

*Paper laid by Hon
Musyimi on 25/08/11 - G*

25/08/11

REPUBLIC OF KENYA



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TENTH PARLIAMENT –FOURTH SESSION (2011)

A REPORT OF THE DEPARTMENTAL COMMITTEE ON LANDS
AND NATURAL RESOURCES ON THE ENVIRONMENT AND
LAND COURT BILL, 2011

Clerk's Chambers
Parliament Buildings
NAIROBI

AUGUST, 2011

Mr. Speaker Sir,

The Departmental Committee on Lands and Natural Resources was established pursuant to provisions of Standing Order. 198 (1) and (2). The Committee is mandated, amongst other things to: -

- *Investigate, inquire into, and report on all matters related to the mandate , management, activities , administration, operations and estimates of the assigned Ministries and departments;*
- *To study the programme and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- *To study and review all legislations referred to it;*
- *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- *To 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; and*
- *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

The Committee oversees the operations of the following Ministries and their departments, namely: -

- i. Ministry of Lands;
- ii. Ministry of Environment and Mineral Resources;
- iii. Ministry of Water and Irrigation; and
- iv. Ministry of Forestry and Wildlife.

COMMITTEE MEMBERSHIP

The Committee was constituted on Thursday June 17, 2009 and it comprises of the following Members: -

1. Hon. Mutava Musyimi, MP - Chairperson
2. Hon. Peris C. Simam, MP - Vice Chair person
3. Hon. Bennedict Fondo Gunda, MP
4. Hon. Peter Gitau, M.P
5. Hon. Kiema Kilonzo, M. P
6. Hon. Justus M. Kizito, M. P.
7. Hon. Benjamin J. Washiali, M.P
8. Hon. Silas M. Ruteere, MP
9. Hon. (Dr.) Erastus Mureithi, MBS, HSC, M.P.
10. Hon. Omar M. Zonga, MP
11. Hon. Mohammed Affey, MP

Acknowledgements

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

Mr. Speaker, Sir,

It is my pleasant duty and privilege, on behalf of Departmental Committee on Lands and Natural Resources, to present and commend this report on the proposed amendments to the Environment and Land Court Bill, 2011, to the House pursuant to Standing Order number 111 (2).



SIGNED:.....

HON. MUTAVA MUSYIMI, M. P.
CHAIRPERSON

DATE:.....

August 24th 2011

BACKGROUND

Mr. Speaker Sir,

The Environment and Land Court Bill, 2011 was read a First Time on 23rd August 2011 and subsequently committed to the Departmental Committee on Lands and Natural Resources. The committee held its first sitting on this matter on 24th of August 2011 at Ten O'clock to deliberate on the bill and also received memorandum and oral submissions from the Law Society of Kenya, Kenya Land Alliance, Kenya Private Sector Alliance, Fida, the Kenya Chamber of Commerce and Industry, and Kenya Miners' Cooperative Society, and made some amendments. The Committee held its second sitting on the matter on 24th August, 2011 at Five O'clock and deliberated on the amendments and, adopted amendments.

This Report contains the deliberations of the Committee on the proposed amendments to the Bill.

PROPOSED AMENDMENTS TO THE ENVIRONMENT AND LAND COURT BILL, 2011

THE ENVIRONMENT AND LAND COURT BILL, 2011 – NOTICE OF PROPOSED COMMITTEE STAGE AMENDMENTS

The Committee agreed upon the following amendments

Citation - Amendments proposed

THAT Citation be amended by inserting a 'comma' (,) after the word 'jurisdiction' and before the word 'functions' and a 'full stop' (.) after the word 'purposes'

Clause 2 - Amendments proposed

THAT clause 2 be amended by deleting the word 'person' appearing in line ten of page 1203 and inserting then words 'Judge of this Court' in place thereof

Clause 3

Agreed to

Clause 4 - Amendments proposed

THAT sub clause (3) be amended by replacing small 'c' with capital 'C' to the word 'county'

Clause 5

Agreed to

Clause 6 - Amendments proposed

THAT sub clause (3) be amended by deleting the words 'be answerable' and replacing with the words 'shall report'

Clause 7 - Amendments proposed

THAT clause 7 be amended by inserting a new sub clause 7 (1) to read 'The Chief Justice on the recommendation of the Judicial Service Commission may transfer a judge who meets the qualification under this Act to serve in the Environment and Land Court'.

