

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 138 (National Assembly Bills No. 34)*

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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**NATIONAL ASSEMBLY BILLS, 2026**

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**NAIROBI, 5th June, 2026**

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# KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2026

Nairobi, 5th June, 2026

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Bill for Introduction into the National Assembly

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RECEIVED  
NATIONAL ASSEMBLY  
JUNE 26  
DIRECTOR LEGAL SERVICES  
S.O. 641-2/2004 (L.A.O.)

## THE WATER (AMENDMENT) BILL, 2026

### A Bill for

**AN ACT of Parliament to amend the Water Act, to provide for the merger of the Irrigation Authority and the National Water Harvesting and Storage Authority; to harmonise the functions of the merged Authorities; and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows —

- |   |                                       |
|---|---------------------------------------|
| 1. This Act may be cited as the Water (Amendment) Act, 2026.  | Short title                           |
| 2. Section 2 of the Water Act, (hereinafter referred to as the “principal Act”) is amended by deleting—   | Amendment of section 2 of Cap. 372.   |
| (a) the definition of the term “Water Storage Authority”; and   |                                       |
| (b) the definition of the term "Water Storage Board.  |                                       |
| 3. Part III of the principal Act is amended by deleting the subheading “National Water Harvesting and Storage Authority”.   | Amendment of Part III of Cap. 372.    |
| 4. The principal Act is amended by repealing section 30.  | Repeal of section 30 of Cap. 372.     |
| 5. The principal Act is amended by repealing section 31.  | Repeal of section 31 of Cap. 372.     |
| 6. The principal Act is amended by repealing section 32.  | Repeal of section 32 of Cap. 372.     |
| 7. The principal Act is amended by repealing section 33.  | Repeal of section 33 of Cap. 372.     |
| 8. The principal Act is amended by repealing section 34.  | Repeal of section 34 of Cap. 372.     |
| 9. The principal Act is amended by repealing section 35.  | Repeal of section 35 of Cap. 372.     |
| 10. Section 126 of the principal Act is amended by deleting the words “Water Storage Authority” appearing immediately after the words “Regulatory Board”.         | Amendment of Section 126 of Cap. 372. |
| 11. Section 130 of the principal Act is amended by deleting the words “and the Water Storage Authority” appearing immediately after the words “Regulatory Board”. | Amendment of Section 130 of Cap. 372. |

12. The First Schedule of the principal Act is amended—

Amendment of  
the First Schedule  
of Cap. 372.

- (a) in sub paragraph (5)(a) of paragraph (7) by deleting the words “or the Water Storage Board” appearing immediately after the words “Board of Trustees”; and
- (b) in sub-paragraph (1) of paragraph (14) by deleting the words “or the National Water Storage Authority” appearing immediately after the words “the Fund”.

## MEMORANDUM OF OBJECTS AND REASONS

The principal objective of the Water (Amendment) Bill, 2026 is to enhance the efficiency of water storage and harvesting in Kenya.

The Bill seeks to repeal the provisions relating to the National Water Harvesting and Storage Authority in the Water Act, *Cap 372*.

The purpose of the repeal is to effect the merger of the National Water Harvesting and Storage Authority in the Water Act, *Cap 372* and the National Irrigation Authority established under the irrigation Act, *Cap 347* to streamline the functions of the two entities which shall be implemented by the National Irrigation and Water Harvesting Authority.

**Clause 1** provides for the short title of the Act.

**Clause 2** proposes to amend section 2 of the principal Act by deleting the definition of the terms “Water Storage Authority and Water Storage Board”.

**Clause 3** proposes to delete the sub-heading “National Water Harvesting and Storage Authority” appearing in Part III of the principal Act.

**Clause 4** proposes to repeal section 30.

**Clause 5** proposes to repeal section 31.

**Clause 6** proposes to delete section 32.

**Clause 7** proposes to repeal section 33.

**Clause 8** proposes to repeal section 34.

**Clause 9** proposes to repeal section 35.

**Clause 10** proposes to amend section 126 of the principal Act by deleting the words “Water Storage Authority”.

**Clause 11** proposes to amend section 130 of the principal Act by deleting the words “and the Water Storage Authority”.

**Clause 12** proposes to amend the First Schedule of the principal Act by deleting the words Water Storage Board and the National Water Storage Authority.

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

This Bill does not delegate legislative powers and it does not limit fundamental right and freedoms.

**Statement as to whether the Bill concerns county governments**

The Bill concerns county governments in terms of Article 110(1) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

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

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

Dated the 14th May, 2026.

