

PARLIAMENT OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SECOND SESSION – 2018

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF STATUTE LAW (MISCELLANEOUS
AMENDMENTS) (NO. 2) BILL, 2018

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2018

Table of Contents

1.0 PREFACE	5
1.1 Mandate of the Committee	5
1.2 Committee subjects	5
1.3 Oversight	6
1.4 Committee Membership	6
Committee Secretariat	6
1.5 COMMITTEE OBSERVATION	7
1.6 COMMITTEE RECOMMENDATION	7
2.0 INTRODUCTION	8
2.1 ANALYSIS OF THE BILL	8
3.0 SUBMISSIONS AND PUBLIC PARTICIPATION	9
4.0 CONSIDERATION OF THE BILL	11
5.0 GENERAL OBSERVATIONS	11
6.0 COMMITTEE RECOMMENDATION	11

Annextures

- 1 Advert for submission of Memoranda;
- 2 Minutes of the Committee proceedings on the Bill
3. Memoranda from stakeholders.

List of Abbreviations

COG	-	Council of Governors
CS	-	Cabinet Secretary
NLC	-	National Land Commission

CHAIRPERSON'S FOREWORD

The Statute Law (Miscellaneous Amendments) (No 2) Bill, 2018 seeks to make various amendments to several statutes including the Urban Areas and Cities Act No 13 of 2011. The Bill was read a First Time on 18th April 2018 and thereafter it was subjected to the provisions of Article 118 of the Constitution and Standing Order 127 of the National Assembly Standing Orders on public participation. The Committee received a written memorandum from Transparency International Kenya.

The Committee appreciates the support accorded to the Committee in discussing the Bill by the office of the Clerk and also the participation of the Honourable Members of the Committee. This report represents an analysis of the Bill, submissions made to the Committee by Transparency International Kenya, observations and recommendations of the Committee on the Bill.

Hon. Dr. Rachael Kaki Nyamai, MP
Chairperson, Departmental Committee on Lands

1.0 PREFACE

1.1 Mandate of the Committee

The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No 216 (1) and (5) with the following terms of reference -

- (i) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- (ii) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments,
- (iii) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation,
- (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives,
- (v) 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 or a Minister.
- (vi) study and review all legislation referred to it

1.2 Committee subjects

The Committee is mandated to consider the following subjects -

- a) Land Policy,
- b) Physical Planning,
- c) Land Transactions,
- d) Survey and Mapping
- e) Land Adjudication
- f) Settlement
- g) Land registration
- h) Land Valuation
- i) Administration of Private, community and Public Land
- j) Land Information and Management System

1.3 Oversight

The Committee oversights:

- i. The Ministry of Lands and Physical Planning ;and
- ii. The National Land Commission.

1.4 Committee Membership

Chairperson	The Hon. Dr. Rachael Nyamai, MP
Vice Chairperson	The Hon. Khatib Mwashetani, MP
	The Hon. Jayne Njeri Wanjiru Kihara, MP
	The Hon Joshua Kutuny Serem, MP
	The Hon. Kimani Ngunjiri, MP
	The Hon. Mishi Mboko, MP
	The Hon. Omar Mwinyi, MP
	The Hon. Ali Mbogo, MP
	The Hon. Babu Owino, MP
	The Hon. Caleb Kipkemei Kositany, MP
	The Hon. Catherine Waruguru, MP
	The Hon George Aladwa, MP
	The Hon George Risa Sunkuyia,MP
	The Hon. Jane Wanjuki Njiru,MP
	The Hon. Josphat Gichunge Mwirabua Kabeabea, MP
	The Hon. Owen Yaa Baya, MP
	The Hon. Samuel Kinuthia Gachobe, MP
	The Hon. Simon Nganga Kingara, MP
	The Hon Teddy Mwambire, MP

Committee Secretariat

Clerk Assistant I	Mr. Leonard Machira
Clerk Assistant III	Mr. Ahmad Guliye
Legal Counsel I	Ms. Jemimah Waigwa
Researcher III	Mr. Joseph Tiyan
Fiscal Analyst III	Ms. Lucy Makara
Audio Officer	Mr. John Mungai
Media Relations Officer	Ms. Winnie Kizziah

1.5 COMMITTEE OBSERVATION

Having considered the Bill and the memoranda submitted to the Committee by the public, the Committee observed that the proposed amendments seeks to create harmonization and standards in urban and cities development in the country and also establish a directorate of urban development and management within the Ministry of Lands and Physical Planning.

