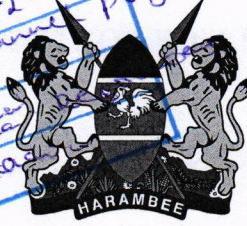


SCANNED

REPUBLIC OF KENYA

PAPERS LAID	
DATE	9/6/2022
TABLED BY	Sen-Samuel Poghisia
COMMITTEE	Land, Environment & NCA
CLERK AT THE TABLE	A. NCA



THE SENATE
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TWELFTH PARLIAMENT | SIXTH SESSION

THE REPORT OF THE SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES
ON
PETITION TO APPROVE THE PROPOSED ENVIRONMENT INSTITUTE
OF KENYA (EIK) BILL

Rt. Hon. Speaker
You may approve for
tabling.
09/06/22

Clerk's Chambers,
First Floor,
Parliament Buildings,
NAIROBI.

Alford
9/6/22

JUNE, 2022

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LIST OF ABBREVIATIONS/ ACRONYMS

CS	- Cabinet Secretary
EIA	- Environmental Impact Assessment
EIK	- Environment Institute of Kenya
EMCA	- Environmental Management and Co-ordination Act
IAIA	- International Association of Impact Assessors
ICPAK	- Institute of Certified Public Accountants of Kenya
IEK	- Institution of Engineers of Kenya
IHRM	- Institute of Human Resource and Management
ISK	- Institute of Surveyors of Kenya
LSK	- Law Society of Kenya
NEMA	- National Environment Management Authority
SAIEES	- Southern Africa Institute of Economists and Environmental Scientists
UAIA	- Uganda Association of Impact Assessors

PREFACE

Mr. Speaker sir,

The Standing Committee on Land, Environment and Natural Resources is established pursuant to standing order 218(3) of the Standing Orders of the Senate. As set out in the Second Schedule, the Committee is mandated to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Committee Membership

The Committee comprises the following Members.

1. Sen. Paul Mwangi Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. George Khaniri, MGH, MP
4. Sen. Gideon Moi, CBS, MP
5. Sen. Njeru Ndwiga, EGH, MP
6. Sen. Issa Juma Boy, MP
7. Sen. (Dr.) Lelegwe Ltumbesi, MP
8. Sen. (Arch.) Sylvia Kasanga, MP
9. Sen. Johnes Mwaruma, MP

Chairperson

Vice-Chairperson

At the sitting of the Senate held on 8th September, 2021, Hon. Sen. Kenneth Lusaka, Speaker of the Senate reported to the Senate that a Petition had been submitted through the Clerk, seeking approval of the proposed Environment Institute of Kenya Bill.

Pursuant to standing order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Land, Environment and Natural Resources.

Pursuant to Articles 37 and 119(1) of the Constitution, section 5(2) the Petition to Parliament (Procedure) Act and standing order 232 of the Senate Standing Orders, the Committee was mandated to consider the Petition and respond to the Petitioner within

the prescribed period.

To facilitate the judicious disposal of the Petition, the Committee resolved to conduct an inquiry on the issues raised in the Petition. In this regard, the Committee invited the Petitioner to a meeting of the Committee for the Petitioner to elaborate further on the issues raised in the Petition and to supply supporting evidence on the same.

The Committee proceeded to request for written submissions from the Cabinet Secretary, Ministry of Environment and Forestry, to respond to the issues raised in the Petition.

ACKNOWLEDGEMENT

The Committee thanks the Offices of the Speaker of the Senate and the Clerk of the Senate for the support extended to the Committee in the execution of its mandate. The Committee further extends its appreciation to the Petitioners for their submissions and contribution to the resolution of this matter.

Mr. Speaker Sir,

It is now my pleasant duty and privilege, on behalf of the Committee, to present this Report of the Standing Committee on Land, Environment and Natural Resources on the Petition to approve the proposed Environment Institute of Kenya Bill.

Signed: 

Date: 19/05/2022

SEN. MWANGI PAUL GITHIOMI, M.P.
CHAIRPERSON, SENATE STANDING COMMITTEE ON LAND,
ENVIRONMENT AND NATURAL RESOURCES

CHAPTER I

INTRODUCTION

1.0 Background

1. At the sitting of the Senate held on 8th September, 2021, Hon. Sen. Speaker Kenneth Lusaka, Speaker of the Senate reported to the Senate that a Petition has been submitted through the Clerk, from the Environment Institute of Kenya (EIK), to approve the proposed Environment Institute of Kenya Bill. The Bill sought to strengthen professionalism in the field of environmental practice and management for environmental sustainability in Kenya.
2. Pursuant to standing order 232(1) and the Second Schedule to the Standing Orders of the Senate, the Petition was committed to the Standing Committee on Land, Environment and Natural Resources.

1.1. Underlying Constitutional and Statutory Provisions

2. **Article 1(1) and (2)** of the Constitution of Kenya (2010), reposes all sovereign Power in the People of Kenya, exercised solely in accordance with the Constitution
3. **Article 1(3) (a) and 1(4)** of the Constitution of Kenya delegates sovereign power of the Constitution to, *inter alia*, Parliament and the legislative assemblies of the county governments and that the sovereign power of the people is exercised at the national and county level.
4. **Article 37** of the Constitution provides that, “*every person has the right, peaceably and unarmed, to assemble, to demonstrate, to picket, and to present petitions to public authorities*” while **Article 119(1)** of the Constitution provides that “*every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation.*”

5. **Article 119** of the Constitution provides that any person has a right to petition Parliament to consider any matter within its authority.
6. Section 5(2) of the Petition to Parliament (Procedure) Act, provides that *a petition that is tabled in Parliament under this Act shall be considered in accordance with the Standing Orders of the relevant House*. In this regard, standing order 232 of the Senate Standing Orders provides as follows-

232. Committal of Petitions

(1) Every Petition presented or reported pursuant to this Part, shall stand committed to the relevant Standing Committee.

(2) Whenever a Petition is committed to a Standing Committee, the Committee shall, in not more than sixty calendar days from the time of reading the prayer, respond to the petitioner by way of a report addressed to the petitioner or petitioners and laid on the Table of the Senate and no debate on or in relation to the report shall be allowed, but the Speaker may, allow comments or observations in relation to the Petition for not more than thirty Minutes.

7. Standing order 233 requires the Clerk to, within fifteen days of tabling of the report on a petition under Standing Order 232 (Committal of Petitions), submit a copy of the report to the petitioner or petitioners.

1.2. Background Facts of the Complaint

8. Members of the Committee of the professional body known as the Environment Institute of Kenya drew the attention of the Senate to the existence of professional bodies that almost all professional fields can be identified with. They stated that solutions to the current and emerging environmental issues can best be drawn by qualified, trained and certified professionals and experts.

9. The Environment Institute of Kenya has in the last few years collaborated with National Environment Management Authority to bring sanity by: reviewing the qualification criteria for registration as an environmental expert; participating in the process of development and/or review of national and county governments environmental related policies, laws and regulations; offering training to registered and practicing experts for capacity building purposes; conducting regional forums with other stakeholders to address topical and emerging issues; holding annual meetings with deans of universities that offer environmental related courses and other activities that are geared towards environmental sustainability in Kenya.
10. The Senate ought to consider the approval of the proposed Environment Institute of Kenya Bill to strengthen professionalism in the field of environmental practice and management for environmental sustainability in Kenya.
11. There is an existing Memorandum of Understanding (MoU) with National Environment Management Authority (NEMA). Efforts have been made to actualize the EIK proposed Bill into law during the processes of amending the EMCA 1999 (2015), EIA Regulations 2003 (2018) and currently EMCA 2015 (2020). All these efforts have not yet yielded the expectations of Environment Institute of Kenya as far as enactment of the EIK proposed Bill is concerned.

1.3. Prayers to the Senate

12. The prayer before the Senate by the Petitioners, the Environmental Institute of Kenya, was that Parliament adopts, reviews and considers the approval of the proposed Environment Institute of Kenya Bill.

CHAPTER 2

CONSIDERATION OF THE PETITION

2.0 Approach taken by the Committee

13. The Committee received the Petition from the Petitioner through the House and further met with the Petitioners as it engaged stakeholders. Thereafter the Committee sought for written submissions from the Cabinet Secretary Ministry of Environment and Forestry in response to the issues raised in the petition.

2.1. Petitioners Submissions

16. Vide a letter REF: SEN/DCS/LENR/2/2021/(56) dated 17th September, 2021, the Committee invited the Petitioners to appear virtually before the Committee on Wednesday, 6th October, 2021. They submitted as follows:

2.1.1. Objective for Developing the Bill

17. The following laws, regulations and policies informs the need to develop the Bill to strengthen professionalism in the field of environmental practice to achieve environmental sustainability in Kenya.

2.1.2. Constitutional Provisions

18. The Preamble of the Constitution provides, “Respectful of the environment, which is our heritage, and determined to sustain it for the benefit of future generations.”

19. Chapter Four of the Bill of the Bill of Rights provides under Article 42 on the environment provides that-

Every person has the right to a clean and healthy environment, which includes the right—

(a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and

(b) to have obligations relating to the environment fulfilled under Article 70.

20. Chapter Five of the Constitution on Land and Environment provides for obligations of the State in respect to the environment under Article 69 as follows-

69. (1) The State shall—

(a) ensure sustainable exploitation, utilization, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;

(b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;

(c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;

(d) encourage public participation in the management, protection and conservation of the environment; (e) protect genetic resources and biological diversity;

(f) establish systems of environmental impact assessment, environmental audit and monitoring of the environment;

(g) eliminate processes and activities that are likely to endanger the environment; and

(h) utilise the environment and natural resources for the benefit of the people of Kenya.

(2) Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

21. With respect to the Enforcement of Environmental Rights, Article 70 provides as follows-

70. (1) If a person alleges that a right to a clean and healthy environment recognised and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

(2) On application under clause (1), the court may make any order, or give any directions, it considers appropriate—

(a) to prevent, stop or discontinue any act or omission that is harmful to the environment;

(b) to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or

(c) to provide compensation for any victim of a violation of the right to a clean and healthy environment.

(3) For the purposes of this Article, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.

22. Article 72 of the Constitution provides for Legislation relating to the Environment as follows-

Article 72. Parliament shall enact legislation to give full effect to the provisions of this Part.

23. The proposed Environmental Institution of Kenya Bill 2021 would help the State realize the Article 72 of the Constitution of Kenya.

2.1.3. The Environmental Management and Co-Ordination Act, 1999 No 8 Of 1999

24. Under PART VI on the Environmental Impact Assessment, section 58 (6) of EMCA provides that the Director-General may, in consultation with the *Standards Enforcement and Review Committee* (Professional body which is EIK should be involved), approve any application by an expert wishing to be authorized to undertake Environmental Impact Assessment. Such application shall be made in the prescribed manner and accompanied by any fees that may be required.

25. (6A) The Cabinet Secretary in consultation with the Authority shall make regulations and formulate guidelines for the practice of Integrated Environmental Impact Assessments and Environmental Audits.

26. (6B) The Cabinet Secretary shall make regulations for the **accreditation** of experts on environmental impact assessments. Professional body being EIK should play a big role in advising the Cabinet Secretary on such regulations.

2.1.4. Environmental (Impact Assessment and Audit) Regulations, 2003

27. Paragraph 14 of the Regulations is on Registration of environmental impact assessment experts. Professional qualification was missing and now is addressed in the Draft Regulation 2018. However, to ensure professionalism and expertise is attained and maintained, EIK should be legally recognized to register, license and regulate the conduct of the experts while the authority to ensure compliance and enforcement in line with the appropriate legislation.

28. Paragraph 14(1) provides that a person or firm wishing to apply for registration as an environmental impact assessment expert or firm of experts for carrying out

environmental impact assessment studies or audits shall be required to meet the qualification criteria set out in the Fourth Schedule to these Regulations.

29. Under paragraph 14(5), an environmental impact assessment expert registered as such under these Regulations may be de-registered if the expert contravenes any of provisions of the code of practice issued by the Authority.
30. The Fourth Schedule [Regulation 13(2)] on the Criteria For Environmental Impact Assessment Experts, Professional qualification was missing and now is addressed in the Draft Regulation 2018.
31. Local and foreign environmental impact assessment individual and firm of experts wishing to undertake environmental impact assessment activities in Kenya shall register as experts with the National Environment Management Authority on payment of the prescribed fees. The following shall be the criteria for registration of experts—

LEAD EXPERT

A lead expert must have attained the following qualifications:

A Doctorate degree or equivalent in any field plus training in environmental impact assessment from a recognized institution, with 3 year's experience in environmental impact assessment related activities;

or

A Doctorate, Masters or Bachelor's degree plus 5 years' experience in environmental impact assessment related research consultancy or teaching and at least two relevant publications in referred journals;

or

A Master's degree or equivalent in any field plus training in environmental impact assessment from a recognized institution, with 5 years' experience in environmental impact assessment related activities;

or

A Bachelor's degree or an equivalent in any field plus training in environmental impact assessment from a recognized institution, with 8 years' experience in environmental impact assessment related activities.

B. ASSOCIATE EXPERT

An associate expert must have attained the following qualifications:

A Bachelor's degree or equivalent in any field plus training in environmental impact assessment from a recognized institution.

C. FIRM OF EXPERTS

A firm of experts must meet the following conditions: Must be registered in Kenya;

2.1.5. The Environmental Management and Coordination (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018 (Draft)

32. Under Part II on the registration of experts, the training curriculum used by the designated training institutions under sub- regulation (1) above shall be developed by Authority in consultation with the ministry responsible for curriculum development and the relevant *professional body recognized by the Authority – The recognized professional body by the Authority is EIK. It is justifiable to have a specific identity being EIK other than generality as professional body.*

Under the Second Schedule, the criteria for registration of environmental assessment experts and relevant field of expertise are as follows-

Environmental Studies, Biological Sciences, Chemistry, Engineering, Geography, Earth Sciences, Biophysical Sciences, Natural Sciences, Environmental Law or any other field approved by the Authority on the recommendation of a Professional Body (Should read as EIK) or the Environmental Expert Advisory Committee (EIK forms part of the membership).

2.1.6. The Big Four Agenda, 2018 – 2022

33. The Big 4 Agenda was the flagship project of the Jubilee Administration to enhance the achievement of the Vision 2030 projects. Environment plays a major role in realizing the Big 4 projects which include; Universal Healthcare, Affordable Housing, Manufacturing and Food Security. With existence of the environmental professionals in place, the environmental compliance and enforcement for all projects that falls under the Big 4 agenda will be addressed in a sustainable manner. Forest conservation is a critical sector towards achieving the Big 4 Agenda.

2.1.7. The National Environmental Policy 2013

34. With respect to human resources development and capacity building, Weak enforcement of environmental compliance is attributed to inadequate technical capacities, monitoring infrastructure and inadequate trained staff in enforcement institutions. Building a cadre of professionals (*Recognition of EIK to achieve this strategy*) in environment and natural resource management is an investment for the future that requires a short and long term approach. Whereas short term training and targeted courses are important for skills and managerial development, the long term training in specific areas enhances specialization. The Government will:

35. Support and promote the development of expertise in Government agencies, the private sector and civil society organizations in the various areas of environmental

management through targeted short and long term courses and awareness creation; and develop a wide range of training opportunities and modules in the field of environment for different levels taking into account gender equity, emerging environmental issues and devolved institutions.

36. EIK stands a better chance to implement the two policy statements since they are among the objectives as per the EIK Constitution.

2.2. Other Professional Bodies

(1) Nationally

37. There exist other professional bodies that champion the interest of the professionals in different sectors. They include but not limited to; Law Society of Kenya (LSK) – Lawyers, Institution of Engineers of Kenya (IEK) – Engineers, Institution of Surveyors of Kenya (ISK) – Surveyors & Valuers, Institute of Certified Public Accountants of Kenya (ICPAK) – Accountants, Institute of Human Resource & Management (IHRM) – Human Resource Personnel and others. There have been concerted calls and efforts to also recognize a professional body (Environment Institute of Kenya - EIK) for Environmental professionals.

(2) Regionally/Globally

38. There exist environmental professional bodies in other countries recognized by law therein. Some of them include; Uganda Association of Impact Assessors (UAIA) – *EIK has engagement with UAIA and is considering signing an MOU to enhance structured engagements*, Southern African Institute of Ecologists and Environmental Scientists (SAIEES) etc. EIK are also members of International Association of Impact Assessors (IAIA) a global body for all environmental professionals based in New York.