**KIMANI ICHUNG'WAH,**  
*Leader of the Majority Party.*

*Section 2 of Cap. 372 which it is intended to amend—*

2. (1) In this Act, unless the context otherwise requires—

“Authority” means the Water Resources Authority established under section 11;

“aquifer” means an underground geological formation able to store and yield water;

“basin area” means an area designated as such under section 24;

“basin water resources committee” means a water basin organization established under section 25;

“bulk water” means water supplied to a water services provider by the water services provider making the supply;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to water;

“catchment area” means an area that is part of a basin designated as such under section 22;

“charges”, in relation to the use of water from a water resource, includes fees, levies and premiums of any kind;

“county government” means a county government as provided for under Chapter 11 of the Constitution of Kenya;

“county government executive” means the county executive committee member responsible for matters relating to water;

“cross-county water services provider” means a water services provider providing water services to more than one county;

“easement” means the right to occupy so much of the land of another as may be necessary for or incidental to the construction or maintenance of works authorised, or the exercise of rights conferred by a permit;

“Equalisation Fund” means the Equalisation Fund provided for in Article 204 of the Constitution;

“Fund” means the Water Sector Trust Fund established in section 113;

“ground water” means the water of underground streams, channels, artesian basins, reservoirs, lakes and other bodies of water in the ground, and includes water in interstices below the water table;

“inspector” means a person appointed by the Cabinet Secretary, the Authority, a water basin resources committee, or the Regulatory Board, to exercise the powers of an inspector under this Act;

“in-stream habitat” includes the physical structure of a water resource and the associated vegetation in relation to the bed of the water course;

“international waters” means the ocean water beyond territorial waters;

“Land and Environment Court” means the Land and Environment Court as established under article 162 (2) of the Constitution;

“landholder”, in relation to land, means the registered owner of the land or the person in whom the land is otherwise vested by law, and includes —

- (a) any person who by any established right, custom or estate is entitled to be the holder or possessor of land;
- (b) any person lawfully holding or occupying land in accordance with the provisions of any law empowering the allotment of land upon the promise of title, subject to the fulfilment by the allottee of prescribed conditions; and
- (c) any person to whom a mining lease or mining location has been granted under the Mining Act, 2016;

“licence” means a licence in force under this Act;

“licensee” means a water service provider licensed by the Regulatory Board under this Act;

“limits of supply”, in relation to a water undertaking, means the limits within which the licensee is for the time being authorised to supply water;

“Management Board” means the Board of the Authority established under section 14;

“management of water resources” means the development, augmentation, conservation or protection of a water resource;

“peri-urban water services” means services provided in peri-urban areas as shall be defined by the Regulatory Board from time to time;

“permit” means a permit for the time being in force under this Act;

“person” includes a company, association or other body of persons whether incorporated or unincorporated;

“pollution”, in relation to a water resource, means any direct or indirect alteration of the physical, thermal, chemical or biological properties of the water resource so as to make it—

- (a) less fit for any beneficial purpose for which it is or is reasonably be expected to be used; or
- (b) harmful or potentially harmful to—
  - (i) the welfare, health or safety of human beings;
  - (ii) any aquatic or non-aquatic life or property; or
  - (iii) the environment;

“public consultation”, in relation to any application made, or action proposed to be taken under this Act, has the meaning assigned to it in section 139;

“reasonable water use” means the use of water without wastage;

“Regulatory Board” means the Water Services Regulatory Board established under section 70;

“reserve”, in relation to a water resource, means that quantity and quality of water required—

- (a) to satisfy basic human needs for all people who are or may be supplied from the water resource; and
- (b) to protect aquatic ecosystems in order to secure ecologically sustainable development and use of the water resource;

“resource quality”, in relation to a water resource, means the quality of all the aspects of a water resource including—

- (a) the water quality stipulated for the reserve;
- (b) the quantity, pattern, timing, water level and assurance of in-stream flow;
- (c) the physical, chemical and biological characteristics of the water;
- (d) the character and condition of the in-stream and riparian habitat; and
- (e) the characteristics, condition and distribution of the aquatic biota;

“resource quality objectives”, in relation to a water resource, means the level to be achieved and maintained in each aspect of resource quality for the water resource;

“riparian habitat” means the dynamic complex of plant, animal and micro-organism communities and their non-living environment adjacent to and associated with a watercourse;

“rural water services” means services provided in rural areas as shall be defined by the Regulatory Board;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established under Article 230 of the Constitution;

“sanitation” means the provision of on-site sanitation services including latrines, septic tanks and conservancies including the associated exhauster services;

“sector wide approach” means coordinated development in the sector to achieve national goals, effectiveness of funds and ownership of government institutions including sector wide planning and coordination, national monitoring and information and national implementation concepts;

