



REPUBLIC OF KENYA

Hon. speaker

*for your approval
for tabling. MA
6/8/25*

THIRTEENTH PARLIAMENT | FOURTH SESSION

THE SENATE

COMMITTEE ON DELEGATED LEGISLATION

Approved
[Signature]
06.08.2025
DSS

REPORT ON THE CONSIDERATION OF THE ENVIRONMENTAL
MANAGEMENT AND CO-ORDINATION (STRATEGIC AND
INTEGRATED ENVIRONMENTAL ASSESSMENTS AND
ENVIRONMENTAL AUDITS) (NO. 2) REGULATIONS, 2025, LEGAL
NOTICE NO. 71 OF 2025

PAPERS LAID	
DATE	06/8/2025
TABLED BY	Chairperson
COMMITTEE	Delegated Legislation
CLERK AT THE TABLE	Angela

Clerk's Chambers,
The Senate,
Parliament Buildings,
NAIROBI.

August, 2025

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LIST OF ABBREVIATIONS AND ACRONYMS

CS	- Cabinet Secretary
EIK	- Environmental Institute of Kenya
EMCA	- The Environmental Management and Co-ordination Act, Cap. 487
NEMA	- National Environment Management Authority

PRELIMINARIES

Establishment and Mandate of the Committee

The Committee on Delegated Legislation is established under standing order 195(1) of the Senate Standing Orders and is mandated to scrutinize statutory instruments laid before the Senate.

The Committee is mandated to consider whether a statutory instrument—

- (a) is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
- (b) infringes on fundamental rights and freedoms of the public;
- (c) contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of Parliament;
- (d) contains imposition of taxation;
- (e) directly or indirectly bars the jurisdiction of the courts;
- (f) gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;
- (g) involves expenditure from the Consolidated Fund or other public revenues;
- (h) is defective in its drafting or for any reason, the form or purport of the statutory instrument calls for any elucidation;
- (i) appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- (j) appears to have had unjustifiable delay in its publication or laying before Parliament;
- (k) makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- (l) inappropriately delegates legislative powers;
- (m) imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- (n) appears for any reason to infringe on the rule of law;
- (o) inadequately subjects the exercise of legislative power to parliamentary scrutiny; and
- (p) accords to any other reason that the Committee considers fit to examine.

Membership of the Committee

The Committee is comprised of –

- | | |
|--|--------------------|
| 1) Sen. Mwenda Gataya Mo Fire, CBS, MP | - Chairperson |
| 2) Sen. Danson Buya Mungatana, MGH, MP | - Vice-Chairperson |

- | | |
|---|----------|
| 3) Sen. Joyce Chepkoech Korir, MGH, MP | - Member |
| 4) Sen. Julius Murgor Recha, CBS, MP | - Member |
| 5) Sen Mohamed Mwinyihaji Faki, CBS, MP | - Member |
| 6) Sen. Daniel Kitonga Maanzo, EBS, MP | - Member |
| 7) Sen. Betty Batuli Montet, MP | - Member |
| 8) Sen. Boy Issa Juma, MP | - Member |

FOREWORD BY THE CHAIRPERSON

Hon. Speaker,

The Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025, were tabled in the Senate on Wednesday, 9th April, 2025, following which they were committed to the Committee on Delegated Legislation for scrutiny.

The Regulations are aimed at repealing existing regulations and procedures on environmental impact assessment and environmental audits in order to—

- (a) align them to the Environmental Management and Co-ordination Act (EMCA), Cap. 387;
- (b) cater for emerging environmental issues such as climate change, strategic environmental assessment;
- (c) strengthening procedures for meaningful public participation, environmental audits and monitoring; and
- (d) capture the evolving integrated nature of the environmental and social impact assessment.

Hon. Speaker,

In considering the Regulations, the Committee held meetings with the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry to deliberate on and receive responses to concerns raised on the Regulations. The Committee also received a Petition from the Environment Institute of Kenya (EIK) which raised substantial objections to the Regulations on account of the failure to meet the public participation thresholds during the development of the Regulations, the imposition of exorbitant fees and unjustified and punitive fee increments. These are summarized in Chapter Two of this Report.