1.6 COMMITTEE RECOMMENDATION

Having analyzed the Bill vis-à-vis the memoranda submitted by the public, the Committee approved the proposed amendments to the Urban Areas and Cities Act No. 13 of 2013

2.0 INTRODUCTION

The Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2018 seeks to make various amendments to several statutes including the Urban Areas and Cities Act No 13 of 2011 . The Bill was read a First Time on 18th April 2018 and thereafter it was subjected it to the provisions of Article 118 of the Constitution and Standing Order 127 of the National Assembly Standing Orders on public participation. The Committee received a written memorandum from Transparency International Kenya.

2.1 ANALYSIS OF THE BILL

The Bill contain proposed amendments to-

The Urban Areas and Cities Act No 13 of 2011

The Bill proposes to amend section 3 of the Urban Areas and Cities Act No 13 of 2011 to provide that in the implementation of the Act, the county governments shall comply with the National Urban Development Policy. The Bill also proposes to amend the Act to establish a directorate of urban development and management within the Ministry of Lands and Physical Planning.

3.0 SUBMISSIONS AND PUBLIC PARTICIPATION

Pursuant to Article 118 of the Constitution and Standing Order 127 of the National Assembly Standing Orders on public participation, the Committee received various written submission from Transparency International Kenya as follows-

The stakeholders made the following written and oral submissions among others-

Act being amended	Section of the Act being amended	Proposed amendment	Submission from the public/stakeholders
Urban Areas and Cities Act, 2011	<p>Objects and purposes of the Act</p> <p>3 The objects and purposes of this Act are to establish a legislative framework for—</p> <p>(a) classification of areas as urban areas or cities</p> <p>(b) governance and management of urban areas and cities,</p> <p>(c) participation by the residents in the governance of urban areas and cities, and</p> <p>(d) other matters for the attainment of the objects</p>	<p>The amendment seeks to provide that the county governments shall comply with the National Development Policy in the implementation of the Act.</p> <p>The Bill also seeks to establish the Directorate of Urban Development and Management within the Ministry whose functions shall be among others-</p> <p>(a) formulating, implementing and reviewing the National Urban Development Policy,</p> <p>(b) co-ordinating urban</p>	<p>TI: Amendment will subjugate the county functions and hence the clause should be deleted</p> <p>3A(a) should be amended to provide for consultation with county government and the public participation.</p> <p>3A(n) is unconstitutional as it will enable the directorate to undertake service delivery functions which will conflict with the mandate of the structures in the urban areas and cities</p>

development at
national level;

(c) convening
forums for
national
urbanization
dialogue,

(d) organizing
liaison for
urbanization
non-state
actors and the
urban sector
working
group; and

(e) developing and
regularly
reviewing
criteria for the
classification,
governance
and
management
of urban areas
and cities
among others

4.0 CONSIDERATION OF THE BILL

The Committee deliberated on the Bill as follows

Urban Areas and Cities Act, 2011

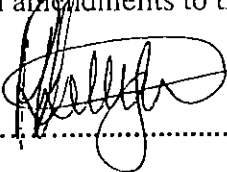
Proposed amendment to section 3 Agreed to

5.0 GENERAL OBSERVATIONS

The Committee observed that the proposed amendments do not conflict with the Constitution but seeks to create harmonization and standards in urban and cities development in the country. Further, the Committee observed that the amendments also seeks to establish a directorate of urban development and management within the Ministry of Lands and Physical Planning

6.0 COMMITTEE RECOMMENDATION

Having analyzed the Bill vis-à-vis the memoranda submitted by the public, the Committee approved the proposed amendments to the Urban Areas and Cities Act, 2011.

Signed..........Date.....14/06/2018

The Hon. Dr. Rachel Nyamai, MP.
Chairperson Departmental Committee on Lands