

REPUBLIC OF KENYA



THE SENATE

TWELFTH PARLIAMENT

FOURTH SESSION, 2020

SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND
NATURAL RESOURCES

.....
COMMITTEE REPORT ON THE WILDLIFE CONSERVATION AND
MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)
.....

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

JUNE, 2020

TABLE OF CONTENTS

TABLE OF CONTENTS	1
PREFACE	2
Establishment of the Committee	2
Membership of the Committee	2
Acknowledgement	3
CHAPTER ONE	4
INTRODUCTION	4
1.0 Background	4
1.1 The Object of the Bill	4
1.2 Overview of the Bill	5
CHAPTER TWO	8
PUBLIC PARTICIPATION	8
2.0 Attendance by Stakeholders	8
2.1 Submissions from Stakeholders	9
CHAPTER THREE	20
COMMITTEE OBSERVATIONS AND RECOMMENDATIONS	20
3.0 Observations and Determinations	20
3.1 Recommendations	24
APPENDICES	25

PREFACE

Establishment of the Committee

The Standing Committee on Land, Environment and Natural Resources is established under standing order 218(3) of the Senate Standing Orders. The mandate and the functions of the committee are set out under the Second Schedule of the Senate Standing Orders which mandates the Committee to consider all matters relating to lands and settlement, housing, environment, forestry, wildlife, mining, water resource management and development.

Membership of the Committee

The Committee is comprised of the following members:-

- | | |
|---------------------------------------|--------------------|
| 1. Sen. Mwangi Paul Githiomi, M.P. | - Chairperson |
| 2. Sen. Prengei Victor, M.P. | - Vice Chairperson |
| 3. Sen. George Khaniri, MGH, M.P. | - Member |
| 4. Sen. (Eng.) Godana Hargura, M.P. | - Member |
| 5. Sen. Ndwiga Peter Njeru, EGH, M.P. | - Member |
| 6. Sen. Halake Abshiro, M.P. | - Member |
| 7. Sen. Boy Issa Juma, M.P. | - Member |
| 8. Sen. (Arch.) Sylvia Kasanga, M.P. | - Member |
| 9. Sen. Mwaruma Johnes, M.P. | - Member |

Mr. Speaker,

The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019) seeks make provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act. The Bill makes further provision for the payment of compensation and other entitlements due to local communities on claims resulting from loss or damage caused by wildlife.

The Committee considered the Bill at length, conducted public participation and deliberated on the submissions received from various stakeholders. Based on the

deliberations and public participation, the Committee will present some amendments with a view of strengthening the provisions of the Bill for consideration by this House.

Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Senate as well as the Secretariat comprised of Mr. Victor Bett, Ms. Carolyn Cheruiyot and Mr. Tiyan Joseph for the support extended to it in the conduct of the public hearings and in fulfilling its mandate.

Further, the Committee wishes to thank members of the public and stakeholders who made both written and oral submissions such as the the Ministry of Tourism and Wildlife which was ably represented by the Cabinet Secretary, Kenya Wildlife Conservancies Association (KWCA), Conservation Alliance of Kenya, Taita Taveta Human Rights Watch, Taita Taveta Sauti Ya Wanawake, Wild Life Direct, Wildlife Initiative, Natural Justice among other Non-governmental organizations.

Mr. Speaker,

It is now my pleasant duty, pursuant to standing order 143 of the Senate Standing Orders, to present the Report of the Standing Committee on Land, Environment and Natural Resources on the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019).

Signed  Date 10/6/2020

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

CHAPTER ONE

INTRODUCTION

1.0 Background

The Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019) is sponsored by Sen. Mwaruma Johnes, M.P. Senator, Taita Taveta County. The Wildlife Conservation and Management Act, No. 47 of 2013 was enacted in 2013 to provide for the protection, conservation, sustainable use and management of wildlife in Kenya. The Act further establishes the Kenya Wildlife Service (KWS) vide section 6.

The Bill was published on 5th December, 2019, and read a First Time in the Senate on 18th February, 2020. Following the First Reading in the Senate, it stood committed, pursuant to standing order 140(1) of the Senate Standing Orders, to the Standing Committee on Land, Environment and Natural Resources for facilitation of public participation. Subsequently, the Committee, pursuant to Article 118(1)(b) of the Constitution and standing order 140 (5) of the Senate Standing Orders, invited submissions from members of the public on the Bill via an advertisement on the People and the Star Newspapers on 26th February, 2020.

1.1 The Object of the Bill

The principal object of the Bill is to amend the Wildlife Conservation and Management Act, No. 47 of 2013 in order to make provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act. The Bill makes further provision for the payment of compensation and other entitlements due to local communities on claims resulting from loss or damage caused by wildlife.

1.2 Overview of the Bill

Section 16 of the Wildlife Conservation and Management Act, 2013 provides for the annual estimates of KWS. Section 16(2) of the Act provides that the estimates of KWS shall make provision for —

- (a) payment of salaries, allowances, pensions, gratuities and other charges in respect of the staff of the Service, regional wildlife conservation area committees and community wildlife scouts;
- (b) payment of salaries, allowances, pensions, gratuities and other charges in respect of the county wildlife conservation and compensation committees, as the case may be;
- (c) payment of allowances in respect of the County Wildlife Conservation and Compensation Committees;
- (d) the proper maintenance of the buildings and grounds of the Service
- (e) the maintenance, repair and replacement of the equipment and other property of the Service; and
- (f) the creation of such reserve funds as the Service may deem appropriate to meet the recurrent expenditure and contingent liabilities of the Service.

Clause 2 of the Bill seeks to amend the Act to include payment of compensation to be part of the annual estimates of KWS. Compensation for personal injury or death or damage to property is provided for under section 25 of the Act with section 76 providing for guidelines on incentives and benefit-sharing.

Section 21 of the Act is amended to make provision for funds for County Wildlife Conservation and Compensation Committees. Section 18 of the Act establishes in each County, the Wildlife Conservation Committee chaired by the respective County Commissioner. The respective Committees are responsible for —

- (a) reviewing and recommending payment of compensation on claims resulting from loss or damage caused by wildlife;
- (b) developing and implementing, in collaboration with the Service and Community Wildlife Associations, mechanisms for mitigation of human wildlife conflict; and
- (c) bringing together relevant stakeholders to harness participation in conservation and management programmes of wildlife

The Bill now seeks to amend the above provisions to mandate the Cabinet Secretary and KWS to provide adequate funds for the management of the affairs of each of the County Wildlife Conservation and Compensation Committee and for payment of compensation.

Further, the amendment provides that the Cabinet Secretary and KWS shall, where no appeal has been lodged, ensure that compensation is undertaken within six months of a determination of the respective County Wildlife Conservation and Compensation Committee.

Section 23 of the Act establishes the Wildlife Conservation Trust Fund vested in a governing body serving as a public private partnership with the Chairperson being appointed the President. The Act mandates that the Fund should be utilized to, among others, manage and restore protected areas such as national parks and conservancies, protect endangered species, habitats and ecosystems, support wildlife security operations alongside facilitating community-based wildlife initiatives.

Clause 4 of the Bill amends the Act to provide that the fund should also be used to provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management.

Clause 6 amends section 25 of the Act which deals with compensation for personal injury or death or damage to property to give a timeline of six months to settle compensation claims.

Section 25(4)(b) of the Act provides that any person who suffers loss or damage to crops, livestock or other property from wildlife specified in the Seventh Schedule may submit a claim to the County Wildlife Conservation and Compensation Committee who shall verify the claim and make recommendations as appropriate and submit it to the Service for due consideration. The Bill seeks to substitute the due consideration and provide that the recommendations to the Service should be for the purpose of processing the payment for compensation.