Hon. Speaker,

Having heard from the Ministry and having considered the Petition from the Environment Institute of Kenya, the Committee observed that the Regulations did not meet the threshold under the Statutory Instruments Act in the following ways—

- (a) whereas the regulation making authority submitted a regulatory impact statement of the Regulations, a draft copy of the Regulations was not included in the statement as required under section 7(1)(g) of the Statutory Instruments Act, Cap. 2A, and the one posted on NEMA's website did not contain the schedule of fees

hence depriving the public of an opportunity to comment on the proposed fees; Further, notification of preparation of a regulatory impact statement appears not to have been conducted contrary to section 8, hence falling short of the requirements of the Act;

- (b) whereas the regulation making authority indicated that it had conducted public participation on the Regulations, the said consultations were conducted from March to May, 2018 and almost seven (7) years had lapsed between the time when the consultations were held and the time of publication of the Regulations. The public participation exercise conducted in 2018 was not meaningful or adequate in respect of the Regulations published in 2025; and
- (c) there was an inordinate and unjustified delay in the publication of the Regulations, as they were developed prior to 2018, with public participation conducted in 2018 and were published in 2025, seven (7) years later.

The Cabinet Secretary acknowledged the defects in the public participation process and wrote to the Committee to withdraw the Regulations from further scrutiny so as to facilitate further consultations, however, the Cabinet Secretary has not published the revocation of the Regulations, thus necessitating action on the part of the Committee.

Hon. Speaker,

Arising from its observations on the Regulations, the Committee recommends that the House **annuls** the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025.

Hon. Speaker,

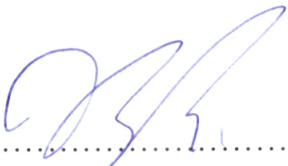
Allow me to thank the Members of the Committee for their diligence and insights during the consideration of these Regulations. I also wish to thank the Environment Institute of Kenya for bringing to the attention of the Senate the concerns contained in their Petition.

Lastly, I wish to thank the Offices of the Speaker and the Clerk of the Senate for the support accorded to the Committee during consideration of this Regulations.

Hon. Speaker,

Pursuant to standing order 195 (4) (b), it is now my pleasant duty to present the Report of the Committee on Delegated Legislation on the consideration of the Environmental

Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025.

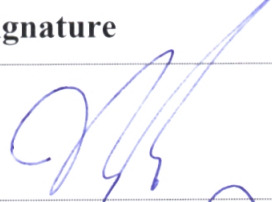
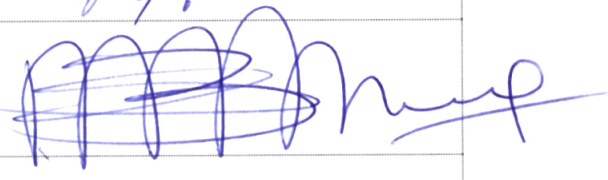
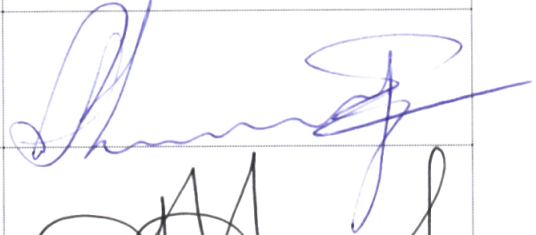
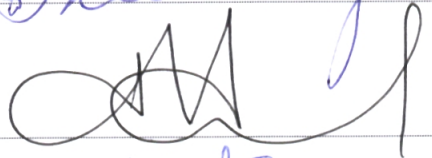
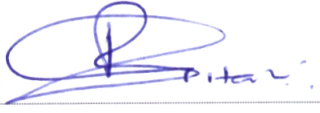
Signed.....

Date.....*06/08/2025*

SEN. MWENDA GATAYA MO FIRE, CBS, MP
CHAIRPERSON, COMMITTEE ON DELEGATED LEGISLATION.

ADOPTION OF THE REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION ON THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL AUDITS) (NO. 2) REGULATIONS, 2025, LEGAL NOTICE NO. 71 OF 2025

We, the undersigned Members of the Committee on Delegated Legislation, do hereby append our signatures to adopt this Report.

No	Name	Signature
1.	Sen. Mwenda Gataya Mo Fire, CBS, MP	
2.	Sen. Danson Buya Mungatana, MGH, MP	
3.	Sen. Joyce Chepkoech Korir, MGH, MP	
4.	Sen. Julius Murgor Recha, CBS, MP	
5.	Sen Mohamed Mwinyihaji Faki, CBS, MP	
6.	Sen. Daniel Kitonga Maanzo, EBS, MP	
7.	Sen. Betty Batuli Montet, MP	
8.	Sen. Boy Issa Juma, MP	

CHAPTER ONE: INTRODUCTION

1.1 Introduction

1. In line with its mandate, the Ministry of Environment, Climate Change and Forestry submitted the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025 to the Senate for scrutiny. A copy of the Regulations is attached to this Report as *Annex 2*.