2.3. Response by the Cabinet Secretary Ministry of Environment and Forestry

39. The Ministry vide a letter Ref. No. SEN/DCS/LENR/2/2021/(68) dated 21st October, 2021 was requested to provide a comprehensive response on the issues raised in the Petition on or before Thursday, 4th November, 2021. The Ministry responded as follows:

40. Having consulted with its agencies, the Ministry in principle not opposed to the EIK Bill, subject to the following concerns:

(1) Process

41. Under Article 95 (3) of the Constitution, one of the roles of the National Assembly is to enact legislation while under Article 96, one of the roles of the Senate is to participate in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Article 109 to 113. Further Article 109 (3) provides that a Bill not concerning county government is considered only in the National Assembly and passed in accordance with Article 122 and the Standing Orders of the Assembly.

42. The Constitution provides that a Bill may be introduced by any member of committee of the relevant House of Parliament. The EIK Bill has not originated from the National Assembly but from the petitioners of the Bill. Further the EIK Bill is not a Bill concerning the County Government and hence be considered only in the National Assembly and not by the Senate.

43. While Article 119 provides the Right to petition Parliament and that every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation, in this instance, the petition should have been made to the National Assembly and not the Senate since it is not a matter within its authority.

44. The Petitioner's prayer to have the EIK Bill adopted, reviewed and considered from approval by the Senate should not be upheld until the correct process has been followed and all the key stakeholders have been consulted in the process.

(2) Public Participation

45. The EIK should undergo adequate and effective public participation in accordance with the Constitution and the Statutory Instruments Act to include all key stakeholders particularly the National Environment Management Authority (NEMA).

(3) Structure

46. The EIK Bill should:

- (a) Contain a memorandum of objects and reasons; and
- (b) Undergo formal legislative drafting.

(4) Substantive Statutory Issues in the Bill

47. Mandate – The EIK Bill duplicates and overlaps with NEMA's mandate in section 58 and 148 of the Environmental Management and Coordination Act No. 8 of 1999 (EMCA) and the EMCA (Environmental Impact Assessment and Audit) Regulations, 2003 (EIA Regulations).

48. Accreditation – The proposed approved institution in the Bill should refer to the relevant government institution and not training institutions approved by the Council.

49. Policy Formulation – This is a function of the executive branch of government and not individual institutions. Therefore, the EIK Bill should provide for participation in formulation of policies and not to formulate policies.

50. The form and structure-

(a) The EIK Bill establishes the EIK as a body corporate. However, it also refers to a secretary general and trustees which are different legal regimes.

(b) The EIK Bill applies to a wider group of environmental professionals, unlike EMCA and the EIA Regulations that only refer to the integrated environmental assessment experts. Therefore, EIK should not refer to the NEMA code of practice and professional ethics and should develop its own code of practice.

51. The EIK should focus on professional development, training and continuously improve the standards of professionalism and ethical conduct for its members. The Mandate of the society should be reviewed so that it does not overlap with the mandates of other established institutions.

CHAPTER 5

COMMITTEE OBSERVATIONS

52. The Committee having considered the submissions of the Petitioners and the Ministry of Environment and Forestry made the following observations-

(1) **Lacuna in law with respect to the Regulation of Environmental Professionals-**

The Committee observed that there is a lacuna in statute on the regulation of environment professionals. This lacuna needs to be addressed by the introduction of a Bill to address the regulation of environment professionals. Consequently, there is need to prioritize the development of an agreeable version of the Bill, taking into consideration the diverse proposals by the Senate and introduce the same to the Senate for consideration.

(2) **Public Participation**

The Committee observed that the Cabinet Secretary Ministry of Environment and Forestry was of the view that the proposed EIK Bill should undergo adequate and effective public participation in accordance with the Constitution and the Statutory Instruments Act to include all key stakeholders particularly the National Environment Management Authority (NEMA). The Committee observed that Parliament has a mandate to conduct public participation on legislation under Article 118 of the Constitution and if the proposed Bill were to be introduced in the House, it would undergo public participation and further scrutiny.

(3) **Structure of the Bill**

The Committee observed that the Cabinet Secretary Ministry of Environment and

Forestry was of the view that the EIK Bill should be reviewed to include a memorandum of objects and reasons; and undergo formal legislative drafting.

(4) Substantive Statutory Issues in the Bill

The Committee observed that the Cabinet Secretary Ministry of Environment and Forestry was of the view that there were substantive statutory issues with the proposed Bill. These include: The EIK Bill duplicates and overlaps with NEMA's mandate in section 58 and 148 of the Environmental Management and Coordination Act No. 8 of 1999 (EMCA) and the EMCA (Environmental Impact Assessment and Audit) Regulations, 2003 (EIA Regulations). The accreditation process proposed is also flawed as it does not refer the relevant government institution. It also assigns policy formulation to EIK which is a function of the executive branch of government and not individual institutions. The proposed Bill further has some issues when it comes to the form of and structure. The Committee observed that there is need to further review the proposed Bill and conduct public participation, particularly on the current institutional framework.

CHAPTER 6

COMMITTEE RECOMMENDATIONS

53. The Committee having considered the matter in accordance with its mandate under Standing Order 223 of the Senate Standing Orders recommends that the Senate, in due course, develops an agreeable version of the Bill, taking into consideration the diverse proposals by stakeholders to address the regulation of environment professionals.

APPENDICES

ANNEX I: MINUTES OF THE MEETINGS

MINUTES OF THE 60TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 16TH SEPTEMBER, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Philip Mpaayei, MP
2. Sen. (Dr.) Lelegwe Ltumbesi, MP
3. Sen. Boy Issa Juma, MP
4. Sen. George Khaniri, MGH, MP

PRESENT

- Vice Chairperson
- Member
- Member
- Member

IN ATTENDANCE

1. Sen. Moses Wetangula, EGH, MP - Senator, Bungoma County

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Mwaruma Johnes, MP
3. Sen. Arch. Sylvia Kasanga, MP
4. Sen. Ndwiga Peter Njeru, EGH, MP
5. Sen. Gideon Moi, CBS, MP

- Chairperson
- Member
- Member
- Member
- Member

IN ATTENDANCE

A. PETITIONERS

1. Mr. Patrick Lichuma - Chairperson, Petitioners

B. SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Research Officer
3. Mr. Mitchell Otoro - Legal Counsel
4. Ms. Lucianne Limo - Audio Recording
5. Mr. Eric Njogu - Clerk Assistant

MINUTE SEN/SCLNENR/346/2021: PRELIMINARIES

The meeting was called to order at 11.29 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNENR/347/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. George Khaniri, MGH, MP and seconded by Sen. Boy Issa Juma, MP as follows

1. Preliminaries
 - *Prayer;*
 - *Introductions*
2. Adoption of the agenda;
3. **Petition regarding the alleged gazettement of Chetambe (Webuye) hill forest, vide legal notice No. 106: Proposed declaration of public Forest Chetambe (Webuye) Hill Forest dated 25th June 2021;**
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNENR/348/2021: PETITION REGARDING THE ALLEGED GAZETTEMENT OF CHETAMBE (WEBUYE) HILL FOREST, VIDE LEGAL NOTICE NO. 106: PROPOSED DECLARATION OF PUBLIC FOREST CHETAMBE (WEBUYE) HILL FOREST DATED 25TH JUNE 2021

Due to network challenges on the part of the petitioners as they took members through their petition, the Committee observed that a physical meeting would yield to a better interaction with the petitioners.

After deliberations, the Committee resolved to hold a physical meeting with the petitioners within the precincts of parliament on Wednesday 22nd September, 2021 at 10:00 am.

The Secretariat was tasked to make the necessary arrangements for the same.

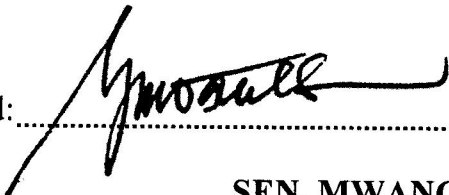
MINUTE SEN/SCLNENR/349/2021: ANY OTHER BUSINESS

The meeting was informed by the secretariat of a new petition regarding the proposed Environment Institute of Kenya – EIK bill that was committed to the Committee for its consideration.

MINUTE SEN/SCLNENR/350/2021: DATE OF NEXT MEETING

The meeting was adjourned at 11.43 am and the next meeting was to be held on Wednesday 22nd September, 2021 at 10:00 am.

Signed:



Date: 18/2/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 64TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 30TH SEPTEMBER, 2021 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwaruma Johnes, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP
4. Sen. Boy Issa Juma, MP

PRESENT

- Member (Ag. Chairperson)
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Ndwiga Peter Njeru, EGH, MP
4. Sen. Arch. Sylvia Kasanga, MP
5. Sen. Gideon Moi, CBS, MP

- Chairperson
- Vice Chairperson
- Member
- Member
- Member

IN ATTENDANCE

A. ENVIRONMENT INSTITUTE OF KENYA

1. Ms. Linda Munyao - Chairperson, Petitioners
2. Mr. Mutua P. Nzoka, OGW - Vice Chairperson, Petitioners
3. Mr. Ronald Kimtai - CEO
4. Ms. Susan Manyasi - Secretary, Petitioners
5. Dr. Fatuma Daudi - Vice Secretary
6. Ms. Patience Gwaro - Treasurer
7. Dr. Caleb Basweti - Vice Treasurer
8. Ms. Ann Wanjiku - Member
9. Mr. Herbert Mwachiro - Member

B. SECRETARIAT

1. Ms. Veronicah Kibati - Principal Clerk Assistant
2. Mr. Victor Bett - Clerk Assistant
3. Ms. Clare Kidombo - Research Officer
4. Mr. Mitchell Otoro - Legal Counsel
5. Mr. James Kimiti - Audio Recording
6. Mr. Erick Njogu - Clerk Assistant

MINUTE SEN/SCLNR/365/2021: PRELIMINARIES

The meeting was called to order at 11.27 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNR/366/2021: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. George Khaniri, MGH, MP and seconded by Sen. Boy Issa Juma, MP as follows

1. Preliminaries
 - *Prayer;*
 - *Introductions*
2. Adoption of the agenda;
3. **Petition on the Proposed Environment Institute of Kenya Bill**
 - **Submissions by the Petitioners**
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNR/367/2021: MEETING WITH PETITIONERS ON THE PETITION REGARDING THE PROPOSED ENVIRONMENT INSTITUTE OF KENYA BILL

Submissions by the Petitioners

- The petitioners took the Committee through a set of regulations and policies that informed the need for the creation of the Environment Institute of Kenya Bill that sought to strengthen professionalism in sustainable management of environment in Kenya.
- In their presentation they highlighted the importance of matters environment to Kenya by emphasizing on the numerous treaties the country was party to in the environment sphere, and the United Nations Environment Programme (UNEP) being stationed in Kenya.
- They also informed the meeting that environment was anchored in the Constitution of Kenya, 2010 as captured in;
 - i. the preamble where the people of Kenya respected the environment and were ready to sustain it,
 - ii. Chapter four (4) which gave Kenyans right to a clean and healthy environment,

- iii. Chapter five (5) on land and environment that outlined state obligations on matters environment with respect to sustainable utilization, management, and conservation of resources where public participation was crucial.
- The Committee was informed by the petitioner that the Constitution of Kenya, 2010 obligated the state with responsibility of establishing systems of environmental impact assessment, audit, and monitoring, areas the petitioners observed that their institution plays a critical role.
 - The petitioners informed members that Parliament was required to enact legislation to give effect to the environmental provisions of the Constitution and sought the support of the Committee in a quest to have their legislative proposal enacted as part of the legislation.
 - The meeting was also informed by the petitioner about the National Environment Policy that provided for an integrated approach for environmental management as well as the creation of a cadre of professionals in the environment sphere to tackle the challenge of their shortage.
 - The petitioners stated that the government was required by the policy to develop and promote the development of expertise, training opportunities, and networks amongst centers of excellence to cover matters environment.
 - They informed the meeting about other environmental laws such as the Environmental Management and Co-ordination Act of 1999 that touched on numerous environmental matters among them the accreditation, registration, and regulation of environmental experts.
 - The petitioners also informed the Committee about the proposed Strategic Environmental Impact Assessment Bill that provided for the development of training curriculum for environmental impact assessment. The development was to be done in conjunction with a relevant professional body that the petitioners stated that it had not been outlined.
 - They informed the meeting that the Big Four Agenda had been pegged upon a clean and healthy environment for strong enforcement of environmental compliance thus the need for professionals, a matter the recognition of their institute would achieve.
 - The petitioners notified members that the Environment Institute of Kenya was young as it had been registered and inaugurated in 2014 and 2015 respectively, registered under the Societies Act, with a diversity of experts.
 - They also said they had signed a recognition MOU with the National Environment Management Authority (NEMA) in 2018.
 - They informed the meeting that their institute was managed by a committee of nine (9) members were elected at an AGM, has over 4,159 members and that they were in the process of crating different chapters based on different environmental professional categories.

- They also informed the Committee that over time they would have branches in all counties since the environment function had been devolved.
- The petitioners outlined a number of reasons that they considered to drive their quest to be regulated and they were as follows;
 - a. To be a regulated professional body that is sanctioned or compelled by law to take public interest at heart by regulating the practice of the profession.
 - b. It would encourage their members to know that there were procedures that they were required to follow.
 - c. Ease NEMA's burden of managing environmental professionals
 - d. They would have the capacity to check incompetence within the environment sector.
 - e. It would facilitate them to have a mandatory rule of conduct hence disciplinary procedures
- On a comparative basis, they informed the Committee those other professionals such as lawyers, accountants, engineers, human resource personnel, and surveyors and valuers had established professionals that governed them, and it was therefore imperative to have a similar body governing environmental professionals.
- They informed the meeting that other countries such as Uganda, Japan, and the United Kingdom had similar bodies as then one they sought to be.
- With members across all counties, the petitioners felt that they had been well placed to tackle environmental challenges from the grassroot level.
- Due to the roles they played in nearly all sectors of the economy, they sought the Committee's support in actualizing their proposed legislation into law.

Interventions and Observations

- The Committee thanked the petitioners for their presentation and acknowledged their quest to have their institute anchored in law.
- The Committee informed the petitioners that the legislative proposal would take the normal law-making process.

The Committee resolved to scrutinize the information provided to determine whether to publish the proposed bill, and if so, undertake its publication.

The Committee informed the petitioners that upon publication, it would go for concurrence by the Speakers of both houses of parliament and since environment was a devolved function, the bill would emanate from Senate sponsored by the Committee.

MINUTE SEN/SCLN/368/2021: ANY OTHER BUSINESS

There was no other business

MINUTE SEN/SCLNR/369/2021: DATE OF NEXT MEETING

The meeting was adjourned at 11:58 am and the next meeting was to be held on Wednesday 6th October, 2021 at 11:00 am.

Signed: 

Date: 18/02/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 1ST SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 9TH FEBRUARY, 2022 VIA ZOOM ONLINE PLATFORM AT 11.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Ndwiga Peter Njeru, EGH, MP
3. Sen. (Dr.) Lelegwe Ltumbesi, MP
4. Sen. Mwaruma Johnes, MP

PRESENT

- **Chairperson**
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Philip Mpaayei, MP
2. Sen. George Khaniri, MGH, MP
3. Sen. Gideon Moi, CBS, MP
4. Sen. Boy Issa Juma, MP
5. Sen. Arch. Sylvia Kasanga, MP

- **Vice Chairperson**
- Member
- Member
- Member
- Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Research Officer
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. Erick Njogu - Clerk Assistant
5. Mr. John Pere - Serjeant-at-Arms

MINUTE SEN/SCLN/001/2022: PRELIMINARIES

The meeting was called to order at 11.19 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLN/ 002/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Ndwiga Peter Njeru, EGH, MP and seconded by Sen. Mwaruma Johnes, MP as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*
2. Adoption of the agenda;

3. Confirmation of Minutes;
4. **Consideration of Pending Business; Petitions, Statements, County Visits and Inquiries;**
5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNENR/003/2022: CONFIRMATION OF MINUTES;

- The meeting was informed of a set of 20 minutes of the Committee that were yet to be confirmed.
- It was suggested that the minutes be confirmed during the proposed work planning retreat and members acceded.