Section 76 of the Wildlife Conservation and Management Act, 2013 provides for formulation of guidelines on incentives and benefit-sharing by the Cabinet Secretary upon advice by the Service and in consultation with the Commission on Revenue Allocation. Section 76(4) provides that the guidelines shall comply with the minimum conditions that a minimum of five per cent of the benefits from national parks shall be allocated to local communities neighboring a park. The amendment seeks to enhance the benefits to local communities neighboring or negatively affected by 4 activities undertaken for the preservation of the protected areas should be a minimum of ten per cent from protected areas.

The amendment further provides that determination of the minimum percentage of the benefits to be allocated to local communities under subsection (4) shall be based on the gross total revenue and fees collected with respect to the protected area.

Clause 8 amends the Third Schedule of the Act to include poisonous snakes as wildlife species in respect of which compensation may be paid in cases resulting in death and injury. Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 amended the Wildlife Conservation and Management Act, 2013 to delete poisonous snake, shark, stone fish, whale, sting ray and wild pig as wildlife species in respect of which compensation may be paid. The Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 was assented to on 31st December, 2018 and commenced on 18th January, 2019.

CHAPTER TWO

PUBLIC PARTICIPATION

2.0 Attendance by Stakeholders

The Committee, pursuant to Article 118 of the Constitution and standing order 140 (5) of the Senate Standing Orders, invited submissions from members of the public on the Bill via an advertisement on the People and the Star Daily Newspapers on 17th February, 2020. On 26th February, 2020, the Committee met in, VIP Boardroom, 1st Floor, Kenya International Conference Centre (KICC), Nairobi and received views on the Bill from stakeholders and members of the public. The Committee received oral and written submissions from the —

1. Ministry of Tourism and Wildlife,
2. Kenya Wildlife Conservancies Association (KWCA),
3. Conservation Alliance of Kenya,
4. Taita Taveta Human Rights Watch,
5. Taita Taveta Sauti Ya Wanawake,
6. Wild Life Direct,
7. Wildlife Initiative

2.1 Submissions from Stakeholders

A. MINISTRY OF TOURISM AND WILDLIFE,

The Ministry of Tourism and Wildlife submitted that they had reviewed the Wildlife Conservation and Management (Amendment) Bill, 2019 and prepared a summary of responses on the specific items.

The Cabinet Secretary informed the Committee that their experience from implementing the Wildlife Conservation and Management Act, 2013 (WCMA, 2013) over the last six years has received shortcomings such as high and unsustainable costs of implementation, inconsistencies in definitions, poor and confusing cross-referencing, typographical errors and more importantly, lack of clarity in the roles and responsibilities of the implementing institutions.

Piecemeal attempts to revise WCMA, 2013 had failed to cure its shortcomings. It has therefore emerged that nothing short of a comprehensive revision of the Act would suffice. In this regard, the Ministry informed the Committee that they have commenced the process of review and formulation of a new law to replace WCMA 2013 through a consultative and participatory process.

The Cabinet Secretary further informed the Committee that they have done a number of compensations to human Wildlife conflict and handed over a report on the same to the Chairperson of the Committee.

Below are the specific submissions on the Bill as submitted by the Cabinet Secretary

PROPOSED AMENDMENTS	REMARKS/PROPOSALS BY THE MINISTRY OF TOURISM AND WILDLIFE
<p>1. This Act may be cited as the Wildlife Conservation and Management (Amendment) Act, 2019.</p>	
<p>2. Section 16 of the Wildlife Conservation and Management Act, in this Act referred to as “the principal Act”, is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (c)</p> <p style="text-align: center;">—</p> <p>(ca) payment of compensation required to be made under sections 25 and 76</p>	<p>-Section 16C provides for payments of allowances in respect of County Wildlife Conservation and compensation Committee (CWCCC) Members. The proposed amendments is provided for under Section 21 of the Principle Act. The cross-referencing with Section 25 and Section 76 is incorrect.</p>
<p>3. The principal Act is amended by inserting the following new section immediately after section 21 —</p> <p>21A (1) The Cabinet Secretary and the Service shall, as the case may be and in each financial year, provide adequate funds for the —</p> <p>(a) management of the affairs of each County Wildlife Conservation and Compensation Committee; and</p> <p>(b) payment of compensation required to be made under sections 25 and 76.</p> <p>(c) The Cabinet Secretary and the Service shall, as the case may be and where no appeal has been lodged in accordance with this Act, ensure that compensation under section 25 is undertaken within six months of a determination of the respective County Wildlife Conservation and Compensation Committee.</p>	<p>-Section 21 of the Principle Act provides for remuneration of CWCCC members in form of allowances while Section 25 provides for compensation in respect of damages arising from wildlife. Section for personal injury, death or damage to property. Section 76 applies to guidelines on incentives and benefit sharing. There is thus a problem in cross-referencing.</p> <p>-Funds for compensation are allocated through the annual budget estimates. The speed of effecting of the payments depends on the receipt of exchequer from The National Treasury.</p> <p><i>Parliament introduced a</i></p>

PROPOSED AMENDMENTS	REMARKS/PROPOSALS BY THE MINISTRY OF TOURISM AND WILDLIFE
	<i>budget line for Wildlife Conservation Committees which will be supporting the committees. (2019/2020FY)</i>
<p>4. Section 23 of the principal Act is amended in subsection (4) by inserting the following new paragraph immediately after paragraph (f) —</p> <p>(fa) provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management;</p>	<p>Compensation for damage from Wildlife is provided for under Section 25 of the Principal Act</p>
<p>5. Section 24 of the principal Act is amended —</p> <p>(a) in subsection (1) by —</p> <p>(i) deleting the word “Government” appearing in the introductory clause in subsection (1) and substituting therefor the words “Cabinet Secretary”;</p> <p>(ii)</p> <p>a. deleting paragraph (a) and substituting therefor the following new paragraph —</p> <p>b. monies annually allocated for this purpose by the National Assembly;</p> <p>(iii) by deleting subsection (2) and substituting therefor the following new subsection —</p> <p>(iv) the Wildlife Compensation Scheme shall be used to finance compensation claims under section 25.</p>	<p>(i) The Ministry of Tourism and Wildlife concurs with the proposed amendment</p> <p>(ii) (a) The Section should remain as it is in the Principle Act.</p> <p>(2) Section 25 applies to provisions beyond compensation and should therefore be retained as it is.</p>
<p>6. Section 25 of the principal Act is amended in subsection (3) by inserting the words “within six months of the recommendations” immediately after the words “and where appropriate” in the introductory clause;</p>	<p>-A definite time-line of six months is not feasible because payments for compensation depend on disbursements from the National Treasury.</p>

PROPOSED AMENDMENTS	REMARKS/PROPOSALS BY THE MINISTRY OF TOURISM AND WILDLIFE
<p>in subsection (4) by deleting the words “due consideration” appearing immediately after the words “the service for” and substituting therefor the words “the purpose of processing the payment for compensation”;</p> <p>in subsection (5) by inserting the words “within six months” immediately after the words “award and pay” in the introductory clause; and</p> <p>in subsection (6) by —</p> <p>(i) deleting the word “either” appearing immediately after the words “of compensation by”; and</p> <p>(ii) deleting the words “or the Service” appearing immediately after the words “and Compensation Committee”.</p>	<p>6(i) We concur with the proposal</p> <p>6 (ii) We concur with the proposal</p>
<p>7. Section 76 of the principal Act is amended —</p> <p>(a) by deleting subsection (4) and substituting therefor the following new subsection —</p> <p>(b) the Cabinet Secretary shall, in formulating the guidelines, ensure that the guidelines comply with the condition that a minimum of ten percent of the benefits from protected areas declared or published under section 31(1) shall be allocated to local communities neighbouring or negatively affected by activities undertaken for the preservation of the protected areas.</p> <p>(c) by inserting the following new subsection immediately after subsection (4) —</p> <p>(4A) The determination of the minimum percentage of the benefits to be allocated to local communities under subsection (4) shall be based on the gross total revenue and fees collected with respect to the protected area.</p>	<p>-The provisions on incentives and benefit sharing can only be addressed comprehensively at the time of preparing regulations and guidelines. Meanwhile, it is acknowledged that majority of the parks and reserves operate on a deficit.</p>
<p>8. The Third Schedule to the Principal Act is amended</p>	<p>-Poisonous snakes were</p>