“sewerage services” means the development and management of infrastructure for transport, storage, treatment waste water originating from centralized and decentralized systems but shall not include household sanitation facilities;

“spring” means water emerging from beneath the surface of the ground other than as a result of drilling or excavation operations;

“state organ” has the meaning assigned in Article 260 of the Constitution;

“stream” means the water contained in a watercourse, and includes a river;

“supply of water in bulk” means a supply of water to a licensee for distribution by or on behalf of the licensee taking the supply;

“swamp” means any shallow depression in which water collects either intermittently or permanently and where there is a small depth of surface water or a shallow depth of ground water and a slight range of fluctuation either in the surface level of the water or of the ground water level so as to permit the growth of aquatic vegetation;

“transboundary waters” means water resources shared between Kenya and another State;

“urban water services” means services provided in urban areas as shall be defined by the Regulatory Board from time to time;

“use of water”, in relation to a water resource includes, without any limitation to –

- (a) abstraction, obstruction, impoundment or diversion of water forming part of a water resource;
- (b) the discharge of materials or substances into a water resource; or
- (c) any activity of a kind prescribed by Regulations under this Act, in relation to a water resource;

“watercourse” means any natural channel or depression in which water flows regularly or intermittently, unless declared not to be a watercourse under this Act;

“water resource” means any lake, pond, swamp, marsh, stream, watercourse, estuary, aquifer, artesian basin or other body of flowing or standing water, whether above or below the ground, and includes sea water and transboundary waters within the territorial jurisdiction of Kenya;

“water right” means the right to have access to water through a water permit;

“water resource management” means the conservation, including soil and water conservation, protection, development and utilization of water resources; and

“water services” means any services of or incidental to the supply or storage of water and includes the provision of sewerage services;

“water services provider” means a company, public benefits organization or other person providing water services under and in accordance with a licence issued by the Regulatory Board for the service areas defined by the licence;

“water storage” means a location or structure where water is stored for future use;

“Water Storage Authority” means the National Water Harvesting and Storage Authority established in section 30;

“Water Storage Board” means the Board of the National Water Harvesting and Storage Authority established under section 31;

“Water Strategy” means the Integrated National Water Services Strategy formulated by the Cabinet Secretary in section 64;

“water table” means –

- (a) impervious granular or detrital material, the upper surface of the body of free water which fills all openings in material that is sufficiently pervious to permit percolation; and
- (b) in fractured impervious rocks and in solution openings, the surface at the contact between the water body in the openings and the overlying ground air;

“water user” means a person using water from a water resource;

“water works development agencies” means the agencies of the national government established under section 65;

“works” means any structure, apparatus, contrivance, device or thing for storing, recharging, treating, carrying, conducting, providing or utilizing water or liquid waste, but does not include hand utensils or such other contrivances as may be prescribed by Regulations made under this Act.

*Part III of Cap. 372 which it is intended to amend—*

National Water Harvesting and Storage Authority

*Section 30 of Cap. 372 which it is intended to amend—*

30. (1) There is established the National Water Harvesting and Storage Authority.

(2) The Water Storage Authority established under this section shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name and doing all things that a corporation may lawfully do.

*Section 31 of Cap. 372 which it is intended to amend—*

31. (1) The powers and functions of the Water Storage Authority shall be exercised and performed under the direction of a Water Harvesting and Storage Board which shall consist of—

- (a) a chairperson, who shall be appointed by the President;
- (b) the Principal Secretary responsible for matters relating to water;
- (c) the Principal Secretary responsible for matters relating to land;
- (d) the Principal Secretary responsible for finance;
- (e) five other members, who shall be appointed by the Cabinet Secretary; and
- (f) a Chief Executive Officer.

(2) The Chief Executive Officer is an ex officio member of the Water Storage Board with no voting rights.

(3) The First Schedule shall have effect with respect to the membership and procedure of the Water Storage Board.

*Section 32 of Cap. 372 which it is intended to amend—*

32. (1) The functions and powers of the Water Storage Authority shall be to—

- (a) undertake on behalf of the national government, the development of national public water works for water resources storage and flood control;
- (b) maintain and manage national public water works infrastructure for water resources storage;
- (c) collect and provide information for the formulation by the Cabinet Secretary of the national water resources storage and flood control strategies;
- (d) develop a water harvesting policy and enforce water harvesting strategies;
- (e) undertake on behalf of the national government strategic water emergency interventions during drought; and
- (f) advise the Cabinet Secretary on any matter concerning national public water works for water storage and flood control.

(2) The Water Storage Authority may appoint agents for the operation, management, maintenance and safety of any storage infrastructure that it has developed.

