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# **KENYA GAZETTE SUPPLEMENT**

**ACTS, 2022**

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**NAIROBI, 12th July, 2022**

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**THE IRRIGATION (AMENDMENT) ACT, 2022****No. 33 of 2022***Date of Assent: 6th July, 2022**Date of Commencement: 26th July, 2022***AN ACT of Parliament to amend the Irrigation Act****ENACTED** by the Parliament of Kenya as follows—

1. This Act may be cited as the Irrigation (Amendment) Act, 2022.

Short title.

2. Section 2 of the Irrigation Act, 2019, in this Act referred to as “the principal Act”, is amended—

Amendment of Section 2 of No 14 of 2019.

(a) by deleting the definition of “Department” and substituting therefor the following new definition—

“Department” means the State Department responsible for matters relating to irrigation;

(b) by deleting the definition of “irrigation” and substituting therefor the following new definition—

“irrigation” means any hydraulic engineering driven process, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest tress;

No. 2 of 2012.

(c) by inserting the following new definitions in proper alphabetical sequence—

“agency contract” means a legal agreement creating a fiduciary relationship whereby the principal agrees that subsequent actions by the agent are binding as if the principal acted thereupon;

“Council of Governors” means the Council of County Governors established under the Intergovernmental Relations Act, 2012;

“irrigators” means the persons or entities which own, operate or manage an irrigation scheme;

“national irrigation scheme” means an area of land designated as such by the Cabinet Secretary through a gazette notice;

“transboundary, trans-county or inter county irrigation scheme” means a scheme whose area of coverage lies across at least two administrative county boundaries; and

“strategic irrigation scheme” means a national or a county scheme which serves a specific production purpose.

3. Section 3 of the principal Act is amended in subsection (2) by inserting the words “management and regulation” immediately after the word “development”.

Amendment of section 3 of No 14 of 2019.

4. Section 6 of the principal Act is amended in subsection (2) —

Amendment of section 6 of No. 14 of 2019.

(a) by deleting the words “and management” appearing in the opening statement and substituting therefor the words “management and regulation”;

(b) by deleting the word “projects” appearing in paragraph (g) and substituting therefor the word “schemes”;

(c) by deleting the words “and management” appearing in paragraph (h) and substituting therefor the words “management and regulation”; and

(d) by deleting the words “and management” appearing in paragraph (i) and substituting therefor the words “management and regulation”.

5. Section 8 of the principal Act is amended in subsection (2) by deleting paragraph (j) and substituting therefor the following new paragraph—

Amendment of section 8 of No. 14 of 2019.

“(j) provide, manage, and administer land in national or public irrigation schemes as well as inter-county schemes for public use;

6. Section 9 of the principal Act is amended—

Amendment of section 9 of No. 14 of 2019.

(a) in subsection (1) —

(i) by deleting paragraph (f) and substituting therefor the following new paragraph—

(f) two persons of opposite gender and from different regions, with knowledge and experience in matters relating to water, agriculture, irrigation or environmental studies, appointed by the Cabinet



Secretary from a list of four nominees submitted by the Council of County Governors;

(ii) by deleting paragraph (g) and substituting therefor the following new paragraph—

(g) one person with knowledge and experience in matters relating to civil engineering, economics, finance or rural development, appointed by the Cabinet Secretary from a list of three nominees submitted by a registered private sector membership organisation with a national outlook;

(iii) by deleting paragraph (h) and substituting therefor the following new paragraph—

(h) one person appointed by the Cabinet Secretary out of three persons nominated by the National Irrigation Farmers Associations;

(b) in subsection (4) by deleting the words “or its equivalent in any field” appearing in paragraph (c) and substituting therefor the words “in water engineering, civil engineering, agriculture, irrigation or environmental studies.”

(c) by deleting subsection (5) and substituting therefor the following new subsection—

“(5) The Board shall adhere to principles of corporate governance and may from time to time establish committees for the better carrying out of its functions.”