PROPOSED AMENDMENTS	REMARKS/PROPOSALS BY THE MINISTRY OF TOURISM AND WILDLIFE
<p>in Part</p> <p>A by inserting the words “and poisonous snakes” Immediately after the words “wild pig”.</p>	<p>removed from Schedule 3 of the WCMA, via Statute Law (Miscellaneous Act, 2018 by the National Assembly on account of sustainability. We propose that the status quo is sustained.</p>

B. KENYA WILDLIFE CONSERVANCIES ASSOCIATION (KWCA) and CONSERVATION ALLIANCE OF KENYA,

1. KWCA is in support of increased benefits from national parks and national reserves to adjacent local communities and those negatively affected by wildlife; Further, we propose that mechanisms be put in place to ensure implementation;
2. KWCA supports a short timeline for compensation. Delayed compensation has over the years been a major hindrance to communities’ support to conservation.
3. The Ministry should put in place sustainable measures that safeguard human life and also promote avenues to derive benefits from snakes through programs on anti-venom is more desirable and beneficial to communities and sustainable to the government.
4. They recommended that the Bill is informed by the reports and recommendations of the taskforce on human-wildlife conflicts compensation schemes, gazetted on 14th June 2019 by Cabinet secretary, Ministry of Tourism and Wildlife, vide Gazette Notice No. 5206 Vol. CXXI No. 77, which undertook extensive public consultation.
5. They recommend that comprehensive amendments to The Wildlife Conservation and Management Act No. 47 of 2013, considering that the 2 previous piecemeal amendments in 2018 and 2019, have led to overlaps and inconsistencies of the Act.

SPECIFIC SUBMISSIONS

No	Bill Clause	Comment	Recommendations
1.	Clause 2- Amendment of section 16 (2)-	<i>The proposed new paragraph 16(ca)</i> -is wrongly placed since section 16 of the principal Act provides for annual estimates of the Service, yet the Service, as provided in Section 24, is not ultimately responsible to make compensation. This responsibility is placed with the Cabinet secretary, who then is responsible to ensure adequate budgetary compensation.	Amend section 24 by inserting the following new paragraph 2A immediately after paragraph 24 (2), "At least three months before the commencement of each financial year, the Cabinet Secretary shall cause to be prepared estimates of payment of compensation for the ensuing year".
2.	Clause 3- Amendment of section 21	<p><i>i. The proposed section 21A (1)</i> places the responsibility of provision of adequate funds for County wildlife conservation and compensation committees and compensation <i>on both the cabinet secretary and the Service</i>. One point of responsibility, the Service be maintained, considering that section 16 provides that the Service is responsible to make annual estimates for the committees.</p> <p><i>ii. The proposed section 21A (b)</i> is misplaced since the principal section deals with remuneration of committee members and not on compensation.</p>	<p><i>i.</i> Delete "the Cabinet Secretary" appearing immediately after 21A, to read, "The Service, shall in each financial year, provide adequate funds for the....."</p> <p><i>ii.</i> Delete proposed section 21A (b)</p> <p><i>iii.</i> KWCA concurs with proposed section 21A (2) on timely compensation within 6 months.</p>
3.	Clause 3- Amendment of section	<i>The proposed section 21A (1) (a)</i> - makes reference to the <i>County Wildlife Conservation and</i>	Amend section 21A 1(a) to read, "management of the affairs of each Community

No	Bill Clause	Comment	Recommendations
	21	<i>Compensation Committee</i> ; however, the name of the committee was amended through the Statute Law (Miscellaneous Amendments) Act No. 18 of 2018 to <i>Community Wildlife Conservation Committee</i>	Wildlife Conservation Committee;"
4.	Clause 7(a)- Amendment of section 76 (4)	<p><i>The proposed amendment of section 76(4), introduces that a minimum of ten (10%) percent of benefits from protected areas shall be allocated to local communities.</i></p> <p>The term 'protected areas' is widely interpreted under the Wildlife Act 2013 to include State and non-State Protected Areas, - "<i>a clearly defined geographical space, recognised, dedicated and managed through legal or other effective means, to achieve long-term conservation of nature with associated ecosystem services and cultural values</i>".</p> <p>The amendment therefore subjects conservancies to this provision, yet they rely on their own initiatives to raise costs to manage the conservancies on their lands, with no government funding.</p>	<p>We concur with the minimum ten (10%) benefits share;</p> <p>However, amend section 76(4), by substituting the words "protected areas" appearing immediately after the words "benefit from", with 'national parks and national reserves'.</p>

C. TAITA TAVETA HUMAN RIGHTS WATCH

Taita Taveta Human Rights Watch submitted as follows -

1. The amendment of the third schedule with regard to the expunging of Poisonous Snakes and Wild Pigs was ill intended and unsympathetic to the plight of local

communities (so far about 25 people have died because of snake bites in Taita Taveta and 15 left with disability).

2. Once again there is no attempt by the Act to address the long-standing issue of benefit sharing which for Taita Taveta Community has been a long-drawn battle.
3. The scrapping of CWCCCs defeats the letter and spirit of the constitution which promotes devolution. That the committees are to be chaired by County Commissioners equally defeats the very meaning of the title "Community Conservation Committee".
4. KWS has failed in its mandate of sustainably managing and conserving protected areas if the degradation of Tsavo National Parks is anything to go by. Therefore, the representation in the committee of the Land Use/ Physical Planning and Environment Offices is critical.
5. Mining is a key economic activity in Taita Taveta County and that it should be allowed in select locations within protected areas in line with Area Management Plans with approval of the Committee.
6. There are several Conservation Bodies that operate within the Tsavo Conservation area with little benefit to local communities. There is need for regulations and coordination by the County Conservation Committees.
7. This window to submit written memoranda/ petitions provides the community with a rare opportunity to amend the 3rd Schedule to include Baboons and Monkeys (we have cases in Taita Taveta where people have been killed by Baboons especially women), Wild Pigs and Snakes (non-poisonous e.g. python, which can cause grievous bodily harm and/ or death).

They gave the following proposals and resolutions on Compensation

1. Retain the entire Section 25 as in the current Act.

2. Amend the Third Schedule to include poisonous Snakes, Dangerous Snakes, Wild Pigs, Baboons and Monkeys. However, compensation (should be timely and prompt) under this list should only be limited to grievous bodily harm or death.
3. Introduce a section on Benefit share I which 25% of the gross annual income of National Parks shall go to Park adjacent Communities especially Human Wildlife Conflict hotspots.
4. Determine and fix a percentage of KWS earnings that should go towards CSR in Wildlife rich counties.
5. The Establishment of Community Wildlife Conservation Committees -
 - (a) Retain the County Wildlife Conservation and Compensation Committees in their earlier form and composition, where the Chairperson is a member of the local community who is competitively selected from among qualified persons as envisaged in the original Act (WCMA, 2013).
 - (b) To retain section 19 as was in the WCMA, 2013.
 - (c) Community representation in Taita Taveta County shall be per Sub County to allow for effective representation.
6. Undertaking Extractive Activities inside Protected Areas - Local Artisanal Miners be allowed to engage in extractive activities as shall be guided by Area Management Plans and as approved by the respective County Conservation Committee.

D. NATURAL JUSTICE

No	Clause	Sub – heading	Proposed Changes	Rationale
1.	3	Insertion of section 21A in No. 47 of 2013 (Provision of funds for	The phrase “adequate funds” can be made clearer by substituting it with	The phrase “adequate funds” is ambiguous and may be subject to misinterpretation and sometimes provide an avenue for the abuse of discretionary powers.

