. The Bank shall take every measure to ensure that the privileges, immunities, exemptions and facilities conferred by this Charter are not abused and for this purpose shall establish such regulations as it may consider necessary and expedient.