(3) The Water Storage Authority shall have such other powers and functions as may be conferred or imposed on it by this or any other Act.

*Section 33 of Cap. 372 which it is intended to amend—*

33. (1) The Cabinet Secretary, on the recommendation of the Water Storage Board may appoint the Chief Executive Officer of the Water Storage Authority, on such terms and conditions as the Cabinet Secretary for public service may determine on the advice of the Salaries and Remuneration Commission.

(2) A person is qualified for appointment as Chief Executive Officer if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;

- (c) has at least ten years' experience, five of which should be in a senior management position in a public or private organisation; and
  - (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.
- (3) The Chief Executive Officer shall be the accounting officer of the Water Storage Authority.
- (4) The Chief Executive Officer is subject to the direction of the Water Storage Board and is responsible to it for the—
- (a) implementation of the decisions of the Water Storage Board;
  - (b) day to day management of the affairs of the Water Storage Board;
  - (c) organization and management of the employees; and
  - (d) any other function that may be assigned by the Water Storage Board.
- (5) The Chief Executive Officer shall hold office for a term of five years and is eligible for re-appointment for one further term.

*Section 34 of Cap. 372 which it is intended to amend—*

34. The Chief Executive Officer may be removed from office by the Cabinet Secretary on the recommendation of the Water Storage Board, in accordance with the terms and conditions of service.

*Section 35 of Cap. 372 which it is intended to amend—*

35. (1) The Water Storage Authority may appoint such other employees as it may consider necessary for the performance of its functions under this Act.

(2) The Cabinet Secretary responsible for matters relating to public service shall determine the terms and conditions of service of the employees of the Water Storage Authority on the advice of the Salaries and Remuneration Commission.

*Section 126 of Cap. 372 which it is intended to amend—*

126. The funds of the Authority, Regulatory Board, Water Storage Authority, Water Sector Trust Fund, and water works development agencies shall respectively consist of—

- (a) monies allocated by Parliament for the purposes of each body corporate established under this Act;

- (b) such monies or assets as may accrue to each body corporate in the course of the exercise of its powers or in the performance of its functions under this Act; and
- (c) all monies from any other source provided, donated or lent to each body corporate respectively.

*Section 130 of Cap. 372 which it is intended to amend—*

130. The Authority, the Regulatory Board and the Water Storage Authority may, subject to the Public Finance Management Act, 2012 retain in a fund managed by the respective bodies, the revenue from permit charges, water user fees, regulatory levy, licence fees and any other authorized charges and shall use such revenue in meeting the costs incurred in the performance of their functions.

*Paragraph 7 of the First Schedule of Cap. 372 which it is intended to amend—*

7. (1) A member who has a direct or indirect pecuniary interest —
- (a) in a matter which is being considered, or is about to be considered, at a meeting of a board or committee of which he or she is a member; or
  - (b) in a thing being done or about to be done by the board or committee, shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the board or committee.
- (2) A disclosure to the Board or committee that the member concerned —
- (a) is a member, or is in the employment, of a specified company or any other body;
  - (b) is a partner, or is in the employment, of a specified person; or
  - (c) has some other specified interest relating to a specified company or other body or a specified person, shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.
- (3) The board or committee shall cause particulars of any disclosure made under subparagraph (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection, free of charge, of any person.

(4) After a member has, or is deemed to have, disclosed the nature of an interest in any matter or thing under subparagraph (1) or (2), the member shall not, unless it is otherwise determined—

(a) be present during any deliberation, or take part in any decision of the board or committee with respect to that matter; or

(b) exercise or perform any powers or functions under this Act with respect to the subject matter of the disclosure.

(5) A determination under subparagraph (4) may only be made—

(a) in relation to the Management Board, Regulatory Board, Board of Trustees or the Water Storage Board by the Cabinet Secretary;

(b) in relation to a basin water resources committee by the Authority; or

(c) in relation to a water services provider by the Regulatory Board.

(6) Subparagraph (4) does not apply to a member whose interest consists merely of the fact that the member is the holder of a permit.

(7) A contravention of this paragraph does not invalidate any decision of the board or committee or the exercise or performance of any power or function under this Act.

(8) A reference in this paragraph to a meeting of a board or committee includes a reference to a meeting of any subcommittees of the board or committee.

*Paragraph 14 of the First Schedule of Cap. 372 which it is intended to amend—*

14. (1) The first meeting of the board of the Authority, Regulatory Board, the Fund or the National Water Storage Authority shall be called by the Cabinet Secretary.

(2) The first meeting of a basin water resources committee shall be called by the Authority in such manner as the Authority consider necessary.

(3) The first meeting of a water services provider shall be called by the county government establishing it in such manner as it considers necessary.