No	Clause	Sub – heading	Proposed Changes	Rationale
		County Wildlife Conservation and Compensation Committees)	more definite terms stating the percentage of the budget that should be dedicated to the County Wildlife Conservation and Compensation Committees.	The other advantage of ensuring clarity is that it promotes transparency and accountability in the budgeting process, which will also help manage expectations.
2.	4	Amendment to Section 23 of No. 47 of 2013	They propose a corresponding amendment to section 23 (2) of the Principal Act to include a representative of indigenous and local communities in the governing body responsible for overseeing and managing the Wildlife Conservation Trust Fund.	<p>Since this amendment proposes to use the Wildlife Conservation Trust Fund to support local communities negatively affected by activities undertaken with respect to wildlife conservation and management, it is important to have a representative of such communities within the governing body.</p> <p>This will ensure that the interests of communities, who are often owners and managers of lands where biodiversity and wildlife occurs, are effectively involved and engaged in the management and conservation of biodiversity.</p>
3.	7 (a)	Amendment of section 76 of No. 47 of 2013	They recommend the increase of the minimum percentage of benefits allocated to local communities to at least 15%.	Currently, Kenya's laws on benefit sharing are fragmented, with some sector specific laws prescribing the benefit sharing ratios between the national and county governments on one hand and local communities on the other hand. However, it is important to ensure that communities, who bare the greatest burden from the impacts of resources exploitation, obtain equitable benefits from resources found within their territories.

No	Clause	Sub – heading	Proposed Changes	Rationale
				<p>Our recommendation is based on the <i>Natural Resources and Benefit Sharing Bill</i> which attempts to harmonize Kenya's legal framework on benefit sharing. This Bill prescribes the minimum percentage of benefits that should accrue to communities at approximately 13%. Although it is still going through the parliamentary process, we urge the regulators to be persuaded by its provisions which may ultimately require a further amendment to the principal Act if it is assented to.</p>

CHAPTER THREE

COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

3.0 Observations

The Committee made the following observations in line with the submissions from the different stakeholders -

1. The Committee was in agreement with the proposal by the Ministry of Tourism and Wildlife on **clause 2 amending section 16(2)(c)** of the Wildlife Conservation and Management Act, 2013 on the issue of cross-referencing with sections 25 and 76 being incorrect.

The Committee also noted a similar proposal by the Kenya Wildlife Conservancies Association (KWCA) on the same **clause 2 amending section 16** of the Act on preparation of estimates for compensation claims. The same should be in section 24 and not section 16 as proposed in the Bill since compensation claims are settled from the Wildlife Compensation Scheme established under section 24(1) and not from the funds allocated to the Kenya Wildlife Service.

2. The Committee concurred with the proposal by KWCA on **clause 3 amending section 21** on the provision of adequate funds for the Community Wildlife Conservation Committees, that it should be by the Cabinet Secretary and proposed that the cross referencing be corrected. The Committee observed that the proposal of a timeline of ninety days for compensation would not be reasonable since funds for compensation are allocated through the annual budget estimates and the speed of effecting of the payments depends on the receipt of exchequer from the National Treasury as was outlined by the Ministry of Tourism and Wildlife in their submissions.

Further, the Committee noted the concerns by Natural Justice, on the term “adequate funds” in section 21 of the Bill, that it should be made clearer by substituting it with more definite terms stating the percentage of the budget that should be dedicated to the Community Wildlife Conservation Committees.

3. The Committee rejected the proposal by the Ministry of Tourism and Wildlife on deletion of **clause 4 amending section 23** of the Act. The Committee further rejected the proposal by Natural Justice to amend the composition of the governing body mandated to manage the Wildlife Conservation Trust Fund to include a representative of indigenous and local communities.
4. In respect of the proposal to have conservancies support compensation claims as proposed by the Director of Tourism and Wildlife, Kajiado County at a rate of five percent (5%), the Committee observed that most conservancies, particularly those in the northern part of the country, are not profitable. It was also observed that this requirement is punitive to community conservancies which voluntarily support wildlife conservation efforts. The Committee further noted that the imposition of a static 5% compensation requirement would not be practical as it would mean that where people are injured in conservancies that are not profitable, there would be no funds for such compensation. Similarly, claims exceeding the set 5% would not be payable. The Committee therefore did not adopt this proposal.
5. The Committee noted the concerns of the Ministry of Tourism and Wildlife on **Clause 6 Section 25** and as was adopted above by the Committee, the Committee hence proposes the timeline of twelve months within which compensation should have been made.
6. The Committee rejected the proposal by the Ministry of Tourism and Wildlife on **Clause 7 Section 76** of the Bill that the provisions on incentives and benefit sharing can only be addressed comprehensively at the time of preparing Regulations and Guidelines. The Committee also rejected the proposal by Natural

Justice that recommended the increase of the minimum percentage of benefits allocated to local communities should be fifteen (15%). The Committee noted that this would be too high and instead settled at having it remain as stipulated in the Bill at five percent (5%). The Committee further rejected the proposal by Conservation Alliance on conservancies benefiting from the 10%.

The Director, Tourism and Culture, Nairobi City County Government proposed that Counties should also benefit from marketing of parks within their jurisdictions a proposal that was not agreed to by the Committee. The Committee further rejected the proposal by Elephant Centre seeking to replace the word “benefits” with “welfare”.

However, the Committee noted and adopted the proposal by KWCA on the amendment to section 76(4) to substitute the words “protected areas” with “national parks and national reserves”. The term “protected areas” as defined in the Act may be widely interpreted to include State and non-State Protected Areas and therefore subject conservancies to this provision yet they rely on their own initiatives to raise costs to manage the conservancies on their lands, with no government funding.

The Committee further noted that there is urgent need for operationalization of a workable benefits sharing system because under section 76 of the principal Act, direct benefits accruing from wildlife conservation are dependent on the formulation of regulations on access and benefit sharing. The Committee therefore recommends that the Cabinet Secretary for Tourism and Wildlife publishes Regulations to give effect to section 76 of the Wildlife Conservation and Management Act.

7. The Committee rejected the proposal by the Ministry of Tourism and Wildlife on **clause 8** of the Bill, proposing to have the amendment by the National Assembly via Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 to delete poisonous snake, shark, stone fish, whale, sting ray and wild pig as wildlife species in respect of which compensation may be paid be retained. The Committee further proposed that the term “poisonous snakes” should be replaced to cover both dangerous and poisonous snakes such as snakes like the python which are not necessarily poisonous but are dangerous.

The Committee noted the proposal by KWCA that there is need for a sustainable measure that safeguards human life and also promotes avenues to derive benefits from snakes through programs on anti-venom. This will be more desirable and beneficial to communities and sustainable to the government.

3.1 Recommendations

The Committee therefore makes the following recommendations on the Bill and proposes to make the following amendments to the Bill -

1. The Committee recommends that the amendment in **clause 2 of the Bill** be rejected and retained as it is in the Wildlife Conservation and Management Act, 2013.
2. The concerns by the Ministry of Tourism and Wildlife on clause 3 on the timelines for compensation should be amended to twelve months. The term “adequate funds” should be retained as stipulated in the Bill.
3. The Committee recommends that the wording in clause 5 proposing to amend section 25(2) should be retained as provided for in the Act.
4. The Committee recommends that a timeline of twelve months within which compensation should have been made should be made in clause 6.
5. The Committee resolved to retain clause 7 as proposed in the Bill with an amendment to the percentage to indicate a minimum of five percent (5%) as provided for in the Wildlife Conservation and Management Act, 2013. The amendment to clause 7 should also substitute the words “protected areas” with “national parks and national reserves”.
6. The Committee resolved that on Clause 8 of the Bill, the entire amendment via Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 should be reinstated and that the term “poisonous snakes” should be amended to include both dangerous and poisonous snakes.

