




REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – SECOND SESSION (2023)

DEPARTMENTAL COMMITTEE ON TOURISM AND WILDLIFE

REPORT ON THE CONSIDERATION OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILLS, No. 60 of 2022)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 11 APR 2023	
DAY: TUESDAY	
TABLED BY:	HON. GEORGE MURUGARA MP, CHAIRPERSON ILAC
CLERK-AT THE TABLE:	KESTER NG'ITO

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY, 2023

FOREWORD

The Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bills, No. 60 of 2022) (hereinafter referred to as “the Bill”) was read a First time on 8th December, 2022 and referred to the respective Committees for consideration and report to the House. The Bill proposes to make minor amendments to several Acts of Parliament including the Tourism Act, No. 28 of 2011.

In line with Article 118(1)(b) of the Constitution and Standing Order 127(3), the Committee sought public views and received memoranda from Office of the Director of Public Prosecutions.

On behalf of the Departmental Committee on Tourism and Wildlife and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the report on the consideration of the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bills, No. 60 of 2022)

The Committee is grateful to the offices of the Rt. Hon. Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bills, No. 60 of 2022), and has the honour to report back to the House with the recommendation that the Bill be proceeded with.

1. PREFACE

1.1 Mandate of the Committee

The Departmental Committee on Tourism and Wildlife is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows: -

- (a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- (b) study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;
- (c) on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate,
- (d) study and review all legislation referred to it;
- (e) study, assess and analyze the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;
- (f) investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;
- (g) examine treaties, agreements and conventions;
- (h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation,
- (i) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- (j) examine any questions raised by Members on a matter within its mandate.

1.2 Committee Membership

The Committee was constituted by the House on Thursday 27th October, 2022 and comprises the following Members:

Chairperson

Hon. Mbiuki Japhet Miriti Kareke, CBS MP
Maara Constituency

UDA Party

Vice-Chairperson

Hon. Wanjiku John Njuguna, MP

Kiambaa Constituency

UDA Party

Hon. Abubakar Talib Ahmed, MP

Nominated Member

Wiper Party

Rongai Constituency

UDA Party

Hon. Obo, Ruweida Mohamed, MP

Lamu East Constituency

JP Party

Hon. Kilel Richard Cheruiyot, MP

Bomet Central Constituency

UDA Party

Hon. Kiprono, Mutai Alfred, MP

Kuresoi North Constituency

UDA Party

Hon. Bedzimba Rashid Juma, MP

Kisauni Constituency

Orange Ddemocratic M Party

Hon. Mugabe Innocent Maino, MP

Likuyani Constituency

ODM Party

Hon. Abdi Ali, MP

Ijara Constituency

NAP-K Party

Hon. Gichuki, Edwin Mugo, MP

Mathioya Constituency

UDA Party

Hon. Ruku, Geoffrey Kariuki Kiringa, MP

Mbeere North Constituency

DP Party

Hon. Karambu Elizabeth, MP

Meru (CWR) Constituency

UDA Party

Hon. Shake, Peter Mbogho, MP

Mwatate Constituency

JP Party

Hon. Chebor Paul Kiber, MP

Voi Constituency

Hon Abdi, Khamis Chome, MP

WDM-K Party

1.3 Committee Secretariat

The Committee secretariat is composed of the following technical staff;

Ms. Hellen Masiyoi Kina
Clerk Assistant II/Head of Secretariat

Ms Violet Ouma
Clerk Assistant III

Mr. Oscar Onsongo
Research Officer III

Mr. Peter Mwaore
Senior Legal Counsel

Mr. Hillary Mageka
Media Relations Officer II

Ms. Terry Ondiko
Fiscal Analyst III

Mr. Rodgers Kilungya
Audio Recording Officer

Mr. David Ng'eno
Research Officer II

Mr. Samuel Nyambe
Serjeant-At-Arms

Ms. Angela Musau
Legal Counsel III

Mr. Benard Muturi
Serjeant-At-Arms

2. OVERVIEW OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, (NATIONAL ASSEMBLY BILLS, No. 60 of 2022)

6. The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills, No. 60 of 2022) seeks to make minor amendments to various statutes
7. The Bill is in keeping with the practice of consolidating minor amendments which do not merit the publication of separate Bills into one Bill.
8. The Bill proposes to amend Section 116 of the Tourism Act, No. 28 of 2011 by deleting the term “Attorney-General” appearing immediately after the words “leave of the” and substituting therefor the term “Director of Public Prosecutions”.
9. The principal object of the amendment is to harmonize Section 116 of the Tourism Act, 2011 with the provisions of Article 157 of the Constitution in relation to the exercise of prosecution powers of the State.

3. PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

10. Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), which mandate Parliament to facilitate public participation and involvement in its legislative and other business, the Committee placed an advert in the local dailies on 16th December, 2022 inviting the public to submit their views to the Clerk of the National Assembly on or before 6th January, 2023.
11. The Committee received one memorandum from Office of the Director of Public Prosecutions
12. In processing the Bill, the Committee took into account the memoranda received from the public and its deliberations. The stakeholders submitted as follows:-
13. **The Office of the Director of Public Prosecutions** submitted that Section 116 of the Act be amended by deleting the term “Attorney-General” and substituting therefor the term “Director of Public Prosecutions” In their justifications, they submitted that the proposal will bring the provision of the Act into conformity with Article 157 of the Constitution. That the proposal is acceptable as it aligns the Act with the Constitution.

4. COMMITTEE OBSERVATION

14. The Committee considered the amendment proposed to Section 116 of the Tourism Act, No. 28 of 2011 *vide* the Statute Law (Miscellaneous Amendments) Bill (National

15. Assembly Bills, No. 60 of 2022) and observed that Article 157 of the Constitution establishes the Office of the Director of Public Prosecutions and mandates the Director of Public Prosecutions to exercise State powers of prosecution including the power to undertake criminal proceedings against any person who is alleged to have committed an offence.

5. **COMMITTEE RECOMMENDATIONS**

16. The Committee considered the amendment proposed to Section 116 of the Tourism Act, No. 28 of 2011 *vide* the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills, No. 60 of 2022) and recommended that **Bill be proceeded with as proposed.**



HON. MBIUKI JAPHET MIRITI KAREKE, M. P.
CHAIRPERSON

DEPARTMENTAL COMMITTEE ON TOURISM AND WILDLIFE

**MINUTES OF THE 10TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
TOURISM AND WILDLIFE IN SMALL DINING NEW WING MAIN
PARLIAMENT ON TUESDAY 28TH FEBRUARY 2023 .AT 10:00 AM.**

PRESENT

1. Hon. Mbiuki, Japhet Miriti Kareke, CBS, M.P. - Chairperson
2. Hon. Wanjiku, John Njuguna, M.P. - Vice Chairperson
3. Hon. Obo, Ruweida Mohamed, M.P.
4. Hon. Bedzimba, Rashid Juma, M.P.
5. Hon. Kailemia, Elizabeth Karambu, M.P.
6. Hon. Abdi, Abdi Ali, M.P.
7. Hon. Ruku, Geoffrey Kariuki Kiringa, M.P.
8. Hon. Paul Chebor, M.P.
9. Hon. Shake, Peter Mbogho, M.P.
10. Hon. Eng. Abdi, Khamis Chome, M.P.
11. Hon. Abubakar, Talib Ahmed, M.P.

APOLOGIES

- 1.
2. Hon. Kiprono, Mutai Alfred, M.P.
3. Hon. Mugabe, Innocent Maino, M.P.
4. Hon. Gichuki, Edwin Mugo, M.P.
5. Hon. Kilel, Richard Cheruiyot, M.P.

COMMITTEE SECRETARIAT

- | | | |
|-----------------------|---|------------------------------|
| 1. Ms. Hellen Kina | - | Clerk Assistant I/Lead Clerk |
| 2. Ms. Terry Ondiko | - | Fiscal Analyst III |
| 3. Mr. Peter Mwaura | - | Senior Legal Counsel |
| 4. Ms. Angela Musau | - | Legal counsel III |
| 5. Mr. Hillary Mageka | - | Media Relation Assistant |
| 6. Benson Muthuri | - | Sergeant-at – Arms |

MIN. NO. NA/TW/2023/51: PRELIMINARIES

The meeting was called to order at fifty-four minutes past ten o'clock with a word of prayer from the chairperson. A round of self-introduction followed thereafter.