MINUTE SEN/SCLNENR/004/2022: CONSIDERATION OF PENDING BUSINESS; PETITIONS, STATEMENTS, COUNTY VISITS AND INQUIRIES

The meeting was taken through the pending business as follows;

PENDING MEETINGS

<u>DATE</u>	<u>TIME</u>	<u>AGENDA</u>	<u>INVITED STAKEHOLDERS</u>		<u>REMARKS</u>
WEDNESDAY , 9 TH FEBRUARY, 2022	11.00 AM	Housekeeping	In-house	<p>Join Zoom Meeting</p> <p>https://us02web.zoom.us/j/85484426824?pwd=SWpmNkJTYUZXXK3hsbDZmSy9zcG1HQT09</p> <p>Meeting ID: 854 8442 6824</p> <p>Passcode: 655907</p>	
WEDNESDAY , 16 TH FEBRUARY, 2022	11.00 AM	Petition to the senate on the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta county	<ul style="list-style-type: none"> • Cabinet Secretary Ministry of Interior and Coordination of National Government • Directorate of Criminal Investigation 	<p>Letters Sent</p> <p>Join Zoom Meeting</p> <p>https://us02web.zoom.us/j/88511893600?pwd=WU5oT01kNnRnaG1XckdXa09JL280QT09</p> <p>Meeting ID: 885 1189 3600</p> <p>Passcode: 901595.</p>	<ul style="list-style-type: none"> • Members were informed that the decision to invite the Cabinet Secretary and the Directorate of Criminal Investigation, (DCI) was arrived at during the previous meeting of the Committee following failure by DCI to present an investigative report despite numerous requests by the Committee hence delaying conclusion of the matter.

	12.00 NOON	Summons to Cabinet Secretary Ministry of Lands and Physical Planning and Cabinet Secretary Ministry of Education over statements	<ul style="list-style-type: none"> • Cabinet Secretary Ministry of Lands and Physical Planning. • Cabinet Secretary Ministry of Education. 	<p>Summon still being processed</p> <p>Join Zoom Meeting</p> <p>https://us02web.zoom.us/j/81054549017?pwd=R0lrdFZZK3plSFN6RTRrYm9zY1BuZz09</p> <p>Meeting ID: 810 5454 9017</p> <p>Passcode: 559676</p>	<ul style="list-style-type: none"> • The Meeting was informed that the two Cabinet Secretaries were summoned by the committee following failure to honour the Committee's invitations to respond to issues within the mandates of their respective ministries. • Members noted that the summons were to be dispatched over the day.
THURSDAY, 17TH FEBRUARY, 2022	11.00 AM	Petition on historical injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County	<ul style="list-style-type: none"> • Cabinet Secretary Ministry of Lands and Physical Planning • Chairperson, National Land Commission 	<p>(Letters Sent)</p> <p>Join Zoom Meeting</p> <p>https://us02web.zoom.us/j/84486000530?pwd=bkJWV0s3c0cwQ1ZCNklnaGY3aHp4QT09</p> <p>Meeting ID: 844 8600 0530</p> <p>Passcode: 999416</p>	<ul style="list-style-type: none"> • Members were informed that the Cabinet Secretaries were invited to give concrete responses following substandard during a previous meeting over the matter.

PENDING COUNTY VISITS

AGENDA	PROPOSED DATES	REMARKS
<ul style="list-style-type: none"> • Retreat Work planning (Mombasa/Naivasha) 		<ul style="list-style-type: none"> • The secretariat requested the Committee to propose the dates for the activities. • The secretariat was tasked to formulate the proposed dates and present them before the Committee during the next meeting for ratification.
<ul style="list-style-type: none"> • Visit to Bungoma County and Nandi County – Chetambe Hill Forest Petition and Kimondi Forest Petition 		
<ul style="list-style-type: none"> • Visit to Embu County and Nyandarua County – Embu Diocese Petition and Kwa Muhu Statement 		
<ul style="list-style-type: none"> • Report Writing Retreat (Mombasa/Naivasha) 		

PENDING PETITIONS

The meeting was informed that there were seven (7) pending petitions before the Committee which included;

PETITIONERS	PETITION	REMARKS
Residents of Kericho and Bomet Counties	<ul style="list-style-type: none"> • The status of land owned by multinationals in Kericho and Bomet Counties 	<ul style="list-style-type: none"> • The meeting was informed that the petition was joint between Land, Environment and Natural Resources, and Justice, Legal Affairs and Human Rights Committees. • The meeting was also informed that the Committee resolved to leave the matter Justice and Legal Affairs Committee to conclude it after which there will be a joint sitting to adopt the report.
Residents of Mkamenyi Village in Voi sub-county of Taita Taveta	<ul style="list-style-type: none"> • The alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County. 	<ul style="list-style-type: none"> • The meeting was informed that invitations were sent to Cabinet Secretary Ministry of Interior and Coordination of National Government and the Directorate of

County		Criminal Investigation for a meeting with the Committee next week to facilitate conclusion of the matter.
Residents of Webuye East, Bungoma County	<ul style="list-style-type: none"> The gazettelement of Chetambe (Webuye) Hill Forest, vide Legal Notice No. 106, dated 25th June 2021 	<ul style="list-style-type: none"> The Committee was informed that the matter awaited a county visit for it to be concluded.
Former Kimondi Forest evictees	<ul style="list-style-type: none"> Resettlement status of former Kimondi Forest evictees 	<ul style="list-style-type: none"> The Committee was informed that the matter awaited a county visit for it to be concluded.
Ms. Linda Munyao and other members of the Environment Institute of Kenya (EIK)	<ul style="list-style-type: none"> Introduction to the Senate of the proposed Environment Institute of Kenya Bill. 	<ul style="list-style-type: none"> The meeting was informed that the petition was concluded and only awaited written responses from the Ministry of Environment and Forestry.
Kenya Water and Sanitation Civil Society Network	<ul style="list-style-type: none"> To expunge offending provisions in the Water Services Regulations, 2021 and the Water Resources Regulations, 2021. 	<ul style="list-style-type: none"> The meeting was informed that the matter was concluded and that a draft report was ready and awaited consideration by the Committee.
Kirimum residents	<ul style="list-style-type: none"> Historical injustices against the Samburu community living in Kirimum area of Laikipia North in Laikipia County. 	<ul style="list-style-type: none"> The Committee was informed that a meeting with the Ministry of Lands and physical Planning and the National Land Commission was scheduled for 17th February 2022, after which a county visit would be conducted to conclude the matter.
Bishop Paul Kariuki Njiru and Sister Alice Wambui	<ul style="list-style-type: none"> Illegal alienation of parcel of land Embu/Municipality/375 (leasehold) by the Child Welfare Society of Kenya. 	<ul style="list-style-type: none"> The Committee was informed that the petitioners and stakeholders had been invited and that it awaited a county visit and analysis of all submissions before a final meeting.

PENDING STATEMENTS

The meeting was informed that 12 statements were pending before the Committee awaiting responses from the relevant Ministries and Agencies.

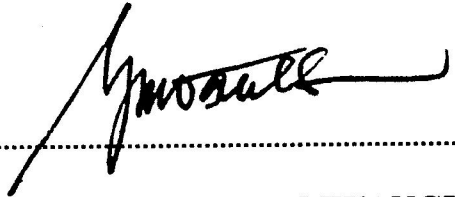
MINUTE SEN/SCLN/005/2022: ANY OTHER BUSINESS

- Senator for Taita Taveta County sought to know the implementation status of the report of the Committee on the Petition on the alleged impending evictions of Msambweni residents by a private company.

- The secretariat informed him that a follow up on the same would be done with the relevant ministry to ascertain the status of implementation of the report and revert with a response in the following week

MINUTE SEN/SCLNLR/006/2021: DATE OF NEXT MEETING

The meeting was adjourned at 11:00 am and the next meeting was to be the next meeting was to be held on Wednesday, 16th February, 2022 at 11:00 am.

Signed: 

Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

MINUTES OF THE 4TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON FRIDAY, 18TH FEBRUARY, 2022 AT ENGLISH POINT MARINA, MOMBASA COUNTY AT 9.00 AM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. George Khaniri, MGH, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- **Chairperson**
- **Vice Chairperson**
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Ndwiga Peter Njeru, EGH, MP - Member
2. Sen. (Dr.) Lelegwe Ltumbesi, MP - Member
3. Sen. Arch. Sylvia Kasanga, MP - Member
4. Sen. Gideon Moi, CBS, MP - Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Research Officer
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. Erick Njogu - Clerk Assistant
5. Ms. Alice Namaya - Secretary
6. Mr. James Kimiti - Hansard Officer

MINUTE SEN/SCLNR/017/2022: PRELIMINARIES

The meeting was called to order at 9.00 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNR/ 018/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, MP and seconded by Sen. Boy Issa Juma, MP as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*

2. Adoption of the agenda;
3. Pending Legislative Business;
4. Confirmation of Pending Minutes;
5. Matters Arising;
6. Adoption of the following Petition Report
 - Draft Report of the Committee on the Petition to expunge the alleged the alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021
7. Any other Business;
8. Date of the next meeting;
9. Adjournment.

MINUTE SEN/SCLNR/019/2022: PENDING LEGISLATIVE BUSINESS;

- The Secretariat briefed the meeting on the pending legislative business as captured in the Statements and Petitions Trackers.
- Members was informed of other items that would be considered during the retreat including confirmation of pending minutes and adoption of three petition reports.
- The Committee was taken through pending legislative business as follows;

1. PETITIONS

The pending Petitions included;

NO	PETITIONER	SUBJECT	REPORTED/ PRESENTED BY:	DATE OF REPORTING / PRESENTATION	STANDING COMMITTEE OF COMMITTAL	REMARKS
1.	Residents of Webuye East, Bungoma County	The gazettement of Chetambe (Webuye) Hill Forest, vide Legal Notice No. 106, dated 25th June 2021	Sen. Moses Wetang'ula, EGH, MP	04/08/2021	Land, Environment and Natural Resources	County Visit scheduled 10 th – 13 th March, 2022 Report Writing
2.	Former Kimondi Forest evictees	Resettlement status of former Kimondi Forest evictees	Sen. George Khaniri, MP	07/09/2021	Land, Environment and Natural Resources	County Visit scheduled 10 th – 13 th March, 2022 Report Writing
3.	Ms. Linda Munyao and other members of the Environment Institute of Kenya (EIK)	Introduction to the Senate of the proposed Environment Institute of Kenya Bill.	The Speaker	08/09/2021	Land, Environment and Natural Resources	Report Writing

4.	Kenya Water and Sanitation Civil Society Network	To expunge offending provisions in the Water Services Regulations, 2021 and the Water Resources Regulations, 2021.	The Speaker	16/9/2021	Land, Environment and Natural Resources	Report Writing
5.	Kirimum residents	Historical injustices against the Samburu community living in Kirimun area of Laikipia North in Laikipia County.	Sen. (Dr.) Lelegwe Ltumbesi, MP	14/10/2021	Land, Environment and Natural Resources	Report Writing
6.	Bishop Paul Kariuki Njiru and Sister Alice Wambui	Illegal alienation of parcel of land Embu/Municipality/375 (leasehold) by the Child Welfare Society of Kenya.	Sen. Ndwiga Peter Njeru, EGH, MP	17/11/2021	Land, Environment and Natural Resources	County Visit scheduled 28 th February, 2022

- On the issue Mkamenyi Petition, the meeting was also informed that the Committee had resolved to reinvite the Cabinet Secretary, Ministry of interior and Coordination of National Government and the Directorate of Criminal Investigations (DCI) over the matter to address the issues raised by the Committee.
- The meeting was also informed that a request had been sent to DCI asking them to do a formal response on the Mkamenyi matter as the one they had sent initially appeared to be an internal document since it lacked the Cabinet Secretary's letter head.
- On the issue of the joint petition regarding the Multinationals in Kericho County, the meeting was informed that the report was ready for consideration. The Committee resolved to engage Senate Committee on Justice and Legal Affairs and schedule a meeting to conclude the matter.

Observations and Interventions

- The meeting observed that recommendations issued in the Committee report on Msambweni issue needed further resolutions such have the matter considered by the Settlement Fund Board of Trustees (SFT Board). Deliberations on the matter ensued and the **Committee resolved to conduct a follow up with the implementing agencies on the matter by inviting them to a meeting of the Committee where it can pronounce itself further by issuing resolutions such as having the matter handled by SFT Board for quicker turnaround times.**
- The Secretariat was tasked to have the invitations done.

2. STATEMENTS

The pending statements included;

NO	STATEMENT BY	SUBJECT	DATE OF REQUEST/ISSUE	STATUS
1.	Sen. Moses Otieno Kajwang', MP	Dredging and sand harvesting activities around Takawiri Island in Lake Victoria	02.03.2021	Awaiting Response from Ministry of Environment
2.	Sen. Mercy Chebeni, MP on behalf of Sen. Abshiro Halake, MP	Status of <i>Kwa Muhu</i> Internally Displaced Persons (IDPs) resettlement farm in Kanjuiri, Olkalou in Nyandarua County	05.08.2021	The Committee has received written responses from the PS Ministry of Lands and Physical Planning and awaits response from the National Land Commission Scheduled a County Visit on Monday 28 th February, 2022
3.	Sen. Johnson Sakaja, MP	Demolition of Martin Luther Primary School in Makadara Constituency, Nairobi City County	13.10.2021	The Committee has requested for written responses from the Ministry of Education and the Ministry of Lands and Physical Planning. Summons sent to the Cabinet Secretaries to appear before the Committee on Tuesday 22 nd February, 2022
4.	Sen. Aaron Cheruiyot, MP	Status of titling of Government Learning Institutions	10.11.2021	The Committee has scheduled a meeting with the Ministry of Lands and Physical Planning and the Ministry of Education to issue their responses. Summons sent to the Cabinet Secretaries to appear before the Committee on Tuesday 22 nd February, 2022
5.	Sen. Aaron Cheruiyot, MP	Land transactions by Multinationals without the involvement of the National or County Governments	11.11.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.
6.	Sen. Millicent Omanga, MP	Alleged irregular ownership and use of land No. LR 336/64, originally land No. LR 336/12 in Babadogo, Nairobi City County	11.11.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.
7.	Sen. Cherarkey Samson, MP	Land leases in Nandi County	01.12.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.
8.	Sen. Paul Githiomi, MP	Rampant destruction of food crops by elephants in Kiriita Ward, Ndaragwa Constituency, Nyandarua County	02.12.2021	The Committee has requested for written responses from the Ministry of Tourism and Wildlife

9.	Sen. Paul Githiomi, MP	Delay in issuance of title deeds to the members of <i>Gwa Kung'u</i> Self-help Group in Ndaragwa Constituency, Nyandarua County	02.12.2021	The Committee has requested for written responses from the Ministry of Lands and Physical Planning.
10.	Sen. John Kinyua, MP (Sto 47(3))	Insecurity in Laikipia County and the need to clear land around the Laikipia Nature Conservancy to aid visibility and enhance security operations in the County	02.12.2021	The Committee has requested for written responses from the Ministry of Environment and Forestry and the Ministry of Tourism and Wildlife

Observations and Interventions

- The Committee observed that the issue on Takwiri Island was yet to be concluded despite numerous requests for responses from the Ministry of Environment. **The Committee resolved to have a reminder sent to Ministry and tasked the secretariat on the same.**
- On the issue of Demolition of Martin Luther Primary School, the meeting was informed of an apology from the Cabinet Secretary Ministry of Lands and Physical Planning being she was not able to honour the summon issued by the Committee as she was out of the Country. **The Committee resolved to consider the matter on Tuesday 22nd February, 2022 and thereafter make a determination.**

MINUTE SEN/SCLNDR/019/2022: CONFIRMATION OF PENDING MINUTES;

- The Minutes of the 58th sitting held on 20th August, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 60th sitting held on 16th September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 61st sitting held on 22nd September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 62nd sitting held on 23rd September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 63rd sitting held on 29th September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 64th sitting held on 30th September, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.

- The Minutes of the 65th sitting held on 6th October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by and Sen. Philip Mpaayei, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 66th sitting held on 14th October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 67th sitting held on 21st October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP, and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 69th sitting held on 28th October, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 70th sitting held on 17th November, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 71st sitting held on 18th November, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 73rd sitting held on 1st December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 75th sitting held on 2nd December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 76th sitting held on 7th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 77th sitting held on 8th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 78th sitting held on 8th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 79th sitting held on 9th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 80th sitting held on 9th December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Mwangi Paul Githiomi, MP respectively.

- Confirmation of the minutes of the 59th, 72nd and 74th meetings was deferred to a later date.