APPENDICES

Annex I: Minutes of the meetings

Annex II: Amendments

Annex III: Newspaper Advert

ANNEX I

MINUTES OF THE 18TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 10TH JUNE, 2020 ON ZOOM ONLINE PLATFORM AT 12.00 NOON.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Prengei Victor, M.P.
3. Sen. George Khaniri, MGH, M.P.
4. Sen. Mwaruma Johnes, M.P.
5. Sen. Halake Abshiro, M.P.

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Slyvia Kasanga, M.P. - Member
2. Sen. Godana Hargura, M.P. - Member
3. Sen. Boy Issa Juma, M.P. - Member
4. Sen. Ndwiga Peter Njeru, EGH. M.P. - Member

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Judy Ndegwa
3. Mr. John Nganga

SECRETARIAT

- Clerk Assistant
- Legal Counsel
- Audio Recording

MINUTE SEN/SCLN/094/2020: PRELIMINARIES

The meeting was called to order at 12.13 p.m. by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLN/095/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. George Khaniri, MGH, M.P. and seconded by Sen. Mwaruma Johnes, M.P. as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes of the Previous Sittings;
4. Matters Arising;

5. Adoption of the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019) Committee Report;
6. Review of responses received from Government agencies on Petitions and Statements;
7. Any other Business;
8. Date of the next meeting;
9. Adjournment.

MINUTE SEN/SCLNDR/096/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Minutes of the 16th sitting held on 3rd June, 2020 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. George Khaniri, MGH, MP and seconded by Sen. Prengei Victor, MP respectively.

The Minutes of the 17th sitting held on 4th June, 2020 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Halake Abshiro, M.P. and seconded by Sen. Prengei Victor, M.P respectively.

MINUTE SEN/SCLNDR/097/2020: MATTERS ARISING

- **Under MINUTE SEN/SCLNDR/087/2020: ANY OTHER BUSINESS;**
- On the proposed visit to Kariobangi scheduled for Thursday, 4th June, 2020 as from 10.00 am accompanied by the state agencies. The matter forms the subject of the next minutes to be confirmed.
- On the fast tracking of the consideration of the Petition by Residents of Taita Taveta County, Mwatae Sub County, Mwakitau Location on the Mwakitau land ownership dispute between Mwakitau Residents and Isanga Iwishi Group Ranch. It is a substantive agenda in the meeting and follows thereafter.
- On the request to revisit the Petition concerning Mgeno Reserve Land Registration Number 3880/3 in Mwatae, Taita Taveta County in which the Committee had tabled in the Senate a report with certain recommendations that are not be adhered to by the relevant Government agencies. The Committee resolved to seek a response on the status of implementation of the recommendations in the report.

MINUTE SEN/SCLN/098/2020: ADOPTION OF COMMITTEE REPORT ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)

The Secretariat had prepared a brief (*copy attached*) on the third observation in the report on comparative jurisdictions on how conservancies are differentiated when it comes to the revenue they generate for themselves if any vis-a-vis the ones that are struggling and at the same time whether a percentage is normally put on their capability to provide corporate social responsibility (CSR).

Following the advice as provided in the brief above the Committee adopted its observations and recommendations as follows –

The Committee adopted the following observations in line with the submissions from the different stakeholders –

1. The Committee was in agreement with the proposal by the Ministry of Tourism and Wildlife on **clause 2 amending section 16(2)(c)** of the Wildlife Conservation and Management Act, 2013 on the issue of cross-referencing with sections 25 and 76 being incorrect.

The Committee also noted a similar proposal by the Kenya Wildlife Conservancies Association (KWCA) on the same **clause 2 amending section 16** of the Act on preparation of estimates for compensation claims. The same should be in section 24 and not section 16 as proposed in the Bill since compensation claims are settled from the Wildlife Compensation Scheme established under section 24(1) and not from the funds allocated to the Kenya Wildlife Service.

2. The Committee concurred with the proposal by KWCA on **clause 3 amending section 21** on the provision of adequate funds for the Community Wildlife Conservation Committees, that it should be by the Cabinet Secretary and proposed that the cross referencing be corrected. The Committee observed that the proposal of a timeline of ninety days for compensation would not be reasonable since funds for compensation are allocated through the annual budget estimates and the speed of effecting of the payments depends on the receipt of exchequer from the National Treasury as was outlined by the Ministry of Tourism and Wildlife in their submissions.

Further, the Committee noted the concerns by Natural Justice, on the term “adequate funds” in section 21 of the Bill, that it should be made clearer by substituting it with

more definite terms stating the percentage of the budget that should be dedicated to the Community Wildlife Conservation Committees.

3. The Committee rejected the proposal by the Ministry of Tourism and Wildlife on deletion of **clause 4 amending section 23** of the Act. The Committee further rejected the proposal by Natural Justice to amend the composition of the governing body mandated to manage the Wildlife Conservation Trust Fund to include a representative of indigenous and local communities.
4. In respect of the proposal to have conservancies support compensation claims as proposed by the Director of Tourism and Wildlife, Kajiado County at a rate of five percent (5%), the Committee observed that most conservancies, particularly those in the northern part of the country, are not profitable. It was also observed that this requirement is punitive to community conservancies which voluntarily support wildlife conservation efforts. The Committee further noted that the imposition of a static 5% compensation requirement would not be practical as it would mean that where people are injured in conservancies that are not profitable, there would be no funds for such compensation. Similarly, claims exceeding the set 5% would not be payable. The Committee therefore did not adopt this proposal.
5. The Committee noted the concerns of the Ministry of Tourism and Wildlife on **Clause 6 Section 25** and as was adopted above by the Committee, the Committee hence proposes the timeline of twelve months within which compensation should have been made.
6. The Committee rejected the proposal by the Ministry of Tourism and Wildlife on **Clause 7 Section 76** of the Bill that the provisions on incentives and benefit sharing can only be addressed comprehensively at the time of preparing Regulations and Guidelines. The Committee also rejected the proposal by Natural Justice that recommended the increase of the minimum percentage of benefits allocated to local communities should be fifteen (15%). The Committee noted that this would be too high and instead settled at having it remain as stipulated in the Bill at five percent (5%). The Committee further rejected the proposal by Conservation Alliance on conservancies benefiting from the 10%.

The Director, Tourism and Culture, Nairobi City County Government proposed that Counties should also benefit from marketing of parks within their jurisdictions a proposal that was not agreed to by the Committee. The Committee further rejected the proposal by Elephant Centre seeking to replace the word “benefits” with “welfare”.

However, the Committee noted and adopted the proposal by KWCA on the amendment to section 76(4) to substitute the words “protected areas” with “national

parks and national reserves”. The term “protected areas” as defined in the Act may be widely interpreted to include State and non-State Protected Areas and therefore subject conservancies to this provision yet they rely on their own initiatives to raise costs to manage the conservancies on their lands, with no government funding.

The Committee further noted that there is urgent need for operationalization of a workable benefits sharing system because under section 76 of the principal Act, direct benefits accruing from wildlife conservation are dependent on the formulation of regulations on access and benefit sharing. The Committee therefore recommends that the Cabinet Secretary for Tourism and Wildlife publishes Regulations to give effect to section 76 of the Wildlife Conservation and Management Act.

7. The Committee rejected the proposal by the Ministry of Tourism and Wildlife on **clause 8** of the Bill, proposing to have the amendment by the National Assembly via Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 to delete poisonous snake, shark, stone fish, whale, sting ray and wild pig as wildlife species in respect of which compensation may be paid be retained. The Committee further proposed that the term “poisonous snakes” should be replaced to cover both dangerous and poisonous snakes such as snakes like the python which are not necessarily poisonous but are dangerous.

The Committee noted the proposal by KWCA that there is need for a sustainable measure that safeguards human life and also promotes avenues to derive benefits from snakes through programs on anti-venom. This will be more desirable and beneficial to communities and sustainable to the government.