2. The Regulations were drafted pursuant to powers conferred by section 147 of the Environmental Management and Co-ordination Act, Cap. 387 (“the Act”) which provides that—

“(1) The Cabinet Secretary may, on the recommendation of the Authority and upon consultation with the relevant lead agencies, make regulations prescribing for matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving full effect to the provisions of this Act.

(2) Regulations made under subsection (2) may—(a) make provisions for the issue, amendment and revocation of any licence; (b) provide for the charging of fees and levying of charges; (c) adopt wholly or in part or with modifications any rules, standards, guidelines, regulations, by laws, codes, instructions, specifications, or administrative procedures prescribed by any lead agency either in force at the time of prescription or publication or as amended from time to time.”

3. Section 11(1) of the Statutory Instruments Act, Cap. 2A requires that within seven (7) sitting days after publication, statutory instruments shall be submitted before the relevant clerk of Parliament for tabling. The Regulations were published on 2nd April, 2025 and thereafter submitted to the Senate for tabling on 7th April, 2025, which time was within the seven (7) sitting days of referral of an instrument to Parliament as stipulated by section 11(1) of the Statutory Instruments Act, Cap. 2A.
4. The Regulations were thereafter laid on 9th April, 2025, and were to be considered by the Committee within twenty-eight (28) sitting days which were to lapse on 17th July, 2025. The Committee having received a Petition from the Environment Institute of Kenya on the Regulations, sought an extension of time to consider the

Regulations on 16th July, 2025 for a further twenty-one (21) days, which lapse on 6th August, 2025.

1.2 Overview of the Regulations

5. Part II of the Regulations provide for environmental assessments. Every person implementing a project that is likely to have a negative environmental impact or a project for which an integrated environmental assessment is required has to undertake an integrated environmental assessment and also obtain an environmental assessment licence from the Authority (NEMA) before undertaking the project.
6. All ministries, counties, departments, agencies, institutions and private entities are also required to conduct a strategic environmental assessment before implementing any policy, plan or programme. The entity shall submit the policy, plan or programme to NEMA for it to determine if a strategic environmental assessment is required.
7. Part III of the Regulations provides for registration on environmental assessment experts and issuance of annual practicing licences to registered experts. NEMA is required to maintain a list of all experts holding a practicing licence and to publish the list on its website. The Third Schedule to the Regulations contains a code of practice to be adhered to by licenced experts.
8. Part IV of the Regulations contains provisions on the preparation, submission and consideration of summary project reports. These are to be prepared in respect of low-risk projects, and are to be prepared by a duly licensed environmental assessment expert. If the Authority is satisfied that the report is adequate, it shall issue an environmental assessment licence, and if not adequate, it shall direct the proponent of the project to conduct a comprehensive project report.
9. Part V of the Regulations contains provisions on the preparation, submission and consideration of comprehensive project reports. These are to be prepared in respect of medium-risk projects, and are to be prepared by a duly licensed environmental assessment expert. The Authority is required to communicate its decision within thirty days of receiving the report and if forty-five days lapse without any communication, then the applicant may commence the project.

10. Part VI of the Regulations contains provisions on the preparation, submission and consideration of environmental assessment study reports. These are to be prepared in respect of high-risk projects. This part also contains provisions on issuance of environmental assessment licences, variation of such licences, suspension of the licences, surrender of the licences as well as their revocation.
11. Part VII of the Regulations provides for environmental audits and monitoring. These are to be conducted periodically depending on the risk profile of the project.
12. Part VIII of the Regulations contains provisions on conducting strategic environmental assessments as well as approval of the strategic environmental assessment reports by the Authority. A fee of Kshs. 1,000,000 is payable to the authority once it determines that a strategic environmental assessment ought to be carried out.
13. Part XI of the Regulations contains miscellaneous provisions, including provisions on access to information, protection of proprietary information, offences and appeals to the Tribunal. The Regulations also revoke the Environmental (Impact Assessment and Audit) Regulations, 2003.

CHAPTER TWO: CONSIDERATION OF THE REGULATIONS

2.1 Introduction

14. The Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025 were tabled in the Senate on Wednesday, 9th April, 2025, following which they were committed to the Committee on Delegated Legislation for scrutiny.