MINUTE SEN/SCLNENR/020/2022: MATTERS ARISING

There were no matters arising.

MINUTE SEN/SCLNENR/021/2022: ADOPTION OF THE FOLLOWING PETITION REPORT

- **Draft Report of the Committee on the Petition to expunge the alleged the alleged offending provisions in the Water Services Regulations,2021 and Water Resources Regulations, 2021**

The Committee considered the draft report and resolved to defer its adoption to allow for further deliberations on the matter with Ministry of Water and Sanitation. The Secretariat was tasked to invite the Cabinet Secretary Ministry of Water and Sanitation to a meeting of the Committee on the Same.

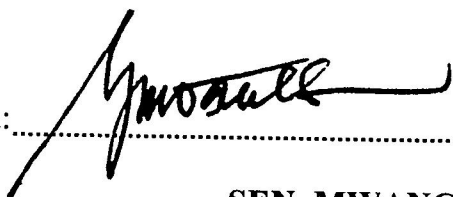
MINUTE SEN/SCLNENR/022/2022: ANY OTHER BUSINESS

- The Committee noted that not all title deeds for the Colonial Village in Nyandarua County had been issued and resolved to conduct a follow up on the same. The Secretariat was tasked to ensure that the implementing agencies are invited to the meeting of the Committee for an update.

MINUTE SEN/SCLNENR/023/2021: DATE OF NEXT MEETING

The meeting was adjourned at 1:00 pm and the next meeting was to be held on Friday, 18th February, 2022 at 2:00 pm.

Signed:



Date: 20/5/2022

**SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON**

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 5TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON FRIDAY, 18TH FEBRUARY, 2022 AT ENGLISH POINT MARINA, MOMBASA AT 2.00 PM.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Mwaruma Johnes, MP
4. Sen. Boy Issa Juma, MP

PRESENT

- **Chairperson**
- **Vice Chairperson**
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Ndwiga Peter Njeru, EGH, MP - Member
2. Sen. George Khaniri, MGH, MP - Member
3. Sen. (Dr.) Lelegwe Ltumbesi, MP - Member
4. Sen. Arch. Sylvia Kasanga, MP - Member
5. Sen. Gideon Moi, CBS, MP - Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Research Officer
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. Erick Njogu - Clerk Assistant
5. Ms. Alice Namaya - Secretary
6. Mr. James Kimiti - Hansard Officer

MINUTE SEN/SCLENR/024/2022: PRELIMINARIES

The meeting was called to order at 2.00 pm by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLENR/025/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Philip Mpaayei, MP and seconded by Sen. Mwaruma Johnes, MP as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*

2. Adoption of the agenda;
3. Adoption of the following Petition Reports
 - Draft Report of the Committee on the proposed Environment Institute of Kenya Bill; and
 - Draft Report of the Committee on the Petition regarding Historical Injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County.
4. Any other Business;
5. Date of the next meeting;
6. Adjournment.

MINUTE SEN/SCLNENR/026/2022: ADOPTION OF THE FOLLOWING PETITION REPORTS

- **Draft Report of the Committee on the proposed Environment Institute of Kenya Bill**

The Committee considered the draft report and resolved to defer its adoption to allow for further deliberations on the matter in the presence of the Ministry of Environment and Forestry and the petitioners to determine the next cause of action. The Secretariat was tasked to send out the invitations

- **Draft Report of the Committee on the Petition regarding Historical Injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County**


The Committee considered the draft report and resolved to defer its adoption to allow for further deliberations.

MINUTE SEN/SCLNENR/027/2022: ANY OTHER BUSINESS

There was no other business

MINUTE SEN/SCLNENR/028/2021: DATE OF NEXT MEETING

The meeting was adjourned at 4:00 pm and the next meeting was to be held on Tuesday, 22nd February, 2022 at 2:00 pm.

Signed: 

Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES

MINUTES OF THE 20TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON THURSDAY, 19TH MAY, 2022 VIA ZOOM ONLINE PLATFORM AT 12.00 NOON.

MEMBERS

1. Sen. Mwangi Paul Githiomi, MP
2. Sen. Philip Mpaayei, MP
3. Sen. Ndwiga Peter Njeru, EGH, MP
4. Sen. Mwaruma Johnes, MP
5. Sen. Boy Issa Juma, MP

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member
- Member

ABSENT WITH APOLOGY

6. Sen. George Khaniri, MGH, MP - Member
7. Sen. (Dr.) Lelegwe Ltumbesi, MP - Member
8. Sen. Gideon Moi, CBS, MP - Member
9. Sen. Arch. Sylvia Kasanga, MP - Member

IN ATTENDANCE

SECRETARIAT

1. Mr. Victor Bett - Clerk Assistant
2. Ms. Clare Kidombo - Research Officer
3. Mr. Mitchell Otoro - Legal Counsel
4. Mr. Erick Njogu - Clerk Assistant
5. Ms. Florence Waweru - Clerk Assistant
6. Mr. James Kimiti - Hansard Officer

MINUTE SEN/SCLNENR/096/2022: PRELIMINARIES

The meeting was called to order at 12.20 am by the Chairperson followed by a word of prayer and introductions.

MINUTE SEN/SCLNENR/ 097/2022: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Boy Issa Juma, MP and seconded by Sen. Ndwiga Peter Njeru, EGH, MP as follows

1. Preliminaries
 - *Prayer*
 - *Introductions*

2. Adoption of the agenda;
3. Confirmation of Minutes;
4. Matters Arising;
5. **Adoption of Petition Reports**
 - **Report on the Petition Regarding historical injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County;**
 - **Report on the Petition Regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (Leasehold) by Child Welfare Society of Kenya in Embu County;**
 - **Report on the Petition to Approve the Proposed Environment Institute of Kenya (EIK) Bill; and**
 - **Report on Petition to expunge the alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021**
6. Any other Business;
7. Date of the next meeting;
8. Adjournment.

MINUTE SEN/SCLNR/098/2022: CONFIRMATION OF MINUTES

- The Minutes of the 72nd sitting held on 30th November, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 74th sitting held on 2nd December, 2021 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 1st sitting held on 9th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 2nd sitting held on 16th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Boy Issa Juma, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 3rd sitting held on 17th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 4th sitting held on 18th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.

- The Minutes of the 5th sitting held on 18th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 6th sitting held on 22nd February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 7th sitting held on 28th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Philip Mpaayei, MP respectively.
- The Minutes of the 8th sitting held on 28th February, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Ndwiga Peter Njeru, EGH, MP respectively.
- The Minutes of the 9th sitting held on 9th March, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 10th sitting held on 16th March, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 11th sitting held on 17th March, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Mwangi Paul Githiomi, MP respectively.
- The Minutes of the 12th sitting held on 11th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 13th sitting held on 12th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Boy Issa Juma, MP respectively.
- The Minutes of the 14th sitting held on 13th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively .
- The Minutes of the 15th sitting held on 13th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Ndwiga Peter Njeru, EGH, MP respectively.
- The Minutes of the 16th sitting held on 14th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, MP and Sen. Ndwiga Peter Njeru, EGH, MP respectively.

- The Minutes of the 17th sitting held on 14th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.
- The Minutes of the 19th sitting held on 19th May, 2022 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Philip Mpaayei, MP and Sen. Boy Issa Juma, MP respectively.

MINUTE SEN/SCLNENR/099/2022: MATTERS ARISING

There were no matters arising.

MINUTE SEN/SCLNENR/100/2022: ADOPTION OF PETITION REPORTS

- **Report on the Petition Regarding historical injustices against the Samburu Community living in Kirimun area of Laikipia North in Laikipia County;**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

The National Land Commission, which is investigating the historical land injustices raised in the Petition in accordance with its mandate under Article 67(2)(e) of the Constitution, promptly investigates the same and makes its recommendations within 3 months of the tabling of this report.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Johnes Mwaruma, MP and Sen. Boy Issa Juma, MP respectively.

- **Report on the Petition Regarding the alleged illegal alienation of parcel of land EMBU/MUNICIPALITY/375 (Leasehold) by Child Welfare Society of Kenya in Embu County;**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

The Embu County Government, the Ministry of Lands and Physical Planning and the National Land Commission identifies and procures alternative and appropriate land for the Child Welfare Society of Kenya to use for its activities in Embu County.

Upon the identification and procurement of alternative land as stated above, the Ministry of Lands and Physical Planning registers the subject land in the name of the Catholic Church – Diocese of Embu specifically to continue running the children’s home as it has for the last sixty years.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Johnes Mwaruma, MP respectively.

- **Report on the Petition to Approve the Proposed Environment Institute of Kenya (EIK) Bill;**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

The Senate, in due course, favorably considers and approves the Bill the Committee shall propose to address the regulation of environment professionals.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Philip Mpaayei, MP respectively.

- **Report on Petition to expunge the alleged offending provisions in the Water Services Regulations, 2021 and Water Resources Regulations, 2021**

The Committee having investigated the matter in accordance with its mandate under the standing order 223 of the Senate Standing Orders, hereby adopted its report with the following recommendations in accordance with the Prayers of the Petitioner—

The Committee recommended as follows –

noting that the Regulations have ceased to have effect and are now void pursuant to section 11(4) of the Statutory Instruments Act, the Committee recommends that the Cabinet Secretary, Ministry of Water, Sanitation and Irrigation conducts a fresh and effective public participation on draft regulations and thereafter publishes them

and transmits them to both Houses of Parliament in accordance with section 11(1) of the Statutory Instruments Act.

The Report of the Committee was therefore adopted after having been proposed and seconded by Sen. Ndwiga Peter Njeru, EGH, MP and Sen. Mwaruma Johnes, MP respectively.

MINUTE SEN/SCLNR/101/2022: ANY OTHER BUSINESS

The meeting was informed that the following draft reports would be ready for consideration by the Committee during the next meeting;

- Report on a Petition has been submitted through the Clerk, concerning The alleged gazettement of Chetambe (Webuye) Hill Forest, vide legal Notice No. 106: Proposed Declaration of Public Forest Chetambe (Webuye) Hill Forest Dated 25th June 2021;
- Report on a Petition has been submitted through the Clerk, concerning the resettlement status of the former Kimondi forest evictees;
- Report on a Petition regarding the alleged encroachment of land belonging to Mkamenyi residents by Voi Point Limited in Taita Taveta County;
- Report on a Petition regarding the status of land owned by multinationals in Kericho and Bomet Counties; and
- Report on the Sustainable Waste Management Bill, 2021 (National Assembly Bill No. 22 of 2021).

The Committee was informed that the National Assembly had rejected the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 30 of 2020). Consequently, a ten-member mediation Committee had been constituted with membership from both houses of Parliament and they included;

1. Sen. Mwangi Paul Githiomi, MP;
2. Sen. Ndwiga Peter Njeru, EGH, MP;
3. Sen. Johnes Mwauma, MP;
4. Sen. (CPA) Farhiya Haji, MP;
5. Sen (Arch). Sylvia Kasanga, MP;
6. Hon. Eng. Paul Nzengu, MP;
7. Hon. Chachu Ganya, MP;
8. Hon. Rozah Akinyi Buyu, MP;
9. Hon. Shinali Benard Masaka, MP;
10. Hon. Ali Amin Deddy, MP;

The Secretariat requested to have the first meeting of the Mediation Committee on Tuesday, 24th May, 2022 and the Committee acceded to the request.

MINUTE SEN/SCLNR/102/2022: DATE OF THE NEXT MEETING

The meeting was adjourned at 11:54 am and the next meeting was to be held on Wednesday, 25th May, 2022 at 11:00 am.

Signed: 

Date: 20/5/2022

SEN. MWANGI PAUL GITHIOMI, MP
CHAIRPERSON
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES

ANNEX II: SUBMISSIONS BY KEY STAKEHOLDERS



MINISTRY OF ENVIRONMENT AND FORESTRY

MINISTERIAL RESPONSE BY THE CABINET SECRETARY TO A PETITION REGARDING THE PROPOSED ENVIRONMENT INSTITUTE OF KENYA BILL

The Senate Standing Committee on Land, Environment and Natural Resources through letters SEN/DCS/LENR/2/2021(68) dated 21st October, 2021 and SEN/DCS/LENR/2/2022(16B) dated 11th March, 2022 by the Clerk of the Senate invited the Cabinet Secretary, Ministry of Environment and Forestry to a virtual meeting to respond to a petition regarding the proposed Environment Institute of Kenya Bill.

Honorable Chair,

The Ministry of Environment and Forestry has consulted its agencies and is in principle not opposed to the EIK Bill, subject to the following concerns;

1. Process

Under Article 95 (3) of the Constitution, one of the roles of the National Assembly is to enact legislation while under Article 96, one of the roles of the Senate is to participate in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113. Further Article 109 (3) provides that a Bill not concerning county government is considered only in the

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CS
22/03/22

National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly.

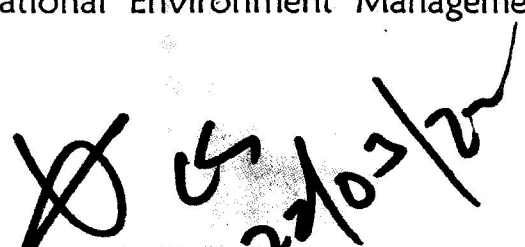
The Constitution provides that a Bill may be introduced by any member or committee of the relevant House of Parliament. The EIK Bill has not originated from the National Assembly but from the petitioners of the Bill. Further, the EIK Bill is not a Bill concerning the County Governments and hence should be considered only in the National Assembly and not by the Senate.

While Article 119 provides the Right to petition Parliament and that every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation, in this instance, the petition should have been made to the National Assembly and not the Senate since it is not a matter within its authority.

The Petitioners' prayer to have the EIK Bill adopted, reviewed and considered for approval by the Senate should not be upheld until the correct process has been followed and all the key stakeholders have been consulted in the process.

2. Public Participation

The EIK Bill should undergo adequate and effective public participation in accordance with the Constitution and the Statutory Instruments Act to include all key stakeholders particularly the National Environment Management Authority (NEMA).

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3. Structure

The EIK Bill should:

- i. contain a memorandum of objects and reasons; and
- ii. undergo formal legislative drafting.

4. Substantive Statutory Issues in the Bill

- i. Mandate- The EIK Bill duplicates and overlaps with NEMA's mandate in Section 58 and 148 of the Environmental Management and Coordination Act No. 8 of 1999 (EMCA) and the EMCA (Environmental Impact Assessment and Audit) Regulations, 2003 (EIA Regulations).
- ii. Accreditation- The proposed approved institution in the Bill should refer to the relevant government institutions and not training institutions approved by the Council.
- iii. Policy Formulation- This is a function of the executive branch of government and not individual institutions. Therefore, the EIK Bill should provide for participation in formulation of policies and not to formulate policies.
- iv. The form and structure-
 - a. The EIK Bill establishes the EIK as a body corporate. However, it also refers to a secretary-general and trustees which are different legal regimes.
 - b. The EIK Bill applies to a wider group of environmental professionals, unlike EMCA and the EIA Regulations that only refer to the integrated environmental assessment experts.

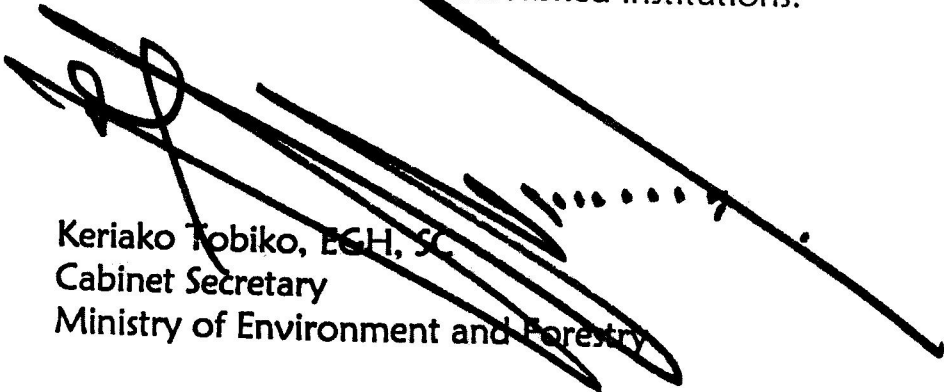
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Therefore, EIK should not refer to the NEMA code of practice and professional ethics and should develop its own code of practice.

Conclusion

The EIK should focus on professional development, training and continuously improve the standards of professionalism and ethical conduct for its members.

The mandate of the society should be reviewed so that it does not overlap with mandates of other established institutions.