**MIN. NO. NA/TW/2023/52: CONFIRMATION OF THE MINUTES OF THE
PREVIOUS SITTING.**

The agenda was deferred to the next sitting.

**MIN. NO. NA/TW/2023/53: PRESENTATION OF THE BUDGET POLICY
STATEMENT BRIEF BY THE BUDGET OFFICE.**

The fiscal analyst Ms. Terry Ondiko made a presentation of the brief on Budget Policy Statements for the state Department for Tourism and the State Department for Wildlife

as per the attached annexures and as indicated in the summary below.

Sectoral Policy priorities in the BPS

1. Tourism plays a critical role in economic growth and development. Its contribution to economic diversification and foreign exchange earnings is critical in reducing reliance on a single industry and thus making the country more resilient to economic shocks, resulting in more stable and long-term growth. In order to support the industry, the government will concentrate on a bottom-up job-creating tourism industry by:
 - i. Fostering a tourism ecosystem that supports independent travel, especially for young people, which includes quality and secure low-cost hotels and bed-and-breakfast facilities, inexpensive low-cost air travel to all parts of the country, and safe road travel.
 - ii. Diversifying Kenya's tourism by promoting niche market products, particularly adventure, sport, and cultural tourism
 - iii. Diversifying source markets to include African markets.
2. The State Department for Tourism implements three programmes. These are: Tourism Promotion and Marketing, Tourism Product Development and Diversification and the General Administration Planning and Support Services. The total proposed ceiling for the State Department is KSh. 8,431.2 million of which the recurrent ceiling is KSh. 8,167.1 million and the development ceiling is KSh. 264.1 million.

State Department for Wildlife.

1. Even though the government is looking into using insurance, allocating money towards human-wildlife conflict compensation has been a strategic action. Furthermore, a substantial amount is spent on mitigating strategies, such as building fences and employing rangers to patrol.

3.2.2 Sectoral Expenditure Ceilings

Table 3 provides a summary of the Programme Expenditure Ceilings for the State Department for Wildlife

Table 3: Program Expenditure Ceilings for the State Department for Wildlife

S/No	Programme	Category	BPS 2022	Approved Estimates 2022/23	BPS 2023	Variation of BPS 2023 against Approved Estimates 2022/23	BPS 2023- Approved

1	Wildlife Conservation and Management	Rec	7,611.8	7,164	8,848	23.5%	1,684
		Dev	632.8	821.8	1,592	93.7%	770
		Total	8,244.6	7,985.8	10,440	30.7%	2,454

Source: The National Treasury

2. The total proposed ceiling for the State Department is KSh 10,440 million, of which KSh 8,244.6 million is allocated for recurrent expenses and KSh 7,985.8 million is allocated for development. The ceilings show an increase of 30.7% from the approved estimates for 2022/2023. The Kenya Wildlife Service set a target of 3.8 million park visits overall, an increase from the baseline of 2.7 million tourists in 2022/2023. Furthermore, the revenues generated are anticipated to rise from KSh. 2,200 million in 2022/2023 to KSh. 4,300 million in 2023/2024.

MIN. NO. NA/TW/2023/54: BRIEF ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, (NATIONAL ASSEMBLY BILLS, NO. 60 OF 2022)

The legal counsel Mr. Peter Mwaura took the meeting through the proposed amendment as follows: -

That,

The Statute Law (Miscellaneous Amendments) Bill, (National Assembly Bills, No. 60 of 2022) (hereinafter referred to as "the Bill") was published on 22nd

1. November 2022. The Bill proposes amendments to several Acts of Parliament including the Tourism Act.
2. Pursuant to Article 118 (1) (b), Parliament conducted public participation on the Bill and received stakeholder comments relating to the proposed amendments.