The Committee then proceeded to adopt the following recommendations on amendments to the Bill –

1. The Committee recommends that the amendment in **clause 2 of the Bill** be rejected and retained as it is in the Wildlife Conservation and Management Act, 2013.
2. The concerns by the Ministry of Tourism and Wildlife on clause 3 on the timelines for compensation should be amended to twelve months. The term “adequate funds” should be retained as stipulated in the Bill.
3. The Committee recommends that the wording in clause 5 proposing to amend section 25(2) should be retained as provided for in the Act.
4. The Committee recommends that a timeline of twelve months within which compensation should have been made should be made in clause 6.
5. The Committee resolved to retain clause 7 as proposed in the Bill with an amendment to the percentage to indicate a minimum of five percent (5%) as

provided for in the Wildlife Conservation and Management Act, 2013. The amendment to clause 7 should also substitute the words “protected areas” with “national parks and national reserves”.

6. The Committee resolved that on Clause 8 of the Bill, the entire amendment via Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 should be reinstated and that the term “poisonous snakes” should be amended to include both dangerous and poisonous snakes.

The Report of the Committee on the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019) was therefore adopted after having been proposed and seconded by Sen. Halake Abshiro, MP and Sen. George Khaniri, MGH, MP respectively.

Further, the Committee resolved to request the Ministry of Tourism and Wildlife to provide a status of the Regulations regarding the operationalization framework of benefits to Communities as result of Wildlife.

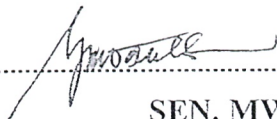
MINUTE SEN/SCLNR/099/2020: ANY OTHER BUSINESS;

There was no other business discussed.

MINUTE SEN/SCLNR/100/2020: DATE OF NEXT MEETING;

The time being 1.17 pm the meeting was adjourned. The next meeting was scheduled for Wednesday, 17th June, 2020 at 12.00 noon via zoom platform.

Signed:



Date: 10/06/2020

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL

RESOURCES

MINUTES OF THE 15TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 27TH MAY, 2020 ON ZOOM ONLINE PLATFORM AT 12.00 NOON.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Mwaruma Johnes, M.P.
3. Sen. Slyvia Kasanga, M.P.
4. Sen. Halake Abshiro, M.P.

PRESENT

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

ABSENT WITH APOLOGY

1. Sen. Prengei Victor, M.P. - **Vice Chairperson**
2. Sen. Godana Hargura, M.P. - Member
3. Sen. George Khaniri, MGH, M.P. - Member
4. Sen. Boy Issa Juma, M.P. - Member
5. Sen. Ndwiga Peter Njeru, EGH. M.P. - Member

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Carolyn Cheriuyot
3. Ms. Judy Ndegwa
4. Mr. John Nganga

SECRETARIAT

- Clerk Assistant
- Legal Counsel
- Legal Counsel
- Audio Recording

MINUTE SEN/SCLNENR/078/2020: PRELIMINARIES

The meeting was called to order at 12.25 p.m. by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLNENR/079/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, M.P. and seconded by Sen. Godana Hargura, M.P. as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes of the Previous Sittings;
4. **Consideration of the Committee Report on the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019);**
5. Any other Business;

6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNLR/080/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee differed the Confirmation of Minutes.

MINUTE SEN/SCLNLR/81/2020: ADOPTION OF COMMITTEE REPORT ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)

The Committee reviewed the draft report and asked the Secretariat to research on the third observation in the report on comparative jurisdictions on how conservancies are differentiated when it comes to the revenue they generate for themselves if any vis-a-vis the ones that are struggling and at the same time whether a percentage is normally put on their capability to provide corporate social responsibility (CSR).

The Recommendations were agreed upon as follows but the requisite quorum to adopt the report wasn't present and therefore adoption was differed to the next meeting –

1. The Committee recommends that the amendment in **clause 2 of the Bill** be rejected and retained as it is in the Wildlife Conservation and Management Act, 2013.
2. The concerns by the Ministry of Tourism and Wildlife on clause 3 on the timelines for compensation should be amended to twelve months. The term “adequate funds” should be retained as stipulated in the Bill.
3. The Committee recommends that the wording in clause 5 proposing to amend section 25(2) should be retained as provided for in the Act.
4. The Committee recommends that a timeline of twelve months within which compensation should have been made should be made in clause 6.
5. The Committee resolved to retain clause 7 as proposed in the Bill with an amendment to the percentage to indicate a minimum of five percent (5%) as provided for in the Wildlife Conservation and Management Act, 2013. The amendment to clause 7 should also substitute the words “protected areas” with “national parks and national reserves”.
6. The Committee resolved that on Clause 8 of the Bill, the entire amendment via Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 should be reinstated and that the term “poisonous snakes” should be amended to include both dangerous and poisonous snakes.

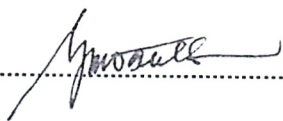
MINUTE SEN/SCLNLR/082/2020: ANY OTHER BUSINESS;

The Committee discussed the proposed visit to Kariobangi and the Committee resolved that the visit be carried on Thursday, 4th June, 2020 as from 10.00am accompanied by the state agencies.

MINUTE SEN/SCLNLR/083/2020: DATE OF NEXT MEETING;

The time being 1.55 pm the meeting was adjourned. The next meeting was scheduled for Wednesday, 3rd June, 2020 at 12.00 noon via zoom platform.

Signed:



Date: **03/06/2020**

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

MINUTES OF THE 12TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 29TH MAY, 2020 ON ZOOM ONLINE PLATFORM AT 12.00 NOON.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Mwaruma Johnes, M.P.
3. Sen. Godana Hargura, M.P.

PRESENT

- Chairperson
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Prengei Victor, M.P.
2. Sen. George Khaniri, MGH, M.P.
3. Sen. Boy Issa Juma, M.P.
4. Sen. Slyvia Kasanga, M.P.
5. Sen. Halake Abshiro, M.P.
6. Sen. Ndwiga Peter Njeru, EGH. M.P.

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

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Carolyne Cheruiyot
3. Mr. John Nganga

SECRETARIAT

- Clerk Assistant
- Legal Counsel
- Audio Recording

MINUTE SEN/SCLN/068/2020: PRELIMINARIES

The meeting was called to order at 12.25 p.m. by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLN/069/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mwaruma Johnes, M.P. and seconded by Sen. Godana Hargura, M.P. as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes of the Previous Sitings;
4. Consideration of the Committee Report on the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019);

5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNDR/070/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Committee deferred the Confirmation of Minutes.

MINUTE SEN/SCLNDR/71/2020: CONSIDERATION OF COMMITTEE REPORT ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)

The Committee reviewed the draft report and made slight amendments on the observations and recommendations and recommended as follows –

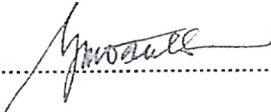
1. The Committee recommends that the amendment in **clause 2 of the Bill** be rejected and retained as it is in the Wildlife Conservation and Management Act, 2013.
2. The concerns by the Ministry of Tourism and Wildlife on clause 3 on the timelines for compensation should be amended to twelve months. The term “adequate funds” should be retained as stipulated in the Bill.
3. The Committee recommends that the wording in clause 5 proposing to amend section 25(2) should be retained as provided for in the Act.
4. The Committee recommends that a timeline of twelve months within which compensation should have been made should be made in clause 6.
5. The Committee resolved to retain clause 7 as proposed in the Bill with an amendment to the percentage to indicate a minimum of five percent (5%) as provided for in the Wildlife Conservation and Management Act, 2013. The amendment to clause 7 should also substitute the words “protected areas” with “national parks and national reserves”.
6. The Committee resolved that on Clause 8 of the Bill, the entire amendment via Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 should be reinstated and that the term “poisonous snakes” should be amended to include both dangerous and poisonous snakes.