Clause 8

Agreed to

Clause 9

Agreed to

Clause 10

Agreed to

Clause 11

Agreed to

Clause 12 - Amendments proposed

THAT sub clause 12 (1) be amended by inserting the words 'of this Court' after the word 'Judge' and before the word 'in'

Clause 13 - Amendments proposed

THAT sub clause (2) (b) be amended by inserting the words 'administration and management' after the word 'land' and before the semi colon (;) sub clause (3) amended by inserting the words 'relating to environment and land' after the word 'freedom' and before the word 'under'

Clause 14

Agreed to

Clause 15

Agreed to

Clause 16

Agreed to

Clause 17

Agreed to

Clause 18 - Amendments proposed

THAT sub clause 18 (a) (i) be amended by inserting the words '*and land*' after the word '*environment*' and before the semi colon (;)

Clause 19

Agreed to

Clause 20 - Amendments proposed

THAT sub clause 20 (1) be amended by inserting the words '*with the agreement*' after the word '*motion*' and before the word '*or*'

Clause 21 - Amendments proposed

THAT sub clause 21 (2) (b) be amended by inserting the words '*and land*' after the word '*impact*' and before the comma (,)

Clause 22

Agreed to

Clause 23

Agreed to

Clause 24 - Amendments proposed

THAT clause 24 be amended by inserting a new sub clause (3) to read '*The chief Justice shall in consultation with the Court make rules for determination of admissibility by the Environment and Land Court of proceedings pending before any court or local tribunal*' and replacing '(3)' with (4)

Clause 25

Agreed to

Clause 26

Agreed to

Clause 27

Agreed to

Clause 28

Agreed to

Clause 29

Agreed to

Clause 30

Agreed to

Clause 31

Agreed to

Title

Agreed to

Memorandum of Objects and reason: - Amendments proposed

THAT the first paragraph be amended by deleting the words '*to land and environment*' and inserting the words '*relating to environment and land*'

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MINUTES OF THE ONE HUNDRED AND TWENTIETH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON WEDNESDAY, AUGUST 24TH, 2011 IN THE MEMBERS LAUNCH, MAIN PARLIAMENT BUILDINGS AT 10.00AM.

PRESENT:

1. Hon. Mutava Musyimi, MP - Chairperson
2. Hon. Peris C. Simam, MP - Vice chair person
3. Hon. Bennedict Fondo Gunda, MP
4. Hon. Peter Gitau, M.P
5. Hon. Kiema Kilonzo, M. P
6. Hon. Justus M. Kizito, M. P.

ABSENT WITH APOLOGY:

1. Hon. Benjamin J. Washiali, M.P
2. Hon. Silas M. Ruteere, MP
3. Hon. (Dr.) Erastus Mureithi, MBS, HSC, M.P.

ABSENT

1. Hon. Omar M. Zonga, MP
2. Hon. Mohammed Affey, MP

IN ATTENDANCE

1. Kenneth Akide - Chairman LSK
2. Apollo Mboya - CEO – LSK
3. Mbage Ng'ang'a - LSK/ KLRC
4. David Mereka - LSK
5. Chris Kiprop Foot - Chair KELLA
6. Dan Ndung'u - KEPSA
7. John Ojanji - Chamber of Commerce
8. Dr. Benson Momanyi - Chamber of Commerce
9. Odenda Lumumba - KLA – LSNSA
10. Shiro Mogeni - FIDA – Kenya
11. Ibrahim Mwathane - LDGI/KEPSA
12. Mwenda Makathiro - LDGI/KEPSA
13. Joyce Misoi - Chair – Kenya Miners Coop Society
14. Martin Nyakinye - Provincial Geologist - Nyanza

NATIONAL ASSEMBLY

1. Oscar Wesonga - Clerk Assistant III

- 2. James Ginono - Clerk Assistant III
- 3. Joyce Lemerelle - Office Assistant

MIN. NO. 212/2011: PRELIMINARIES

The chairman called the meeting to order at Thirty minutes past Ten O'clock with a word of prayer.