Keriako Tobiko, EGH, SC
Cabinet Secretary
Ministry of Environment and Forestry



MINISTRY OF ENVIRONMENT AND FORESTRY

MINISTERIAL RESPONSE BY THE CABINET SECRETARY TO A PETITION REGARDING THE PROPOSED ENVIRONMENT INSTITUTE OF KENYA BILL

The Senate Standing Committee on Land, Environment and Natural Resources through letters SEN/DCS/LENR/2/2021(68) dated 21st October, 2021 and SEN/DCS/LENR/2/2022(16B) dated 11th March, 2022 by the Clerk of the Senate invited the Cabinet Secretary, Ministry of Environment and Forestry to a virtual meeting to respond to a petition regarding the proposed Environment Institute of Kenya Bill.

Honorable Chair,

The Ministry of Environment and Forestry has consulted its agencies and is in principle not opposed to the EIK Bill, subject to the following concerns;

1. Process

Under Article 95 (3) of the Constitution, one of the roles of the National Assembly is to enact legislation while under Article 96, one of the roles of the Senate is to participate in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113. Further Article 109 (3) provides that a Bill not concerning county government is considered only in the

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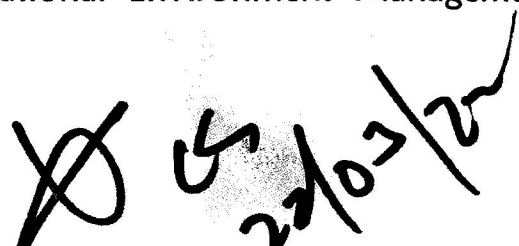
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While Article 119 provides the Right to petition Parliament and that every person has a right to petition Parliament to consider any matter within its authority, including to enact, amend or repeal any legislation, in this instance, the petition should have been made to the National Assembly and not the Senate since it is not a matter within its authority.

The Petitioners' prayer to have the EIK Bill adopted, reviewed and considered for approval by the Senate should not be upheld until the correct process has been followed and all the key stakeholders have been consulted in the process.

2. Public Participation

The EIK Bill should undergo adequate and effective public participation in accordance with the Constitution and the Statutory Instruments Act to include all key stakeholders particularly the National Environment Management Authority (NEMA).

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3. Structure

The EIK Bill should:

- i. contain a memorandum of objects and reasons; and
- ii. undergo formal legislative drafting.

4. Substantive Statutory Issues in the Bill

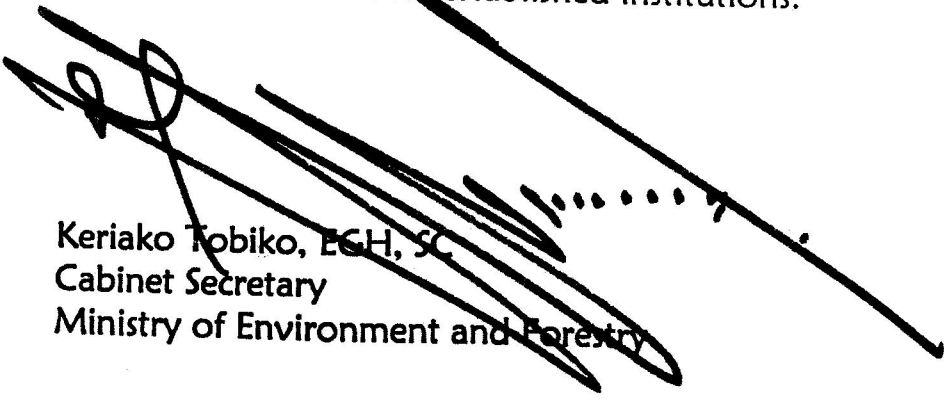
- i. **Mandate-** The EIK Bill duplicates and overlaps with NEMA's mandate in Section 58 and 148 of the Environmental Management and Coordination Act No. 8 of 1999 (EMCA) and the EMCA (Environmental Impact Assessment and Audit) Regulations, 2003 (EIA Regulations).
- ii. **Accreditation-** The proposed approved institution in the Bill should refer to the relevant government institutions and not training institutions approved by the Council.
- iii. **Policy Formulation-** This is a function of the executive branch of government and not individual institutions. Therefore, the EIK Bill should provide for participation in formulation of policies and not to formulate policies.
- iv. **The form and structure-**
 - a. The EIK Bill establishes the EIK as a body corporate. However, it also refers to a secretary-general and trustees which are different legal regimes.
 - b. The EIK Bill applies to a wider group of environmental professionals, unlike EMCA and the EIA Regulations that only refer to the integrated environmental assessment experts.

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Therefore, EIK should not refer to the NEMA code of practice and professional ethics and should develop its own code of practice.

Conclusion

The EIK should focus on professional development, training and continuously improve the standards of professionalism and ethical conduct for its members. The mandate of the society should be reviewed so that it does not overlap with mandates of other established institutions.



Keriako Tobiko, EGH, SC
Cabinet Secretary
Ministry of Environment and Forestry

ANNEX III: SUBMISSIONS BY THE PETITIONER

THE
ENVIRONMENT INSTITUTE
OF
KENYA
BILL,
(2019)

THE ENVIRONMENT INSTITUTE OF KENYA BILL, 2019

A bill for;-

An ACT of Parliament to make provision for the establishment, powers and functions of the Environment Institute of Kenya and for connected purposes; to provide for the training, registration, and regulation of the environmental profession; and to provide for the establishment of standards and practice of the profession.

ENACTED by the Parliament of Kenya, as follows

GUIDING PRINCIPLES

In carrying out its functions and in the exercise of its powers under this Act, the Society shall have regard to the following principles:-

- a) The maintenance and advancement of environmental knowledge
- b) The protection/championing of public interest in environmental matters
- c) The maintenance of integrity and professionalism
- d) The promotion of cross border environmental practice – inclusivity and equity.

PART I - PRELIMINARY

1. This Act may be cited as The Environment Institute of Kenya Act, 2019

Definitions/Citations

2. (1) in this Act, unless where the context otherwise requires-

"Approved institution" means the any university, training institution- public or private - established by law in Kenya or such other training institution as the Council may approve for the purposes of this Act;

"Environment Professional" means a person who has undergone the prescribed course of training in an approved institution and holds a higher diploma or degree in an Environment Management related science or engineering or as may be defined in Environment Management Coordination Act 1999 and its amendments.

"Environmental impact assessment expert" means an individual expert or firm of experts registered under the current environmental legislation, and includes a lead expert and an associate expert;

“Environmental auditor” means an expert or firm of experts registered in accordance with the current environmental legislation

“Environmental management” is a mechanism aimed at the protection, conservation and sustainable use of the various elements or components of the environment

“Council” means an Institution established under section (II) of this Act

“Code of Practice” means written guidelines issued by the society or the relevant Authority charged with environmental matters to its members to help them comply with its ethical standards and professional conduct

"Annual licence" means a licence issued under section (II)

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to environment;

“Practising member” means a member who is licensed to practice as per EIK membership and eligibility criteria

"Register" means any of the registers of Environment Professionals required to be kept;

"Society" means the Environment Institute of Kenya registered under the Societies Act.

"Special resolution" means a resolution passed by not less than two-thirds of such members of the Society as may be present and vote thereon at a general meeting of the Society, duly convened with notice of the intention to propose such resolution.

“Sustainable development” means development that meets the needs of the present generation without compromising the ability of future generations to meet their needs by maintaining the carrying capacity of the supporting ecosystem;

Commencement of this Act

This Act will commence from date of its enactment by the Parliament

PART II – ESTABLISHMENT OF ENVIRONMENT INSTITUTE OF KENYA

1. (1) There is established a Society known as Environment Institute of Kenya (EIK).

(2) The Society shall be a body corporate with perpetual succession and a common seal, and shall, in its name corporate be capable of

(a) suing and being sued;

- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of both movable and immovable property;
 - (c) borrowing or raising money;
 - (d) entering into contracts;
 - (e) investing and dealing with monies of the Society not immediately required in such manner as may from time to time be determined by the Society;
 - (f) doing or performing all such other acts necessary for the proper performance of its functions under this Act, which may be lawfully done or performed by a body corporate.
- (3) The headquarters of the Society shall be in Nairobi.

The objects and functions of the Society

2. The objects and functions of the Society are to-

- (1) uphold the Constitution of Kenya by promoting and advancing the practice of integrated environmental assessment , focusing on sustainable development
- (2) ensure, through appropriate regulation mechanisms, that all members of the society meet the prescribed standards of professional competence and ethical conduct
- (3) represent and assist the members of the public in Kenya in matters relating to environmental management
- (4) set, maintain, regulate and continuously improve, the standards of learning, professional competence and ethical conduct for the provision of environment services.
- (5) represent, protect and assist members of the society on matters relating to the conditions of practice and welfare;
- (6) formulate policies that promote and enhance the Environmental profession in Kenya
- (7) endeavour to provide equal opportunities for all Environment professionals in Kenya;
- (8) develop and facilitate adequate programs for training and continuous education for Environment professionals
- (9) Maintain a register of qualified environment professionals

(10) Issue practicing certificates to environmental practitioners as authorised by the relevant legislation.

(11) do all such other things in relation to environment for the interest of members and people of Kenya.

(12) to remain a non-political entity.

Membership of the Society

3. (1) Upon application to the EIK council, any person over the age of eighteen years with the relevant academic qualifications from an approved institution and practical experience in the profession of integrated environmental management shall, subject to the approval of the Council, become a member on payment of registration fee of such amount as determined by the Council from time to time

(2) Every member shall pay an annual subscription fee of such an amount as determined by the Council from time to time.

(3) The following shall be the categories of membership

(a) Student membership

(b) Associate membership

(c) Lead membership

(d) Corporate membership

(e) Affiliate membership

(f) Honorary membership

(g) Non-practicing membership

3.2 Eligibility

The criteria for admission to the above membership shall be governed by **Schedule I (EIK Membership Eligibility Criteria)**

(4) Any member who falls into arrears with his annual subscription for more than three months after it is due shall automatically be suspended from membership and shall not enjoy the benefits of the society. The Council may, however, at its discretion, reinstate such a member on payment of the total amount of subscription outstanding.

- (5) Subscriptions shall be due by the end of the first month of the calendar year, save for new members who may upon joining pay their annual subscription for the year.
 - (6) Any members who fails to renew his annual subscription for 2 consecutive years shall have his membership automatically revoked and the person shall henceforth cease to be a member and the relevant authority will be duly notified.
 - (7) Any employee of the public sector with a role to regulate Environment Assessment and Audit experts, directly or indirectly, shall be considered for the membership as a non-practising member.
4. Every member shall be required to sign code of practice and professional ethics established under **Schedule II (Code of Practice and Professional Ethics)** of this Act.

Rights of membership

5. (1) The members of the Society shall have the following rights-
- (a) Lead membership
 - i. Attend meetings of the society
 - ii. vie for any office of the Society
 - iii. vote in all meetings of the society
 - iv. be issued with a practicing certificate;
 - (b) Associate membership
 - i. Attend meetings of the society
 - ii. vote in all meetings of the society
 - iii. be issued with a practicing certificate
 - iv. vie for any office of the Society after continuous membership of five years
 - (c) Student membership
Attend meetings of the society
 - (d) Corporate membership
Attend meetings of the society
 - (e) Affiliate membership

Attend meetings of the society

(f) Honorary membership

Attend meetings of the society

(g) Non-practicing membership

a non-practicing member shall have all the rights except that such member shall have no right to practice;

Expulsion of a member

6. (1) a member of the Society whose name has been, as a result of disciplinary proceedings, struck off the Register of membership shall not be a member of the Society during the period of expulsion.
 - (2) A person who has been expelled from membership of the Society shall not be re-admitted as a member of the Society without the authority of a special resolution of the Council or AGM and SGM.
 - (3) Any member may be expelled from membership if
 - (i) the Council so recommends and the general meeting of the Society resolves by a two-thirds majority of the members present
 - (ii) conduct of the member affects adversely the reputation or dignity of the Society,
 - (iii) he has contravened any of the provisions of the constitution of the Society.He is in significant breach of Code of Practice and Professional Ethics
 - (4) The Council shall have power to suspend a member from his membership until the next general meeting of the Society following such suspension but notwithstanding such suspension a member whose expulsion is proposed shall have the right to address the general meeting at which his/her expulsion is being considered
7. (1) Any member desiring to resign from the Society shall submit a resignation letter to the secretary, which shall take effect from the date of receipt by the secretary of such notice
 - (2) Any person who resigns or is removed from membership shall not be entitled to a refund of their subscription or any part thereof or any moneys contributed to the society at any time.

8. The Council may make Regulations prescribing matters relating to membership as may be necessary for the promotion of the objects and the regulation of the affairs of the Society

The Governing Framework of the Society

9. For the effective governance of the Society there shall be the following organs -

- (1) the General meeting and Special General Meeting
- (2) the Council;
- (3) the secretariat; and
- (4) the branches.

General Meeting

10. (1) The general meeting shall be the supreme authority of the Society which shall approve all resolutions and important decisions of the Society.
- (2) The general meeting shall consist of the members of the Society.
- (3) The secretary of the Council shall be the secretary to the general meeting.
- (4) The expenses of the annual general meeting shall be defrayed from the general funds of the Society.
- (5) The quorum of the general meeting shall be at least five percent (5%) of all legitimate members of the Society. If no quorum is obtained, the general meeting shall be rescheduled to be held one month later. Notice of this meeting shall be given to all members of the Society at least 21 days before the date of the meeting. The quorum for this second meeting shall be the number of members present.
- (6) The President of the Council shall preside at the general meeting and regulate the meeting. In the absence of the President, the Vice President shall preside at the meeting.
- (7) In the absence of both the President and the Vice President, the Council shall nominate one among its members to preside
- (8) The annual general meeting shall be held not later than 31st May in each year unless decided otherwise by Council. Such deferment should not extend beyond 31st August. Notice in writing of such annual general meetings, accompanied by the annual statement of accounts and the agenda for the meeting shall be sent to all members not less than 21

days before the date of the meetings and, where practicable, by Press advertisement not less than 14 days before the date of the meetings.

(9) The agenda for any annual general meeting shall consist of the following:

- (a) Confirmation of the minutes of the previous annual general meeting and Special General Meeting
- (b) Annual Report of the Council read by the President
- (c) Consideration of the accounts.
- (d) Election of Council members (and trustees where necessary)
- (e) Appointment of auditors.
- (f) Such other matters as the council may decide or as to which notice shall have been given in writing by a member or members to the Secretary General with approval of the council at least fourteen (14) days before the date of the meeting.
- (g) Any other business from the floor with the approval of the President.

11. The election of members of the Council shall be-

- (a) conducted in a transparent and fair manner in accordance with the EIK election by laws
- (b) in every second year after the election of the Council
- (c) by secret ballot or show of hand
- (d) conducted on the same day by the members physically present.

(2) Every legible member present at a general meeting shall have one vote, and the President of that Council shall also have a casting vote.

12. (1) Except for any purpose for which a special resolution is expressly required by this Act or by any regulation made under this Act, all resolutions of the Society in general meeting shall be by simple majority vote

(2) A resolution of the Society in a general meeting shall not be altered or rescinded within nine months of the passage of the resolution without a special resolution of the Society.

Special General Meeting

13. (1) A special general meeting shall be convened at any time-
- (a) if requisitioned by at least 10 (ten) percent of the members from the existing members register; or
 - (b) by the Council on its own motion after giving a 21 days' notice.
- (2) The notice requisitioning a special general meeting shall-
- (a) be in writing;
 - (b) be signed by the members as specified;
 - (c) specify the object of the proposed meeting;
 - (d) be submitted to the secretary general of the Society.
- (3) The Council shall, within forty five (45) days of receiving a requisition submitted, convene a special general meeting of the Society.
- (4) If the Council fails, within forty five (45) days after the requisition, to convene a general meeting in accordance with the requisition, and specifying that it shall be held within twenty one (21) days, the members may themselves convene that general meeting to be held at any time within two months after such requisition

The Council

14. (1) The Council shall be the governing body of the society.
- (2) The Council of the Society shall consist of-
- (a) the President;
 - (b) the Vice President;
 - (c) Seven representatives of the general membership of the Society,
- (3) Member of Council will be elected for a term of two years as per **Schedule III (EIK Election procedures)**
- (4) A person who has been elected as president shall serve for a maximum of two terms and shall not be eligible for election for another term thereafter.