MINUTE SEN/SCLNDR/060/2020: ANY OTHER BUSINESS;

The Committee discussed the proposed visit to Kariobangi and the Chairperson informed the Committee that it will be carried out after the stakeholders have appeared before the Committee.

MINUTE SEN/SCLNR/061/2020: DATE OF NEXT MEETING;

The time being 1.35 pm. and there being no other business, the meeting was adjourned.
The next meeting was scheduled for: Wednesday, 27th May, 2020 at 10.00 a.m. via zoom platform.

Signed:.....

Date: 27/05/2020.....

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

MINUTES OF THE 11TH SITTING OF THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON WEDNESDAY, 13TH MAY, 2020 ON ZOOM ONLINE PLATFORM AT 12.00 NOON.

MEMBERS

1. Sen. Mwangi Paul Githiomi, M.P.
2. Sen. Prengei Victor, M.P.
3. Sen. George Khaniri, MGH, M.P.
4. Sen. Mwaruma Johnes, M.P.

PRESENT

- Chairperson
- Vice Chairperson
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Godana Hargura, M.P. - Member
2. Sen. Boy Issa Juma, M.P. - Member
3. Sen. Slyvia Kasanga, M.P. - Member
4. Sen. Halake Abshiro, M.P. - Member
5. Sen. Ndwiga Peter Njeru, EGH. M.P. - Member

IN ATTENDANCE

1. Mr. Victor Bett
2. Ms. Judy Ndegwa
3. Ms. Carolyn Cheriuyot
4. Mr. John Nganga

SECRETARIAT

- Clerk Assistant
- Legal Counsel
- Legal Counsel
- Audio Recording

MINUTE SEN/SCLN/056/2020: 'PRELIMINARIES'

The meeting was called to order at 12.25 p.m. by the Chairperson followed by a word of prayer.

MINUTE SEN/SCLN/057/2020: ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by Sen. George Khaniri, MGH, M.P. and seconded by Sen. Prengei Victor, M.P. as follows –

1. Preliminaries
2. Adoption of the agenda;
3. Confirmation of Minutes of the Previous Sittings;
4. **Consideration of the Wildlife Conservation and Management (Amendment) Bill (Senate Bills No. 24 of 2019) Public Hearing Matrix;**

5. Any other Business;
6. Date of the next meeting;
7. Adjournment.

MINUTE SEN/SCLNDR/058/2020: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The Minutes of the 4th Sitting of the Committee held on 4th March, 2020 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Prengei Victor, M.P and seconded by Sen. Mwaruma Johnes, M.P. respectively.

The Minutes of the 5th Sitting of the Committee held on 4th March 2020 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Mwaruma Johnes, M.P. and seconded by Sen. Prengei Victor, M.P. respectively.

The Minutes of the 10th Sitting of the Committee held on 7th May, 2020 were confirmed as a true record of the proceedings having been proposed and seconded by Sen. Prengei Victor, M.P. and seconded by Sen. Mwaruma Johnes, M.P. respectively.

MINUTE SEN/SCLNDR/059/2020: CONSIDERATION OF STAKEHOLDER VIEWS ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL (SENATE BILLS NO. 24 OF 2019)

STAKEHOLDER VIEWS ON THE WILDLIFE CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, 2019 (SENATE BILLS NO 24 OF 2019)				
NO	CLAUSE	STAKEHOLDER	PROPOSED AMENDMENT	COMMITTEE RESOLUTION
1.	Clause 2 Section 16	Ministry of Tourism and Wildlife	<ul style="list-style-type: none"> • Section 16(2)(c) provides for payments of allowances in respect of County Wildlife Conservation and Compensation Committees. The cross-referencing with sections 25 and 76 is therefore incorrect. 	The Committee was in agreement and that it should be rectified

2.		Kenya Wildlife Conservancies Association (KWCA)	<ul style="list-style-type: none"> The amendment on preparation of estimates for compensation claims should be in section 24 and not section 16 as proposed in the Bill. <p>Rationale: Compensation claims are settled from the Wildlife Compensation Scheme established in section 24(1) and not from the funds allocated to the Kenya Wildlife Service.</p>	The Committee was in agreement with the proposal.
3.	Clause 3 Section 21A	KWCA	<p>(a) The proposed section 21A (1) places the responsibility of provision of adequate funds for County Wildlife Conservation and Compensation Committees and Compensation on both the Cabinet Secretary and the Service.</p> <p>The point of responsibility, the Service should be maintained, considering that section 16 provides that the Service is responsible to make annual estimates for the committees.</p> <p>(b) The amendment on preparation of estimates for compensation claims should be in section 24 and not section 16 as proposed in the Bill (same as No. 4 above).</p> <p>(c) KWCA supports a short timeline for compensation as proposed in the Bill since delayed compensation has over the years been a major hindrance to communities' support to conservation.</p> <p>(d) The proposed section 21A(1)(a) makes reference to the County Wildlife Conservation and Compensation Committee. However, the name of the Committee was amended through the Statute Law (Miscellaneous Amendments) Act No. 18 of 2013 to Community Wildlife Conservation Committee.</p>	<p>(a) The Committee concurred with the proposal on provision of funds for the Committee by the Cabinet Secretary.</p> <p>(b) The Committee concurred with the proposed cross referencing.</p> <p>(c) The Committee further agreed with the proposal on short timeline for compensation but was alive to the fact that due to government budgeting processes, compensation within ninety days would not be reasonable.</p>
4.		Ministry of Tourism and	<ul style="list-style-type: none"> Funds for compensation are allocated through the annual budget estimates and 	The Committee noted the

		Wildlife	<p>the speed of effecting of the payments depends on the receipt of exchequer from The National Treasury.</p> <ul style="list-style-type: none"> • Further, Parliament introduced a budget line for Wildlife Conservation Committees which will be supporting the committees - (2019/2020FY). 	<p>sentiments by the Ministry and resolved that compensation should be made within twelve months.</p>
5.		Natural Justice	<ul style="list-style-type: none"> • The Bill seeks to amend section 21 to mandate the Cabinet Secretary and Kenya Wildlife Service (KWS) to provide adequate funds for the management of the affairs of each of the County Wildlife Conservation and Compensation Committee and for payment of compensation. • The phrase “adequate funds” should be made clearer by substituting it with more definite terms stating the percentage of the budget that should be dedicated to the County Wildlife Conservation and Compensation Committees. <p>Rationale: The phrase “adequate funds” is ambiguous and may be subject to misinterpretation and sometimes provide an avenue for the abuse of discretionary powers. Further, the clarity promotes transparency and accountability in the budgeting process which will also help manage expectations.</p>	<p>The Committee adopted the proposal to substitute “adequate funds” with a clearer phrase to avoid ambiguity.</p>
6.	Clause 4 Section 23	Ministry of Tourism and Wildlife	<ul style="list-style-type: none"> • Clause 4 of the Bill amends the Act to provide that the Wildlife Conservation Trust Fund should also be used to provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management. • The Ministry observed that the compensation for damage from Wildlife is provided for under Section 25 of the Principal Act. 	<p>The Committee disagreed with the proposal by the Ministry.</p>

7.		Natural Justice	<ul style="list-style-type: none"> • Section 23 of the Act establishes the Wildlife Conservation Trust Fund vested in a governing body serving as a public private partnership with the Chairperson being appointed the President. • Natural Justice proposes an amendment in the composition of the governing body to include a representative of indigenous and local communities. <p>Rationale: It is important to have a representative of such communities within the governing body since the amendment proposes to use the Wildlife Conservation Trust Fund to support local communities negatively affected by activities undertaken with respect to wildlife conservation and management.</p> <p>This will also ensure that the interests of communities who are often owners and managers of lands where biodiversity and wildlife occurs are effectively involved and engaged in the management and conservation of biodiversity.</p>	The Committee rejected this proposal.
8.		Director of Tourism and Wildlife, Kajiado County	<ul style="list-style-type: none"> • Supports the amendment on support to local communities but the type of support to be offered should be clarified in the Regulations. • Conservancies should also be mandated to pay a fee to their localities to support compensation claims especially those arising from injuries from animals within the conservancies. 	The Committee is in agreement with the proposal to have Conservancies support compensations.
9.	Clause 6 Section 25	Ministry of Tourism and Wildlife	<ul style="list-style-type: none"> • The Ministry is opposed to compensation within six months <p>Rationale: A definite timeline of six months is not feasible because payments for compensation depend on disbursements from the National Treasury.</p> <ul style="list-style-type: none"> • The Ministry agrees with the proposed amendment to section 25(6). 	The Committee adopted a timeline of twelve months within which compensation should have been made.