A. AMENDMENTS PROPOSED TO THE TOURISM ACT

Legislation Proposed to be Amended	Provision Proposed to be amended	Proposed amendment	Justifications/Recommendations
The Tourism Act, 2011	Section 116 on Prosecutorial powers. "116. An authorized	That section 116 of the Act be amended by deleting the term "Attorney-	Article 157 establishes the office of the Director of Public Prosecutions who is mandated to undertake criminal proceedings against any person

	<p>officer may, with the leave of the Attorney-General given under the Criminal Procedure Code (Cap. 75), conduct prosecution for an offence committed under this Act.”</p>	<p>General” and substituting therefor the term “Director of Public Prosecutions”</p>	<p>who is alleged to have committed an offence. The proposal therefore seeks to align the provisions of the Act with Article 157. The proposal may be agreed to as it conforms with the Constitution.</p>
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B. JUSTIFICATION

1. In considering the proposed amendment, the Committee is required to determine whether the amendment conforms to the Constitution.
2. Article 157 of the Constitution establishes the office of the Director of Public Prosecutions and mandates the Director of Public Prosecutions to institute and undertake criminal proceedings against any person in respect of any offence alleged to have been committed.
3. Section 116 of the Tourism Act grants prosecutorial powers to an authorized officer to prosecute an offence committed under the Act. This is in concurrence with the provisions of the Criminal Procedure Code.
4. The proposed amendment seeks to amend section 116 to delete the term “Office of the Attorney-General” and substitute therefor the term “Office of the Director of Public Prosecution”.
5. The amendment is in order as it seeks to align the provisions of the Act with Article 157(6) of the Constitution.

MIN. NO. NA/TW/2023/55: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE STATUTE LAW ON THE PROPOSED AMENDMENT TO SECTION 116 OF THE TOURISM ACT, NO 28 OF 2011.

Observations

The Committee considered the proposed amendment to section 116 of the Tourism Act, No. 28 of 2011 vide the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills, No. 60 of 2022) and observed that Article 157 of the Constitution establishes the Office of the Director of Public Prosecutions and mandates the Director of Public Prosecutions to exercise State powers of prosecution including the power to undertake criminal proceedings against any person who is alleged to have committed an offence.

Recommendations

The Committee considered the draft report on the proposed amendment to section 116 of the Tourism Act, No. 28 of 2011 vide the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bills, No. 60 of 2022) and adopted it having been proposed by Hon Ruweida Obo MP and seconded by hon Bedziba Rashid MP. The Committee recommended that the amendment be proceeded with as proposed.

MIN. NO. NA/T&W/2023/56: ADJOURNMENT/ DATE OF NEXT MEETING

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

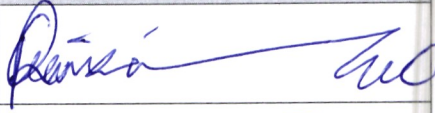
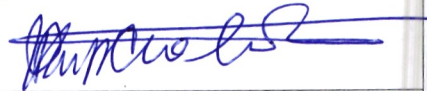
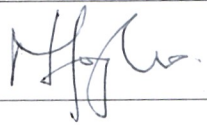
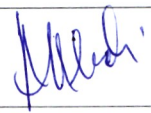
SIGNED.......... DATE..........
(CHAIRPERSON)



THE NATIONAL ASSEMBLY
13TH PARLIAMENT – 2ND SESSION (2023)

DEPARTMENTAL COMMITTEE ON TOURISM AND WILDLIFE
ADOPTION LIST OF THE REPORT ON THE STATUTE LAW
(MISCELLANEOUS AMENDMENT BILL, NATIONAL ASSEMBLY BILL NO .60 OF
2022)

	HON. MEMBER	SIGNATURE
1.	The Hon. Japhet Kareke Mbiuki, CBS M.P.(Chairperson)	
2.	The Hon. John Njuguna Wanjiku , M.P.(Vice-Chairperson)	
3.	The Hon. Obo, Ruweida Mohamed, MP	
4.	The Hon. Bedziba Rashid Juma, M.P.	
5.	The Hon. Kailemia Elizabeth Karambu, M.P.	
6.	The Hon. Richard Kilel Cheruiyot, M.P.	
7.	The Hon. Alfred Mutai Kiprono, M.P.	
8.	The Hon. Abdi Abdi Ali, M.P.	
9.	The Hon. Gichuki, Edwin Mugo , M.P.	

	HON. MEMBER	SIGNATURE
10.	The Hon. Geoffrey Kariuki Kiring , M.P.	
11.	The Hon. Paul Chebor, M.P.	
12.	The Hon. Peter Shake Mbogo, M.P.	
13.	The Hon. Innocent Mugabe Maino, M.P.	
14.	The Hon. Eng. Abdi Khamis Chome, M.P.	
15.	The Hon. Abubakar Talib Ahmed, M.P.	