- (5) For purposes of continuity, 3 members of the Council shall be retained while six (6) council members shall resign every election year but may offer themselves for re-election. The six persons to resign shall be determined by agreement and if no agreement is reached, by casting of lots.
- (6) No members of Council shall be elected for more than two consecutive terms.
- (7) The President, the Vice President and the members of the Council shall assume office immediately after the ordinary general meeting of the Society next following an election of the members Council, and shall hold office for a period of two years, ending at the conclusion of the annual general meeting held in the second year, after their election.
- (8) In event of no scheduled annual general meeting taking place, the current Council Officials continue occupying office till next general meeting
15. (1) A person is eligible for election as the President or Vice President if the person-
- (a) is a member or former member of the Council
 - (b) meets the requirements of Chapter Six of the Constitution
- (2) A person is eligible for election as a member of the Council if the person-
- (a) is current lead member of the Society; or associate member with five years continuous registration.
 - (b) has been a practising member for at least two years, from the date of admission;
 - (c) has not been found liable for professional misconduct by the Disciplinary Committee established by the Council in two years immediately preceding the election; and
 - (d) meets the requirements of Chapter Six of the Constitution of Kenya
- (3) The elections for the membership of the Council may be conducted by such body as the Council may propose and approved by the general meeting preceding the election.
16. (1) Any of member of the Council, including the President and vice president, may be removed from office by a general meeting or special general meeting through a vote of at least two thirds of all eligible members present on grounds of-
- (a) inability to perform the functions of office arising from mental or physical

infirmity;

(b) suspension or expulsion as provided under the Act;

(c) bankruptcy;

(d) integrity concerns

(e) failure to attend four consecutive Council meetings, without reasonable grounds acceptable to the Council.

(f) bringing disrepute against Institution or acting against the objects of the Institution.

(2) Before removal under subsection (1), a member of the Council shall be-

(a) informed of the reasons for the intended removal, in writing;

(b) given an opportunity to put in a defence against allegations, either in person or through a representative.

Office Bearers

17 (1) Office bearers shall be elected from the Council members at the annual general meeting in each election year as follows:

a. The President

b. The Vice-President

c. The Secretary General

d. The Vice-Secretary General

e. The Treasurer

f. The Vice-Treasurer

(i) **President** - the President shall, unless prevented by illness or other sufficient cause, preside over all meetings of the council and at all general meetings.

(ii) **Vice-President** - the Vice-President shall perform any duties of the President in his absence.

(iii) **Secretary General** - the Secretary General shall deal with all the correspondence of the Society under the general supervision of the council. In cases of urgent matters where the Council cannot be consulted, he/she shall consult the President

or if he is not available, the Vice-President. The decisions reached shall be subject to ratification or otherwise at the next council meeting. The Secretary General shall issue notices convening all meetings of the council and council committee and all general meetings of the Society and shall be responsible for keeping minutes of all such meetings and for the preservation of all records of proceedings of the Society and of the council.

- (iv) **Vice Secretary General** - in the absence of the Secretary General, the Assistant Secretary General shall perform all the duties of the Secretary General and such other duties as shall be assigned to him by the Secretary General or council whether the Secretary General is present or not.
- (v) **Treasurer** - the Treasurer shall receive and shall also disburse, under the directions of the council, all monies belonging to the Society and shall issue receipts for all monies received and preserve vouchers for all monies paid by him/her. The Treasurer is responsible to the council and to the members that proper books of account of all monies received and paid by the Society are written up, preserved and available for inspection.
- (vi) **Vice Treasurer** - the Assistant Treasurer shall perform such duties as may be specifically assigned to him/her by the Treasurer or by the council and in the absence of the Treasurer shall perform the duties of the Treasurer.

Operation of the Council

18. (1) The Council shall meet at such times and places as it shall resolve but shall meet not less than once in any three months.
- (a) At all meetings of the Society, the president, or in his/her absence, the vice president shall chair the meeting. In the absence of both these officers, within 15 minutes of the time scheduled for the commencement of a Council meeting, the members present, subject to quorum may appoint an interim chairperson from amongst themselves to chair such meeting.
 - (b) The president may at his discretion limit the time permitted to speak in favour of and against any motion.
 - (c) Resolutions shall be decided primarily by simple voting by a show of hands. In the case of equality of votes, the President shall have a second or casting vote.

- (d) The quorum for meetings of the Council shall be not less than five (5) of the confirmed members.
- (e) In the event that an office bearer dies, resigns, or is otherwise incapable of performing his duties, or absconds or abandons his duties, the Council may appoint a person from amongst themselves to act in that capacity until the next annual general meeting.
- (2) In the case that more than half the number of Council members resign or exit, the Council will stand dissolved. The CEO and trustees shall established a caretaker Council whose sole responsibility shall be to prepare for the Special General Meeting within forty five (45) days from the date when the 5th Council member resigned, to elect new members to the Council.

Committees of the council

19 (1) There shall be standing committees of the Society on

- (i) The Finance and Administration
- (ii) The Legal, Ethics and Membership Services
- (iii) The Partnership, Education and Communications

(2) The Council may establish other thematic committees, including ad hoc committees, as deemed necessary

(3) The quorum for meetings of the Council committee shall be not less than three (3) of the members. In the event that two members of the committee are present for the meeting, and a third member has sent an apology, the meeting may proceed as if there is a quorum. The council may co-opt into the committees not more than three (3) members necessary for the discharge of its functions

(4) The Council may engage any person who is not a member of the Council to provide such expertise as may be required for the better discharge of its functions, and the attainment of the objects of the Society.

20 (1) The Council shall cause to be kept proper books and records of accounts of all funds, property, assets and liabilities of the Society, and to be audited as of the 31st December of every year.

- (2) The Council shall present the audited accounts and the financial statement of the immediate preceding year at every annual general meeting.
21. The common seal of the Society shall be kept in the custody of the Chief Executive Officer of the Society and used in such manner as may be prescribed by Council from time to time
22. The Council may, subject to the provisions of this Act and with the approval by a resolution of members, make appropriate regulations for implementation of specific clauses, which shall be binding on all members of the Society
23. (1) The Council shall nominate the Society's representatives to statutory, public or other bodies to serve and articulate the objects of the Society.
- (2) A person who has been nominated to such a body shall seek guidance and directions from the Council on matters affecting the Society and shall, regularly and when required, report to the Council.
- (3) A person who has been nominated to serve on any statutory, public or other body may, at any time, be recalled by the Council notwithstanding that the position may have been gazetted, and the Council shall replace the vacant position within fourteen days as per **Schedule VI (Recall of nominated representative)**. The person nominated to fill the vacant position shall serve for the unexpired term.

The secretary general and the secretariat

24. (1) The council shall establish a secretariat headed by the secretary general.

Management of the secretariat

- 25 (1) The secretariat shall be managed by the Chief Executive Officer (CEO) who shall be recruited by the council through a transparent and competitive process.
- (2) The CEO shall be responsible for the day-to-day administration and management of the Secretariat and the affairs and functions of the Society as the Council shall determine.

Branches

- 26 (1) The Council shall establish branches in accordance with **Schedule V (Formation of Branches)** of this Act.

Funds

27. (1) The society shall generate funds from the following activities:

- (a) Subscription and membership fees.
 - (b) Returns from economic activities of the society
 - (c) Income from investments
 - (d) Contribution and donations from public and private entities
 - (e) Contribution and donations from international agencies
 - (f) Other sources as may be determined by the council from time to time
- (2) The funds of the Society may be used for the following purposes:
- (a) Acquisition of the Society's property
 - (b) Operations of the Society
 - (c) Salaries, wages and allowances.
 - (d) Allowances and other expenditures of trustees and the council incurred in the interest of the society
 - (f) Any other expenses incurred in meeting the objectives and mandate of the Society
- (3) All moneys and funds shall be paid to the society in any bank or banks approved by the Council and shall be accounted for by the treasurer.
- (4) No payments shall be made out of the bank account without a resolution of the Council authorizing such payment and all cheques on such bank accounts shall be signed by the Treasurer or the Assistant Treasurer and two other office bearers of the Society who shall be appointed by the Council.
- (5) A sum not exceeding KShs. 10,000 or any other amount authorised by the Council may be kept by the Treasurer for petty disbursements of which proper account shall be kept.
- (6) The Council shall have power to institute disciplinary processes to any office bearer who it has reasonable cause to believe is not properly accounting for any of the funds or property of the Society and shall have power to appoint another person from among the Council members in his/her place.
- (7) The financial year of the Society shall be from 1st January to 31st December

Trustees

28. (1) All land, buildings and other immovable property and all investments and securities which shall be acquired by the Society shall be vested in the names of not less than three (3) trustees who shall be members of the Society and shall be appointed at an annual general meeting for a period of five years in accordance with **Schedule VI (Appointment of Trustees and Operation of the Trust)**. On retirement such trustees shall be eligible for re-election for a final term of 5 years.
- (2) A general meeting shall have the power to remove any of the trustees and all vacancies occurring by removal, resignation or death, shall be filled at the same or next general meeting.
- (3) The trustees shall pay all income received from property vested in the trustees to the society.
- (4) Any expenditure in respect of such property which in the opinion of the trustees is necessary or desirable shall be reported by the trustees to the Council which shall authorise expenditure of such moneys as it deems fit.

Auditor

- 29 (1) An auditor for the following year shall be appointed by the general meeting on recommendation by the council.

All the Society's accounts, records and documents shall be opened to the inspection of the auditor at any time. The Treasurer shall produce an account of his/her receipts and payments and a statement of assets and liabilities made up to a date which shall not be less than six weeks and not more than three months before the date of the annual general meeting.

- (2) A copy of the auditor's report on the accounts and financial statements shall be furnished to all members at the same time as the notice convening the annual general meeting is sent out. An auditor may be paid such fees for his duties as may be resolved by the Council.
- (3) No auditor shall be an office bearer or a member of the council of the society.

Dissolution

- 30 (1) The Society shall not be dissolved except by a resolution passed at an annual general meeting by a vote of two-thirds of the members present or on repeal of this Act.

- (2) The quorum at the meeting shall be as shown in 5% of the membership of the society. If no quorum is obtained, the proposal to dissolve the Society shall be submitted to a further general meeting which shall be held one month later.
- (3) Notice of this meeting shall be given to all members of the Society at least 14 days before the date of the meeting. The quorum for this second meeting shall be the number of members present.
- (4) Provided, however, that no dissolution shall be effected without prior permission in writing of the Registrar, obtained upon application to him made in writing and signed by three of the office bearers.
- (5) When the dissolution of the Society has been approved by the Registrar, no further action shall be taken by the Council or any office bearer of the Society in connection with the aims of the Society other than to get in and liquidate for cash all the assets of the Society. Subject to the payment of all the debts of the Society, the balance thereof shall be distributed in such other manner as may be resolved by the meeting at which the resolution for dissolution is passed.

SCHEDULES OF THE BILL

SCHEDULE – I

ENVIRONMENT INSTITUTE OF KENYA MEMBERSHIP ELIGIBILITY CRITERIA

1. Introduction

The purpose behind the criteria is to ensure that:

- The membership reflects a high level of professional competence and integrity;
- EIK members are recognized as professionals in their field by other professions and by organizations whose work impinges on the natural environment;

1.1. Definitions

For the purposes of this document, the following terms are used with the intended meaning as defined

Environmental management: The ecological management of the natural environment

Relevant Qualification: Depending on the content, an undergraduate science degree from a recognized university might be considered relevant and / or in addition to relevant training in EIA, and any other qualification or experience which may be deemed equivalent.

Environmental practitioner: Person who has undertaken environmental assessments (Environmental Impact Assessment, Strategic EIA, Environmental Audits, Environmental Monitoring and survey) that have been accepted as valid by the relevant Government Authority or Agency mandated with the receipts of such reports.

2. MEMBERSHIP CATEGORIES

- a) Any person over the age of eighteen years with the relevant qualifications and /or practical experience to practice in the profession of integrated environmental management shall subject to the approval of the committee, become a member on payment of an entrance fee which will be determined by the Institute from time to time
- b) Every member shall pay an annual subscription fee to be determined by the Institute from time to time.
- c) The following shall be the categories of membership

2.1. NON PRACTICING MEMBERSHIP

The categories below will fall under non-practicing membership

1. Honorary membership
2. Affiliate membership
3. Student membership
4. Corporate Membership

2.1.1. Student Membership

Applicants must be engaged in a course leading to an examined degree, HND or equivalent qualification in a relevant subject.

Upon graduation, those wishing to remain members of EIK should apply for Affiliate membership.

2.1.2. Affiliate Membership

Affiliates of the Institute are those who have satisfied the Institute that they have acquired or wish to acquire skills in the environment field but who may have insufficient experience of professional practice at a high level of competence and/or lack a relevant qualification.

2.1.3. Honorary membership

Those distinguished individuals who have shown exemplary stewardship towards the environment and have a proven track record of consistently standing up for the environment in the course of their duties or lifetime and who are otherwise not qualified for membership in other categories.

2.1.4. Corporate membership

Corporate membership is granted to firms that have interest in environmental management activities.

2.2. PRACTICING MEMBERSHIP

1. Fellow member
2. Lead membership
3. Associate membership
4. Firms membership

2.2.1. Fellow Membership

Those distinguished individuals who have shown exemplary stewardship towards the environment and who have at least 15 years of professional experience in the environment field subject to the approval by the Institute

2.2.2. Lead Membership

Applicants for Lead Membership must be currently engaged in or actively seeking professional practice in the management of the natural environment.

Academic qualifications and professional experience:

- An undergraduate degree in a relevant¹ subject and have a minimum of five years of relevant post qualification professional experience or
- A Master's degree in a relevant subject (and having at least three years relevant post qualification professional experience; or
- An academic PhD degree in a relevant subject and having at least two years relevant post qualification professional experience

2.2.3. Associate Membership

Associates must be currently engaged in or actively seeking professional practice in the environmental field.

Academic qualifications and professional experience

- Higher National Diploma in a relevant subject having at least one year relevant post qualification professional experience
- Diploma of not less than 1 year from a relevant subject from a recognized institution having at least two years relevant post qualification professional experience
- An undergraduate degree in a relevant subject²
- Those with fewer years' professional experience than required should acquire Affiliate membership, while they complete the qualifying period for Associate membership.

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2.2.4. Firms membership

Firm's membership is granted to firms that are engaged in environmental management activities. The following conditions apply

- The firm has a certificate of registration of a business name or certificate of incorporation;
- The firm has at least one individual duly registered as a Lead member of the EIK and who has a valid practicing certificate; and
- The firm fulfills any other condition as may be stipulated by the Institute

SCHEDULE – II

We adopted the joint Code of Practice and Professional Ethics developed by NEMA and EIK which is in the EIA Regulations, 2018.

SCHEDULE – III

ENVIRONMENT INSTITUTE OF KENYA ELECTION PROCEDURES FOR COUNCIL MEMBERS

1. Citation

“**Hybrid meeting**” means a meeting where some of participants are in the same physical location while other participants join the meeting through electronic means including videoconference, audio conference, web conference, or such other electronic method.

“**Paid-up member**” A registered member who have cleared annual membership subscription fee.

“**Returning Officer**” A person nominated from the sitting members to conduct and oversee the elections of the Institute.

“**Virtual meeting**” means a meeting where all the members join and participate in the meeting through electronic means including video conference, audio conference, web conference, or such other electronic method.

2. Eligibility

(1) A person is eligible for election as a council member if the person-

(a) is a fully paid-up member of the Institute.

(b) is a lead member or associate member both of whom shall have five years continuous membership.

(c) has not been found liable for professional misconduct by the Disciplinary Committee established by the Council in two years immediately preceding the election

(d) meets the requirements of Chapter Six of the Constitution

(2) A person shall be eligible to participate in the election if that person;-

(a) is a fully paid-up member of the Institute.

(b) is a lead member or associate member.

3. Nominations

- (1) Individuals interested in vying for elective positions shall have a minimum of three (3) proposers and three (3) seconders.
- (2) The individuals interesting in vying, the proposer and seconder shall be fully paid-up members of the Institute.
- (3) The nomination timescale shall be as follows:
 - i. Nominations shall start 30 days before the date of AGM
 - ii. Nomination shall close on the 15th day before the date of AGM
 - iii. Successful candidates shall be notified at least 5 days after the close of nominations.