10.	Clause 7 Section 76	Ministry of Tourism and Wildlife	<ul style="list-style-type: none"> • Clause 7 seeks to amend section 76 to enhance the benefits to local communities neighbouring or negatively affected by activities undertaken for the preservation of the protected areas should be a minimum of ten percent (10%) from protected areas. • The amendment further provides that determination of the minimum percentage of the benefits to be allocated to local communities under subsection (4) shall be based on the gross total revenue and fees collected with respect to the protected area. • The Ministry proposes that the provisions on incentives and benefit sharing can only be addressed comprehensively at the time of preparing Regulations and Guidelines. Further, the Ministry stated that a majority of the parks and reserves operate on a deficit. 	The Committee rejected the proposal by the Ministry.
11.		Natural Justice	<ul style="list-style-type: none"> • Natural Justice recommends that the increase of the minimum percentage of benefits allocated to local communities should be at least 15%. <p>Rationale: is important to ensure that communities that bear the greatest burden from the impacts of resource exploitation obtain equitable benefits from resources found within their territories. The recommendation is based on the <i>Natural Resources and Benefit Sharing Bill</i> which attempts to harmonize Kenya's legal framework on benefit sharing. This Bill prescribes the minimum percentage of benefits that should accrue to communities at approximately 13%.</p> <p>Note: The Natural Resources (Benefit Sharing) Bill (Sen. Bills No. 31 of 2018) was passed by the Senate and referred to the National Assembly for consideration on 12th</p>	The Committee rejected the proposal citing that 15% would be too high.

			November, 2019.	
12.		KWCA	<ul style="list-style-type: none"> • KWCA concurs with the minimum ten (10%) benefits share. However, KWCA proposes an amendment to section 76(4) to substitute the words “protected areas” with “national parks and national reserves”. <p>Rationale: The term “protected areas” as defined in the Act may be widely interpreted to include State and non-State Protected Areas and therefore subject conservancies to this provision yet they rely on their own initiatives to raise costs to manage the conservancies on their lands, with no government funding.</p>	The Committee was in agreement with the proposal by KWCA to substitute the words “protected areas” with “national parks”.
13.		Conservation Alliance	<ul style="list-style-type: none"> • Supports the 10% payment but guidelines for distribution should be put in place to also benefit conservancies. 	The Committee rejected this proposal.
14.		Joyce Kinyanjui, Director, Tourism and Culture, Nairobi City County Government	<ul style="list-style-type: none"> • Counties should also benefit from marketing of parks within their jurisdictions. 	The Committee rejected this proposal.
15.		Elephant Centre	<ul style="list-style-type: none"> • The benefits should be identified. Alternatively, the word “benefits” should be replaced with “welfare”. 	The Committee rejected the proposal and resolved that it should be left as it is in the Bill.
16.	Clause 8	Ministry of Tourism and Wildlife	<ul style="list-style-type: none"> • Clause 8 amends the Third Schedule of the Act to include poisonous snakes as wildlife species in respect of which compensation may be paid in cases resulting in death and injury. • The Ministry proposes that the amendment by the National Assembly via Statute Law (Miscellaneous Amendments) Act, No. 18 of 2018 to delete poisonous 	The Committee rejected the proposal proposing to have the amendment by the National Assembly via Statute Law (Miscellaneous

			snake, shark, stone fish, whale, sting ray and wild pig as wildlife species in respect of which compensation may be paid be retained.	Amendments) Act, No. 18 of 2018 to delete poisonous snake, shark, stone fish, whale, sting ray and wild pig as wildlife species in respect of which compensation may be paid be retained. The Committee also noted that the term "poisonous snakes" be amended with the term "dangerous snakes" so as to cover for the dangerous snakes e.g. python that are not necessarily poisonous but are dangerous and can Kill.
17.		Taita Taveta Human Rights Watch	<ul style="list-style-type: none"> Supports the Senate amendment because about 25 people in Taita have died due to snake bites with 15 people becoming disabled due to snake bites. 	This proposal was agreed to by the Committee
18.		KWCA	<ul style="list-style-type: none"> There is need for a sustainable measure that safeguards human life and also promotes avenues to derive benefits from snakes through programs on anti-venom. This will be more desirable and beneficial to communities and sustainable to the government. 	This proposal was agreed to by the Committee as an initiative that should be undertaken by the Government.

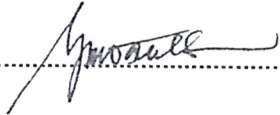
MINUTE SEN/SCLNR/060/2020: ANY OTHER BUSINESS;

There was no other business deliberated by the Committee

MINUTE SEN/SCLNR/061/2020: DATE OF NEXT MEETING;

The time being 1.45 p.m. and there being no other business, the meeting was adjourned. The next meeting was scheduled for Monday, 18th May, 2020 at 10.00 a.m. via zoom platform.

Signed:



Date: 27/5/2020

SEN. MWANGI PAUL GITHIOMI, MP

CHAIRPERSON

**STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

**MINUTES OF THE 5TH MEETING OF THE SENATE STANDING COMMITTEE
ON LAND, ENVIRONMENT AND NATURAL RESOURCES HELD ON
WEDNESDAY, 4TH MARCH, 2020 IN COMMITTEE ROOM 10 AT 10.30 AM.**

MEMBERS

1. Sen. Prengei Victor, M.P.
2. Sen. Mwaruma Johnes, M.P.
3. Sen. Halake Abshiro, M.P.

PRESENT

- Vice Chairperson
- Member
- Member

ABSENT WITH APOLOGY

1. Sen. Mwangi Paul Githiomi, M.P. - Chairperson
2. Sen. Godana Hargura, M.P. - Member
3. Sen. Boy Issa Juma, M.P. - Member
4. Sen. Ndwiga Peter Njeru, EGH, M.P. - Member
5. Sen. George Khaniri, MGH, M.P. - Member
6. Sen. Slyvia Kasanga, M.P. - Member

IN ATTENDANCE

A. STAKEHOLDERS & MEMBERS OF THE PUBLIC

1. Hon. Najib Balala, EGH, - CS, Tourism and Wildlife
2. Dr. Erastus Kanga - Ag. Director, Partnership
3. Mr. Ali S. Bwana - CWCC – Lamu
4. Mr. Haji Mohamed Mwakio - Taita Taveta Human Rights Watch
5. Mrs. Grace Mjomba - Sauti Ya Wanawake
6. Mr. Fiesta Warinwa - Director
7. Mrs. Samson Lenjiri - Director
8. Ms. Gladys Wangia - KWCA Policy Coord
9. Steve Itela - Ceo
10. Shillah Raymound - Communications
11. Cecilla Mueni - Communications
12. Greaven Wanyonyi - D/ Treasurer
13. Mary Muthoni - Wild Life Direct Legal Affairs
14. Jim Justus Nyami - ENC
15. Bernard Bonke - FONNOP
16. Peter Njinjo - Wildlife Initiative
17. Doreen Mutunga - Principal Legal Officer Kws
18. Apollo Kariuki - AG Sad – Brp Kws
19. Wachira Kariuki - Legal Advisory