7. Section 11 of the principal Act is amended in paragraph (g) by inserting the word “other” immediately before the word “activity”.

Amendment of section 11 of No. 14 of 2019.

8. Section 13 of the principal Act is amended by deleting the expression “section 34” and substituting therefor the expression “section 35”.

Amendment of section 13 of No. 14 of 2019.

9. Section 15 of the principal Act is amended in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph—

Amendment of section 15 of No. 14 of 2019.

“(a) in consultation with the Water Resources Authority, put in place appropriate water use fees structures and make arrangements with the Water Resources Authority in respect of requisition of irrigation water in bulk;”

10. Section 16 of the principal Act is amended—

(a) in subsection (2) by deleting the words “the Department” and substituting therefor the words “the Authority”;

(b) in subsection (3) by deleting the words “the Department” and substituting therefor the words “the Authority”

Amendment of  
section 16 of No.  
14 of 2019.

11. The principal Act is amended by repealing section 17 and replacing it with the following new section—

Repeal and  
replacement of  
section 17 of No.  
14 of 2019.

Administrative and  
legal framework  
water storage.

17. (1) The Cabinet Secretary shall in consultation with the Water Resource Authority Secretary, the National Water Storage and Harvesting Authority, the National Land Commission, the Council of Governors and other stakeholders prescribe administrative and regulatory frameworks within existing laws and regulations on water storage existing and future irrigating requirements.

(2) Without prejudice to subsection (1), the Cabinet Secretary shall ensure that irrigation developments are planned and implemented—

(a) in accordance with Integrated Water Resources Management Principles;

(b) in accordance with agreements between irrigation water users and other stakeholders; and

(c) in such a manner as to reduce conflicts on water resources, protect the environment and public health and share water appropriately and equitably for multiple uses.



12. Section 20 of the principal Act is amended in subsection (3) by inserting the words “subject to mandatory approvals in accordance with regulations” immediately after the word “a scheme”.

Amendment of section 20 of No. 14 of 2019.

13. Section 22 of the principal Act is amended in subsection (2) by inserting the following new paragraphs immediately after paragraph (d)—

Amendment of section 22 of No. 14 of 2019.

- (e) estimated expenditure for development of infrastructure for the development of irrigation;
- (f) estimated expenditure for the provision of irrigation services and advisory support.

14. Section 27 of the principal Act is amended in subsection (1) by deleting paragraph (a) and substituting therefor the following new paragraph—

Amendment of section 27 of No. 14 of 2019.

- (a) develop and implement a monitoring and evaluation system for the development, governance, management, regulation, provision and financing of irrigation at all levels, including assessment of inputs, outputs immediate outcomes and ultimate impacts based on the results;

15. Section 34 of the principal Act is amended—

Amendment of section 34 of No. 14 of 2019.

- (a) in subsection (3) by inserting the following new paragraphs immediately after paragraph (i)—
  - (j) development of irrigation including infrastructure, frameworks, complementary installations, water harvesting, storage, distribution and licensing; and
  - (k) multi-government agencies consultation, collaboration, cooperation and accountability in the implementation of this Act.
- (b) in subsection (4) by deleting the words “within ninety days of the enactment of this Act” appearing immediately after the words “the Gazette” and substituting therefor the words “within eighteen months of the enactment of this Act or as otherwise determined upon consultation with stakeholders”;

16. The Schedule to the principal Act is amended—

Amendment of the Schedule of No. 14 of 2019.

- (a) in paragraph 2 by inserting the following new subparagraph immediately after subparagraph (b)—

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- “(c) be removed from office by the Cabinet Secretary if the member —
- (i) contravenes the provisions of Chapter six of the Constitution; or
  - (ii) acts in contravention of codes, policies and procedures in the public service.
- (b) in paragraph 3, by deleting the word “seven” and substituting therefore the word “five” appearing in subparagraph (4).