4. Elections

- (1) Election shall be by secret ballot.
- (2) Procedures for elections must be free, fair and transparent.
- (3) The sitting council shall from the members present, appoint the election Returning Officer who shall have powers to;
 - i. Preside over and conduct the elections
 - ii. Announce the election results
 - iii. Destroy ballot papers with the permission of the AGM
- (4) The returning officer may give candidates an opportunity at the AGM to explain their candidacy.
- (5) Voting by electronic means.
 - i. The Returning Officer shall utilize the tools available on the virtual platform, to facilitate the electronic voting process for all members.
 - ii. The results of the electronic vote shall be verified and announced in accordance with the rules or constitution of the society
- (6) Council members shall be elected by secret ballot at the AGM.
- (7) The President of the Institute shall have a casting vote in every instance of a tie.
- (8) The Returning Officer shall announce the results of the elections of council members.
- (9) Elected council members shall have the first meeting during the AGM for the sole purpose of electing the office bearers and shall report back to the AGM.

SCHEDULE (VI)

RECALL OF A MEMBER NOMINATED TO REPRESENT EIK IN AN EXTERNAL BODY/ORGANIZATION

(1) The council may, before the end of the term, recall a member nominated to represent the institute in a statutory/public body on any of the grounds specified in subsection (2) below:

(2) A member of EIK nominated to represent the institute in a statutory body may be recalled where the member—

(a) Is found, after due process of the law, to have violated the provisions of Chapter Six of the Constitution of Kenya;

(b) Is convicted of a criminal offense.

(c) Ceases to become a member of the Institute

(d) Fails to represent the Institute as required based on the terms of nomination

(3) A recall of a member under subsection (1) shall only be initiated upon confirmation of the grounds by the council

PROCESS

1. Preparing the Notice of Intention

The initial step for proponents interested in the recall of a nominated officeholder is to prepare a Notice of Intention, which shall be submitted to the EIK council, through the Secretary General.

The Notice of Intention shall consist of all of the following:

- The name and title of the officeholder sought to be recalled.
- A statement, of no more than 200 words, expressing the reasons for the proposed recall.
- The full name, signature, and address, including email and phone number, of each of the proponents of the recall.
- A separate submission must be made for the officer whose recall is sought.

2. Circulation of the notice

The Secretary General accepting the notice of Intention issues a receipt to the proponent of the petition, which shows the proponent's name, address, phone number, and the date of the filing.

Within 7 days of receiving the recall petition, the Secretary General notifies the officer whose recall is sought of each reason stated in the recall notice and provides that the officer to respond within 14 days.

A copy of the same shall be circulated to the council.

3. Determination

After expiry of 14 days, the council is required to make a determination within a month and notify the officer.

4. Nomination of a replacement

The council will nominate the replacement of the officer.

SCHEDULE (V)

ENVIRONMENT INSTITUTE OF KENYA GUIDELINES FOR THE FORMATION AND REGULATION OF BRANCHES

1. Formation of a Branch

- 1.1. A Branch of the Society shall only be formed in accordance with the requirements of of the Society's constitution which states
- 1.2. The Council, when considering an application for the creation of a new Branch, shall take into consideration the following criteria:
 - a. That there shall be a demonstrable need, management capacity and sustainability for such a Branch to be formed in a detailed proposal.
 - b. New Branches shall be based on approved geographical regions by EIK within Kenya
- 1.3. The newly created Branch must obtain a paid-up membership of 15 registered members within one month of the formation of the Branch. The Council may then confirm the formation of the Branch.

2. Name of a Branch

- 2.1. All Branches shall be known by the name of the relevant geographical region or area of special interest, for example, 'The Environment Institute of Kenya, Nakuru Branch'.
- 2.2. The name of a Branch must be approved by the Council.
- 2.3. The name of a Branch cannot be altered unless:
 - a. a majority of registered and paid-up Branch members approving at a Branch Annual General Meeting or Special General Meeting endorses a proposed new name; and
 - b. the Council approves the new name.

3. Administration of a Branch

- 3.1. Branches shall be governed by the Objects and Rules of the Society, as listed in the Society's constitution, and by these 'Guidelines for the Formation and Regulation of Branches'.
- 3.2. Each Branch shall, subject to any exceptions set out in the Objects and Rules and the Guidelines referred to in 3.1 above, be autonomous.

- 3.3. Each Branch shall be administered by a Committee of nine (9) persons maximum, which shall be responsible for the general management of the Branch's affairs. The Executive positions shall be: Chair, Vice-Chair, Secretary and Treasurer.
- 3.4. All Branch office-bearers and Branch Executive Committee members shall be elected for a term of two year and on expiration of their term of office shall be eligible for re-election for one more final term.
- 3.5. Four (4) members shall constitute a quorum at a Branch Committee meeting.
- 3.6. A Branch Chair, Vice-Chair will be entitled on invitation to attend meetings of the Council in relation to matters directly affecting the Branch. However, no voting rights can be exercised by the Branch Chair, Vice-Chair at a Council meeting.

4. Election of Branch Committees

- 4.1. Nominations for Branch office-bearers and Executive Committee members shall be submitted in writing, signed by the nominee, and lodged with the Branch Secretary by December 31st. Each nominee shall have two seconders and two proposers.
- 4.2. Only paid-up members will be eligible for participation in elections.
- 4.3. Branch elections will be supervised by a nominee from the Council.
- 4.4. In the event of insufficient nomination(s) being received for a particular Branch Committee position(s), including any executive position, by December 31st, verbal nominations for such position(s) may be accepted at the Branch Annual General Meeting.
- 4.5. In case of absence of a candidate being available for election, the Council will appoint appropriate officials for the branch.
- 4.6. If an election is required, a secret ballot of paid-up Branch members present at the Branch Annual General Meeting shall be held.
- 4.7. In the case of insufficient nominees for any position on a Branch Committee, or in the case of a vacancy occurring, the Branch Committee shall have the power to fill such vacancy/vacancies from the Branch membership until next Branch Annual General Meeting.
- 4.8. In the event of a Branch committee's inability to appoint officials when necessary or operate the branch as required by the Council, the Council shall take over the operations and restructure the branch or propose for dissolution of the branch.

5. Membership of a Branch

- 5.1. No person shall be a member of a Branch without being a duly registered and paid up member of the Society.

- 5.2. Any member of the Society may nominate whether he/she wishes to be registered as a member of a Branch. Whilst that person remains a member of the Society, he/she shall retain membership of that Branch, until such time as he/she advises the Council in writing otherwise
- 5.3. No person shall hold office in more than one branch.
- 5.4. The Council shall supply the Branch with a membership list at least twice yearly, upon request by the Branch Secretary.
- 5.5. Only Branch Lead and Associate members registered at that branch shall be eligible to hold a Branch Committee position or to vote at a Branch General Meeting.

6. Financial Responsibilities of a Branch

- 6.1. Each Branch shall be financially self-supporting.
- 6.2. Each Branch shall operate an account with a bank. Signatories to the account will be Branch Chairman, Branch Treasurer and a Committee member.
- 6.3. The Council auditor shall be the Branch auditor and shall have the following duties in relation to the branch
 - i. Have the power, at any time, to examine the minute books, bank pass books, record of investments, account books, accounts, vouchers or goods held by the Branch Secretary, and Treasurer as appropriate.
 - ii. He/she shall audit the annual financial statements and certify them prior to presentation to the Branch Annual General Meeting.
- 6.4. Branches may raise revenue from the proceeds of raffles, sales of goods and services, and any other legally accepted fund-raising activity deemed appropriate by the Branch Committee
- 6.5. No financial commitment shall be undertaken where expenditure would exceed the total Branch funds available at the time. In the event of this rule not being adhered to, the Branch Committee shall be immediately dissolved and the Council will assume control of that Branch's affairs.
- 6.6. Branches shall be prohibited from borrowing funds without express authority from the Council.
- 6.7. Each Branch shall submit Annual Report and Audited Financial Statement for the previous year (ended December 31st) to:
 - i. the Secretary General of the Society no later than March 1st; and
 - ii. Members of the Branch concerned at its Branch Annual General Meeting.

7. Branch Meetings/Activities

- 7.1. Regular Branch General Meetings and other Branch activities should be arranged for the benefit of members and for the purpose of advancing the profession. Such meetings/activities should be conducted in accordance with the Objects of the Society (see 'Objects' in the Society Constitution).
- 7.2. Notice of forthcoming Branch General Meetings, where possible, and the Branch Annual General Meeting shall be notified to all members and to the Society Council in writing at least 21 days before the date of the meeting.
- 7.3. Brief details of past Branch General Meetings shall be provided to Society Council
- 7.4. Any member of the Society may attend any Branch General Meeting, but voting rights on branch matters shall be the preserve of paid up branch members only
- 7.5. The Annual General Meeting of each Branch shall be held in the month of February.
- 7.6. With the exception of attendance at Branch General Meetings, Branches may levy fees or surcharges on non-Branch members who participate in Branch activities.

8. Branch Stationery

- 8.1. Official artworks for stationery for each Branch shall be supplied by the Council for purposes of harmony
- 8.2. The stationery shall be headed "The Environment Institute of Kenya" with the name of the Branch beneath the heading and with a print size no larger than that used for the name of the Society.
- 8.3. The stationery shall have the Society's logo in the top left hand corner; however, each Branch may have their individual logo in the top right hand corner.

9. Public Statements of Policy

- 10.1 A Branch shall not issue statements relating to matters of Society policy to the general public or the media. Such statements of policy shall only be issued, where necessary, by the Council

10. Branch Publications

- 10.1. Each Branch is able to print and distribute its own newsletter, observing copyright laws.

- 10.2. A copy of all newsletters published by Branches should be sent to the Council within one
Month of their publication.

11. Dissolution of a Branch

- 11.1. If, on the dissolution of a Branch, there remains any assets or debts whatsoever, the same shall be transferred to the Council to be held in a Trust Fund for up to two years. Monies from this Trust Fund can be distributed to a new Branch at the absolute discretion of the Council.
- 11.2. A Branch shall be dissolved if its membership falls below fifteen members.
- 11.3. A Branch shall be dissolved if a two-thirds majority of paid-up Branch members, voting at a Branch Annual General Meeting or Special General Meeting, support a motion of dissolution.
- 11.4. A branch may be dissolved under directive from the Council under appropriate circumstances.

SCHEDULE – VI

ENVIRONMENT INSTITUTE OF KENYA PROCEDURES FOR APPOINTMENT OF TRUSTEES AND OPERATION OF THE TRUST

1. Citation

A Trust Deed will be formalized as trust instrument for EIK Trust Management.

All content of this document shall form part of the Trust Deed as appropriate.

A Board of Trustees will be established under Trust Deed

Trust will be governed by existing laws of Kenya.

2. Appointment of trustees

- (1) There shall be 5 trustees who shall form the trust of EIK.
- (2) A trustee will be elected and appointed for a term of 5(five) years. No trustee will serve more than two consecutive terms of Five years each.
- (3) Three of five trustees shall retire in every 5 years. New three trustees will be elected accordingly at AGM/SGM.
- (4) Three of current five trustees will retire on first anniversary of trust establishment. They will be entitled for election for one more term after second anniversary.
- (5) There will be minimum three trustees at all time for trust to remain valid and operational.
- (6) If any vacancy at trust arises for any reason, remaining trustee shall appoint required number of trustees to be minimum three and not more than five until next election at AGM/SGM.
- (7) Trustee shall not draw any remunerations.

3. Eligibility

- (1) A person is eligible for election as a trustee if the person
 - (a) is a fully paid-up member of the Institute
 - (b) is a lead member or associate member both of whom shall have five years continuous membership.
 - (c) has not been found liable for professional misconduct by the Disciplinary Committee established by the Council in two years immediately preceding the election

(d) meets the requirements of Chapter Six of the Constitution

(2) A person shall be eligible to participate in the proceeding of the election of trustees if that person;-

(a) is a fully paid-up member of the Institute.

(b) is a lead member or associate member.

(3) Any employee or member of Executive Council is barred from being elected as trustees

4. Nominations

a. Individuals vying as trustee shall have a minimum of three (3) proposers and three (3) seconders.

b. The Candidates, the proposer and seconder shall be fully paid-up members of the Institute.

c. The nomination timescale:

Nominations shall start 30 days before the date of AGM/SGM

Nomination shall close on the 15th day before the date of AGM/SGM

Successful candidates shall be notified at least 5 days after the close of nominations.

3. Election

(10) Procedures for elections must be free, fair and transparent.

(11) The sitting council shall from the members present, appoint the election Returning Officer who shall have powers to;

iv. Preside over and conduct the elections

v. Announce the election results

vi. Destroy ballot papers with the permission of the AGM

(12) The returning officer may give candidates an opportunity at the AGM/SGM to explain their candidacy.

(13) Trustees shall be elected by secret ballot at the AGM/SGM

(14) Candidate vying as trustee must secure not less than 65 % of votes cast by membership present at AGM or SGM.

(15) Candidates receiving top three highest numbers of votes (which will more than 65% of vote cast by present membership at the AGM/SGM) will be declared elected.

(16) If no candidate/s achieve 65% threshold, current Trustee/s shall continue as Trustee until next election.

- (17) If fewer than three trustees are required to be appointed as elected, there will be ballots division as to who will continue as remaining required trustee among retiring trustees to comply to regulation 2(3).
- (18) If the trustee/s is/are not clearly and procedurally elected to fill the vacant position/s of trustee/s, remaining trustees will appoint required trustee/s until next election to make minimum three trustees as per 2(5).
- (19) While Establishing trust and election of trustee first time ever, rule 3(5) will not apply. AGM/SGM can still elect first 5(five) trustees on majority principle.
- (20) The President of the Institute shall have a casting vote in every instance of a tie.
- (21) The returning officer shall announce the results of the elections of the members of trustee.

4. Trustee's powers

- (1) Trustees will have power for Administrative actions for prudent management in the discharge of the duty to maintain the trust estate.
- (2) A trustee's powers are fiduciary in nature. Fiduciary powers must be exercised bona fide.
- (3) Trustees shall be accountable to the membership of EIK

5. Trustee's duties

- a. Trustee shall keep the trust property in a state of security and maintained all the time.
- b. Trustees shall invest profitably whenever there is a surplus fund or undertake appropriate income generating authorized investments.
- c. Trustee shall pay the expenses and debts of the trust
- d. Trustees shall keep accounts and records
- e. Trustees shall present for approval and adoption annual report to AGM which includes certified accounts and other affairs
- f. Trustees will manage their own management affair.
- g. Trustee will have no role of any kind in the management of the Council

In event of trustees to be less than three, remaining trustees will appoint at least one trustee until AGM or SGM elects new trustee.

6. Term of Office

- (1) A trustee's term will be ended by;-

- i. an express power in the trust instrument
- ii. by the AGM or SGM if he/she breaches the trust and a vote for removal is passed by at least by 65% of membership present at AGM/SGM
- iii. court order
- iv. regular retirement
- v. voluntary resignation of trustee

SCHEDULE (VII)

GUIDELINES FOR APPOINTMENT OF ENVIRONMENT INSTITUTE OF KENYA ADVISORY COUNCIL

PART I: PRELIMINARY

Generally.

1. The EIK Council shall appoint an Advisory Council.

Definitions

(i) "**Advisory Council**" means a working Council as established under constitution of EIK and appointed by the EIK Council to advise and make recommendations to the EIK Executive Council. And for achieving objects of the EIK constitution and provide guidance on ways and means for sustainability and development of EIK. Advisory Council shall be created from outside EIK Council membership.

(ii) "**Misconduct**" includes failure to declare a conflict of interest and failure to comply with any applicable requirement of the EIK rules and regulations

(iii) "**Non-performance of duty**" includes unexcused absence in more than 50% of scheduled meetings within a single calendar year.

(iv) Reference to EIK Council and EIK Executive Council carry same meaning.

(v) Chairman is the position which is gender neutral

PART II: APPOINTMENT AND OFFICE

Membership

2. (1) All members of the Advisory Council shall be appointed by the EIK Council. The EIK Council will appoint the Chairman of Advisory Council

(2) The Advisory Council shall comprise of the Chairman and seven (7) Council members.

Officials.

3.1 The Advisory Council will have EIK secretariat as its administration secretariat.

Advisory Council will manage their own procedure, affair and structure.