The chairman then introduced Members and the stakeholders present at the meeting. He further acknowledged and appreciated the commitment by Members and stakeholders in their quick response to short notice to deliberate on the bill before the Committee.

MIN. NO.213/2011: DELIBERATIONS ON ENVIRONMENT AND LAND COURT BILL, 2011

The Committee deliberated on the Bill and made the amendments as follows:-

Citation: Amended by inserting a '*comma*' (,) after the word '*jurisdiction*' and before the word '*functions*' and a '*full stop*' (.) after the word '*purposes*'

Clause 2: definitions of 'Judge' amended to read: -

"judge" means a judge of this Court appointed in accordance with the provisions of Article 166 (1) (b) of the Constitution;

Clause 3: *Agreed to*

Clause 4: Sub clause (3) amended the word '*county*' by replacing small '*c*' with capital '*C*'

Clause 5: *Agreed to*

Clause 6: Sub clause (3) amended by deleting the words '*be answerable*' and replacing with the words '*shall report*'

Clause 7: Amended by inserting a new sub clause 7 (1) to read '*The Chief Justice on the recommendation of the Judicial Service Commission may transfer a judge who meets the qualification under this Act to serve in the Environment and Land Court*'.

Clause 8: *Agreed to*

Clause 9: *Agreed to*

Clause 10: *Agreed to*

Clause 11: *Agreed to*

Clause 12: Amended sub clause 12 (1) by inserting the words '*of this Court*' after the word '*Judge*' and before the word '*in*'

Clause 13: Amended sub clause (2) (b) by inserting the words '*administration and management*' after the word '*land*' and before the semi colon (;) sub clause (3) amended by inserting the words '*relating to environment and land*' after the word '*freedom*' and before the word '*under*'

Clause 14: *Agreed to*

Clause 15: *Agreed to*

Clause 16: *Agreed to*

Clause 17: *Agreed to*

Clause 18: Amended sub clause 18 (a) (i) by inserting the words '*and land*' after the word '*environment*' and before the semi colon (;)

Clause 19: *Agreed to*

Clause 20: Amended by inserting the words '*with the agreement*' after the word '*motion*' and before the word '*or*'

Clause 21: Amended by inserting the words '*and land*' after the word '*impact*' and before the comma (,)

Clause 22: *Agreed to*

Clause 23: *Agreed to*

Clause 24: Amended by inserting new sub clause (3) to read '*The chief Justice shall in consultation with the Court make rules for determination of admissibility by the Environment and Land Court of proceedings pending before any court or local tribunal*' and replacing '(3)' with (4)

Clause 25: *Agreed to*

Clause 26: *Agreed to*

Clause 27: *Agreed to*

Clause 28: *Agreed to*

Clause 29: *Agreed to*

Clause 30: *Agreed to*


Clause 31: *Agreed to*

Memorandum of Objects and reasons: The first paragraph amended by deleting the words '*to land and environment*' and inserting the words '*relating to environment and land*'

MIN. NO.214/2011:

ADJOURNMENT

The Chairman adjourned the meeting at twenty Five minutes past One O'clock

SIGN:


(CHAIRPERSON)

DATE:
August 24th 2011

MINUTES OF THE ONE HUNDRED AND TWENTY FIRST SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS AND NATURAL RESOURCES HELD ON WEDNESDAY, AUGUST 24TH, 2011 IN THE MEMBERS LAUNCH, MAIN PARLIAMENT BUILDINGS AT 5.00 PM.

PRESENT:

1. Hon. Mutava Musyimi, MP - Chairperson
2. Hon. Peris C. Simam, MP - Vice chair person
3. Hon. Bennedict Fondo Gunda, MP
4. Hon. Justus M. Kizito, M. P.