- 3.2 The Chairman shall:
- a) Set the agenda that is consistent with objects of EIK constitution.
 - b) Preside at all meetings.
 - c) Be responsible for maintaining communication with the EIK Council and management.
 - d) Call special meetings.
 - e) Be responsible for attendance of members and report to the EIK Council if and when repeated absences impair a member's ability to serve on the advisory or Council.
 - f) Ensure that minutes of all meetings are provided to EIK Council within 15 days from date of particular meeting.
 - g) Undertake any assignment requested by EIK Council
- 3.3 The CEO of EIK shall serve as secretary to the Advisory Council.

PART III: ELIGIBILITY, APPOINTMENT, VACANCY, TERM AND REMOVAL OF MEMBERS

Eligibility

4. (1) A person is eligible for appointment as a member of Advisory Council if the person
- (a) is a fully paid-up member of the Institute
 - (b) is a lead member both of whom shall have fifteen years continuous membership.
 - (c) has not been found liable for professional misconduct by the Disciplinary Committee established by the Council in two years immediately preceding the election
 - (d) meets the requirements of Chapter Six of the Constitution
- (2) Any employee or member of Executive Council is barred from being elected as a member of Advisory Council.

Appointment

5. (1) The EIK Council shall appoint members to the advisory council if deemed qualified pursuant to the enabling provision at the time of appointment.
- (2) EIK Council shall determine criteria for appointments to the Advisory Council
 - (3) EIK shall appoint members from Academia, Civil Society, Private Sector, Development Partners and Professional Bodies
 - (4) EIK shall reserve maximum two positions for former council members. No more than two members of the Advisory Council shall be former members of EIK Council.

(5) When making appointments, the EIK Council shall consider the gender and geographic diversity of the membership of councils.

Criteria for advisory committee appointment

6. (1) Advisory Council shall have gender compliance requirement

(2) LEMS Committee will have potential advisory council members identified, screened, vetted, and recommended for appointment.

(3) Prospective members will prove information in designated form from EIK

(4) Person should;

- i. Have at least 10 years of past experience, knowledge and skills in the sector of expertise
- ii. Be person of integrity and credibility
- iii. Be ready to offer at least consolidated 12 hours for meetings in a year.
- iv. Be conversant or understand with EIK objectives
- v. Be age of 45 years and above
- vi. Should not be practicing EIA /EA expert.
- vii. Be non-political
- viii. Is not employee or officer of national or county government

Vacancy

7. (1) If a position becomes vacant before the expiration of the term, the Council shall appoint a person to fill the vacancy for the remainder of the term.

(2) Initial terms for a newly created advisory council shall be staggered by an EIK Council resolution of appointment so that a majority of the positions do not become vacant in the same year.

(3) If the Council fails to appoint a successor prior to the expiration of a term of office, the predecessor shall continue in office until a successor is duly appointed.

Term

7. (1) No Advisory Council member shall serve more than two consecutive terms of two years as either Chair.

(2) Each member of the Council shall serve no more than two consecutive terms of maximum of three years.

(3) The EIK Council may revoke appointment of any member including Chairman to the Advisory Council through a resolution at an EIK Executive Council meeting.

Removal of Members

8. An advisory council may recommend removal of one of its members to the EIK Council for “misconduct” or “non-performance” of duty.

PART IV: OPERATION

Conflicts of Interest

9. Where a potential conflict of interest exists with an agenda item, these are to be declared by members and secretary.

Quorum

10. For The purpose of the quorum of the Advisory Council meeting, a meeting will be properly constituted: If;

- (1) Half that number present; if the total number of members of the council present are in even number or
- (2) A majority of the members, if the total number of members of the Council is an odd number,
- (3) Apologies by a member for the meeting shall be considered as member present.

Meetings

11. (1) Advisory Council shall meet twice a year as per its own calendar but not less than one meeting every six month in a year.

(2) EIK Council shall provide **Terms of Reference (ToR)** for functions of the Advisory Council.

- i. To advise and make recommendations to the EIK Executive Council for achieving objects of the EIK constitution
- ii. To provide guidance on ways and means for sustainability and development of EIK.

Vote

12. Except as otherwise expressly provided by the EIK rules and regulations, the concurrence of a majority of members present and eligible to vote shall be necessary to decide any question.

Recommendations

13. All recommendations and communications to the EIK Council shall be made in writing, signed by the Chairman

Allowances

14. No member of Advisory Council shall be paid any remuneration of any kind. Sitting allowances and appropriate reimbursement for the official meetings for Advisory Council shall be determined by EIK Council as per the recommendation of Finance and Administration Committee.

Rules of Procedure

15. An advisory council may from time to time adopt and amend rules of procedure consistent with the rule and regulation of EIK.

Review

16. The Terms of Reference for this Council may be reviewed by the EIK Council at the beginning of each Advisory Council term and when is required.

Management Support

17. The Chief Executive Officer will ensure provision of management and administrative support to the Advisory Council.

SOC/71115

REPUBLIC OF KENYA



THE SOCIETIES RULES, 1968

(Part 4)

CERTIFICATE OF REGISTRATION NO 45432

JOSEPH ONWANGO

DEPUTY

Registrar of Societies, hereby certify

ENVIRONMENT INSTITUTE OF KENYA.

that I have this day registered the

under section 10 of the Societies Act

Dated at NAIROBI this 4TH day of AUGUST 20 14

DY. Registrar of Societies

[Signature]



OBJECTIVE FOR DEVELOPING THE EIK BILL

1. INTRODUCTION

The following laws, regulations and policies informs the need to develop the EIK Bill to strengthen professionalism in the field of environmental practice in order to achieve environmental sustainability in Kenya.

1.1 THE CONSTITUTION OF KENYA, 2010

1.1.1 PREAMBLE

RESPECTFUL of the environment, which is our heritage, and determined to sustain it for the benefit of future generations:

1.1.2 CHAPTER FOUR—THE BILL OF RIGHTS

Article 42. Environment.

Every person has the right to a clean and healthy environment, which includes the right—
(a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and
(b) to have obligations relating to the environment fulfilled under Article 70.

1.1.3 CHAPTER FIVE – LAND AND ENVIRONMENT

SECTION B: ENVIRONMENT

Obligations in respect of the environment.

69. (1) The State shall—

- (a) ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits;
- (b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya;
- (c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities;

- (d) encourage public participation in the management, protection and conservation of the environment;
- (e) protect genetic resources and biological diversity;
- (f) establish systems of environmental impact assessment, environmental audit and monitoring of the environment;
- (g) eliminate processes and activities that are likely to endanger the environment; and
- (h) utilise the environment and natural resources for the benefit of the people of Kenya.

(2) Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

Enforcement of environmental rights.

70. (1) If a person alleges that a right to a clean and healthy environment recognised and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

(2) On application under clause (1), the court may make any order, or give any directions, it considers appropriate—

- (a) to prevent, stop or discontinue any act or omission that is harmful to the environment;
- (b) to compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or
- (c) to provide compensation for any victim of a violation of the right to a clean and healthy environment.

(3) For the purposes of this Article, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.

1.1.3 Legislation relating to the environment.

Article 72. Parliament shall enact legislation to give full effect to the provisions of this Part. (Including enacting the EIK Bill 2021 – To help the state realize the Article 70 (2) of the Constitution of Kenya)

1.2 THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, 1999 No 8 of 1999

1.2.1 PART VI – ENVIRONMENTAL IMPACT ASSESSMENT

58 (6) The Director-General may, in consultation with the **Standards Enforcement and Review Committee** (Professional body which is EIK should be involved), approve any

application by an expert wishing to be authorised to undertake Environmental Impact Assessment. Such application shall be made in the prescribed manner and accompanied by any fees that may be required.

1.3 THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT, 1999 Amendments of 2015

1.3.1 Article 43. Section 58 of the principal Act is amended-

(c) by inserting the following new subsection immediately after subsection (6)-

(6,A) The Cabinet Secretary in consultation with the Authority shall make regulations and formulate guidelines for the practice of Integrated Environmental Impact Assessments and Environmental Audits. (6,B) The Cabinet Secretary shall make regulations for the accreditation (Professional body being EIK should play a big role in advising the Cabinet Secretary on such regulations) of experts on environmental impact assessments.

1.4 ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2003

1.4.1 Section 14. Registration of environmental impact assessment experts (Professional qualification was missing and now is addressed in the Draft Regulation 2018. However, to ensure professionalism and expertise is attained and maintained, EIK should be legally recognized to register, license and regulate the conduct of the experts while the authority to ensure compliance and enforcement in line with the appropriate legislation.)

(1) A person or firm wishing to apply for registration as an environmental impact assessment expert or firm of experts for carrying out environmental impact assessment studies or audits shall be required to meet the qualification criteria set out in the Fourth Schedule to these Regulations.

(5) An environmental impact assessment expert registered as such under these Regulations may be de-registered if the expert contravenes any of provisions of the code of practice issued by the Authority.

1.4.2 FOURTH SCHEDULE [Regulation 13(2).] CRITERIA FOR ENVIRONMENTAL IMPACT ASSESSMENT EXPERTS (Professional qualification was missing and now is addressed in the Draft Regulation 2018.)

Local and foreign environmental impact assessment individual and firm of experts wishing to undertake environmental impact assessment activities in Kenya shall register as experts with the National Environment Management Authority on payment of the prescribed fees. The following shall be the criteria for registration of experts—

A. LEAD EXPERT

A lead expert must have attained the following qualifications:

A Doctorate degree or equivalent in any field plus training in environmental impact assessment from a recognised institution, with 3 years experience in environmental impact assessment related activities;

or

A Doctorate, Masters or Bachelors degree plus 5 years experience in environmental impact assessment related research consultancy or teaching and at least two relevant publications in referred journals;

or

A Master's degree or equivalent in any field plus training in environmental impact assessment from a recognized institution, with 5 years' experience in environmental impact assessment related activities;

or

A Bachelor's degree or an equivalent in any field plus training in environmental impact assessment from a recognized institution, with 8 years' experience in environmental impact assessment related activities.

B. ASSOCIATE EXPERT

An associate expert must have attained the following qualifications:

A Bachelor's degree or equivalent in any field plus training in environmental impact assessment from a recognized institution.

C. FIRM OF EXPERTS

A firm of experts must meet the following conditions: Must be registered in Kenya;

1.5 THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC ASSESSMENT, INTEGRATED IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2018 (DRAFT)

1.5.1 PART II – REGISTRATION OF EXPERTS

9. (4) The training curriculum used by the designated training institutions under sub-regulation (1) above shall be developed by Authority in consultation with the ministry responsible for curriculum development and the relevant **professional body recognized by the Authority – The recognized professional body by the Authority is EIK. It is**

justifiable to have a specific identity being EIK other than generality as professional body.

1.5.2 SECOND SCHEDULE

CRITERIA FOR REGISTRATION OF ENVIRONMENTAL ASSESSMENT EXPERTS

D. RELEVANT FIELD OF EXPERTISE

Environmental Studies, Biological Sciences, Chemistry, Engineering, Geography, Earth Sciences, Biophysical Sciences, Natural Sciences, Environmental Law or any other field approved by the Authority on the recommendation of a Professional Body (Should read as EIK) or the Environmental Expert Advisory Committee (EIK forms part of the membership).

1.6 THE BIG FOUR AGENDA, 2018 – 2022

Big 4 agenda is the **flagship project of the Jubilee administration to enhance the achievement of the** Vision 2030 projects. Environment plays a major role in realizing the big 4 projects which include; **Universal Healthcare, Affordable Housing, Manufacturing and Food Security**. With existence of the environmental professionals in place, the environmental compliance and enforcement for all projects that falls under the big 4 agenda will be addressed in a sustainable manner.

CONSERVATION IS CRITICAL IN ACHIEVING BIG 4 AGENDA SAYS CS TOBIKO



Environment and Forest Cabinet Secretary Keriako Tobiko; has said forest conservation is a critical sector towards achieving President Uhuru Kenyatta's Big 4 Agenda. "It's through environmental protection that we shall ensure sustainable development," said Tobiko.

1.7 THE NATIONAL ENVIRONMENTAL POLICY 2013

8.3 HUMAN RESOURCES DEVELOPMENT AND CAPACITY BUILDING

8.3.1 Weak enforcement of environmental compliance is attributed to inadequate technical capacities, monitoring infrastructure and inadequate trained staff in enforcement institutions. Building a cadre of **professionals** (*Recognition of EIK to achieve this strategy*) in environment and natural resource management is an investment for the future that requires a short and long term approach. Whereas short term training and targeted courses are important for skills and managerial development, the long term training in specific areas enhances specialization.

Policy Statements

The Government will:

1. Support and promote the development of expertise in Government agencies, the private sector and civil society organizations in the various areas of environmental management through targeted short and long term courses and awareness creation.
2. Develop a wide range of training opportunities and modules in the field of environment for different levels taking into account gender equity, emerging environmental issues and devolved institutions.

EIK stands a better chance to implement the two policy statements since they are among the objectives as per the EIK Constitution.

1.8 OTHER PROFESSIONAL BODIES

1.8.1 Nationally

There exist other professional bodies that champions the interest of the professionals in different sectors. They include but not limited to; **Law Society of Kenya (LSK)** – Lawyers, **Institution of Engineers of Kenya (IEK)** – Engineers, **Institution of Surveyors of Kenya (ISK)** – Surveyors & Valuers, **Institute of Certified Public Accountants of Kenya (ICPAK)** – Accountants, **Institute of Human Resource & Management (IHRM)** – Human Resource Personnel and others.

There has been concerted calls and efforts to also recognize a professional body (**Environment Institute of Kenya - EIK**) for Environmental professionals.

1.8.2 Regionally/Globally

There exist environmental professional bodies in other countries recognized by law therein. Some of them includes; **Uganda Association of Impact Assessors (UAIA)** – *We have had engagement with UAIA and shall be considering to sign an MOU to enhance structured engagements*, **Southern African Institute of Ecologists and Environmental Scientists (SAIEES)** etc.

We are also members of **International Association of Impact Assessors (IAIA)** (Member Number - **10452140**) a global body for all environmental professionals based in New York.



PETITION TO PARLIAMENT UNDER ARTICLES 37 AND 119 OF THE CONSTITUTION

We, the undersigned,

Committee Members of professional body known as **ENVIRONMENT INSTITUTE OF KENYA – EIK**

DRAW the attention of the House to the following:

Currently, almost all professional fields have a professional body that can be identified with. Aware that environment is broad, the current and emerging issues can only be best resolved by the qualified, trained and certified environmental expert/practitioner.

Environment Institute of Kenya (EIK) has in the last few years collaborated with National Environment Management Authority (NEMA) to bring sanity by; **reviewing the qualification criteria for registration as an environmental expert (Review of EIA Regulations 2003 – EIA Regulations Amendment 2018), participate in the process of development and/or review of national and county governments environmental related policies, laws and regulations, offering training to registered and practicing experts for capacity building purposes, conducting regional forums with other stakeholders to address topical and emerging issues, holding annual meetings with deans of universities that offer environmental related courses and other activities that are geared towards environmental sustainability in Kenya.**

The house to consider the approval of the proposed **Environment Institute of Kenya (EIK) Bill** to strengthen professionalism in the field of environmental practice and management for environmental sustainability in Kenya.

THAT

With an existing Memorandum of Understanding (MoU) with National Environment Management Authority (NEMA). Efforts have been made to actualize the EIK proposed Bill into

law during the processes of amending the; **EMCA 1999 (2015)**, **EIA Regulations 2003 (2018)** and currently **EMCA 2015 (2020)**. All these efforts have not yet yielded the expectations of Environment Institute of Kenya as far as enactment of the EIK proposed Bill is concerned.

THAT

The prayer in this petition is not pending in any court of law, or constitutional or legal body whatsoever.

HEREFORE your humble petitioner(s) Pray that Parliament—

To adopt, review and consider the approval of the proposed **Environment Institute of Kenya (EIK) Bill**.

PETITIONER(S)

Name	Position	Address	ID Number	Signature
Linda Munyao	Chairperson	5087-00506 Nairobi		
Mutua P. Nzoka, OGW	Vice Chairperson	5087-00506 Nairobi		
Susan Manyasi	Secretary	5087-00506 Nairobi		
Dr. Fatuma Daudi	Vice Secretary	5087-00506 Nairobi		
Patience Gwaro	Treasurer	5087-00506 Nairobi		
Dr. Caleb Basweti	Vice Treasurer	5087-00506 Nairobi		
Herbert Mwachiro	Member	5087-00506 Nairobi		
Alex Mugambi	Member	5087-00506 Nairobi		
Ann Wanjiku	Member	5087-00506 Nairobi		
Ronald Kimtai	CEO	5087-00506 Nairobi		