ABSENT WITH APOLOGY:

1. Hon. Benjamin J. Washiali, M.P
2. Hon. Silas M. Ruteere, MP
3. Hon. (Dr.) Erastus Mureithi, MBS, HSC, M.P.
4. Hon. Peter Gitau, M.P
5. Hon. Kiema Kilonzo, M. P

ABSENT

1. Hon. Omar M. Zonga, MP
2. Hon. Mohammed Affey, MP

IN ATTENDANCE

1. James Ginono - Clerk Assistant III

MIN. NO. 215/2011: PRELIMINARIES

The chairman called the meeting to order at Five O'clock with a word of prayer.

MIN. NO.216/2011: CONFIRMATION OF MINUTES

Minutes of the One Hundred and Twentieth Sitting held on 24th Agust, 2011 were confirmed with a proposal by Hon. Bennedict Fondo Gunda, MP and seconded by Hon. Justus Kizito, MP.

MIN. NO.217/2011: ADOPTION OF THE REPORT ON THE ENVIRONMENT AND LAND COURT BILL, 2011

The Committee deliberated on the report and adopted it with the following proposed amendments:-

Citation

THAT Citation be amended by inserting a 'comma' (,) after the word 'jurisdiction' and before the word 'functions' and a 'full stop' (.) after the word 'purposes'

Clause 2

THAT the definitions of 'Judge' be amended to read: -
"judge" means a judge of this Court appointed in accordance with the provisions of Article 166 (1) (b) of the Constitution;

Clause 3

Agreed to

Clause 4

THAT sub clause (3) be amended by replacing small 'c' with capital 'C' to the word 'county'

Clause 5

Agreed to

Clause 6

THAT sub clause (3) be amended by deleting the words 'be answerable' and replacing with the words 'shall report'

Clause 7

THAT clause 7 be amended by inserting a new sub clause 7 (1) to read 'The Chief Justice on the recommendation of the Judicial Service Commission may transfer a judge who meets the qualification under this Act to serve in the Environment and Land Court'.

Clause 8

Agreed to

Clause 9

Agreed to

Clause 10

Agreed to

Clause 11

Agreed to

Clause 12

THAT sub clause 12 (1) be amended by inserting the words '*of this Court*' after the word '*Judge*' and before the word '*in*'

Clause 13

THAT sub clause (2) (b) be amended by inserting the words '*administration and management*' after the word '*land*' and before the semi colon (;) sub clause (3) amended by inserting the words '*relating to environment and land*' after the word '*freedom*' and before the word '*under*'

Clause 14

Agreed to

Clause 15

Agreed to

Clause 16

Agreed to

Clause 17

Agreed to

Clause 18

THAT sub clause 18 (a) (i) be amended by inserting the words '*and land*' after the word '*environment*' and before the semi colon (;)

Clause 19

Agreed to

Clause 20

THAT sub clause 20 (1) be amended by inserting the words '*with the agreement*' after the word '*motion*' and before the word '*or*'

Clause 21

THAT sub clause 21 (2) (b) be amended by inserting the words '*and land*' after the word '*impact*' and before the comma (,)

Clause 22

Agreed to

Clause 23

Agreed to

Clause 24

THAT clause 24 be amended by inserting a new sub clause (3) to read '*The chief Justice shall in consultation with the Court make rules for determination of admissibility by the Environment and Land Court of proceedings pending before any court or local tribunal*' and replacing '(3)' with (4)

Clause 25

Agreed to

Clause 26

Agreed to

Clause 27

Agreed to

Clause 28

Agreed to

Clause 29

Agreed to

Clause 30

Agreed to

Clause 31

Agreed to

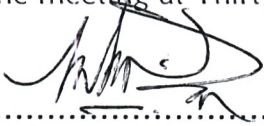
Memorandum of Objects and reasons

THAT the first paragraph be amended by deleting the words 'to land and environment' and inserting the words 'relating to environment and land'

MIN. NO.218/2011:

ADJOURNMENT

The Chairman adjourned the meeting at Thirty Five minutes past Five O'clock

SIGN:


(CHAIRPERSON)

DATE:
August 24th 2011