15. At a meeting held on Friday, 16th May, 2025, the Committee considered the Regulations and made the following observations—

- (a) the Regulations have been made by the Cabinet Secretary pursuant to section 147(1) of the Environmental Management and Co-ordination Act, which gives the Cabinet Secretary general powers to make regulations. However, the powers to make these Regulations are expressly provided for in section 58(6A) and (6B) of the Environmental Management and Co-ordination Act which provide as follows—

(6A) The Cabinet Secretary in consultation with the Authority shall make regulations and formulate guidelines for the practice of Integrated Environmental Impact Assessments and Environmental Audits.

(6B) The Cabinet Secretary shall make regulations for the accreditation of experts on environmental impact assessments.

The Regulations therefore ought to have referred to section 58(6A) and (6B) of the Environmental Management and Co-ordination Act as the enabling sections;

- (b) the Cabinet Secretary did not submit an explanatory memorandum as required under the Statutory Instruments Act, Cap. 2A;
- (c) the Cabinet Secretary did not submit a regulatory impact statement as required under the Statutory Instruments Act, Cap. 2A;
- (d) the Regulations seek to revoke the Environmental (Impact Assessment and Audit Regulations, 2003, which by dint of section 21 of the Statutory Instruments Act, Cap. 2A are deemed to have expired in 2023;
- (e) Part VIII imposes a fee of Kshs. 1,000,000 is payable to the Authority once it determines that a strategic environmental assessment ought to be carried out. The said fee is exorbitant;
- (f) the Regulations have also increased the fee payable for integrated environmental assessment licences from 0.05% of project cost to 0.1% to 0.05% of project cost. All other fees in the Fourth Schedule have also been

increased by more than fifty percent, and the said increases are exorbitant and unjustified;

- (g) regulations 11(1), 13(1) and 17(1) make reference to the Second Schedule as being one that identifies whether a project is low-risk, medium-risk or high-risk. However, the Second Schedule contains the criteria for registration of environmental assessment experts not the various categories of projects;
- (h) the Regulations make numerous references to phrases including “environmental assessment studies”, “environmental assessment experts”, and “environmental assessment licence”, whereas the parent Act uses phrases such as, “environmental impact assessment studies”, “environmental impact assessment experts”, and “environmental impact assessment licence” to refer to the same thing. This makes the regulations defective in their drafting; and
- (i) the Regulations do not provide for due process, including giving of notice, fair hearing and written reasons prior to suspension and revocation of environmental assessment licences, thus violating Article 47 of the Constitution.

16. Subsequently, the Committee resolved to invite the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry to a meeting for further deliberations on the Regulations. At a meeting held on Tuesday, 27th May, 2025, the Committee met with the Cabinet Secretary and other Ministry officials and received their responses to issues raised by the Committee.
17. The Minutes of the Committee in considering the Regulations are attached to this Report as *Annex 1*.

2.2 Response by the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry

18. At the said meeting held on Tuesday, 27th May, 2025, the Cabinet Secretary submitted the explanatory memorandum, the regulatory impact statement and various documents on public participation. The Cabinet Secretary also responded to issues raised by the Committee as summarized below-
 - a) with regard to the Regulations made pursuant to section 147(1) of the EMCA as opposed to section 58(6A) and 6(B), the Ministry acknowledged the error and supported the amendment;

- b) the second schedule referred to in regulations 11(1), 13(1) and 17(1) in respect of the risk profile of projects is the one in the Act not the one in the Regulations; and
 - c) with regard to the minor drafting matters, the Ministry committed to correct the same by requesting the Attorney General to prepare and publish a corrigendum.
19. A copy of the Response from the Cabinet Secretary, Ministry of Environment and Climate Change is attached to this Report as *Annex 3*.

2.3 Petition by the Environment Institute of Kenya

20. On 4th June, 2025, the Clerk of the Senate received a Petition from the Environment Institute of Kenya (ElK) addressed to the Clerk of the Senate, the Clerk of the National Assembly and the Committee on Delegated Legislation, seeking, among other reliefs, that the Committee on Delegated Legislation and Parliament in general—

- a) conduct a thorough review of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, Legal Notice No. 71 of 2025 to assess their procedural legality, ensuring compliance with the Statutory Instruments Act, Cap. 2A and constitutional mandates on public participation and transparency;
- b) recommend the immediate suspension or annulment of the said Regulations pending a comprehensive, inclusive, and transparent stakeholder consultation process involving ElK, environmental professionals, civil society and the public;
- c) summon the relevant authorities from the Ministry of Environment, Climate Change and Forestry and the National Environment Management Authority (NEMA) to provide clear explanations and justifications for the procedural lapses and lack of engagement with key stakeholders during the formulation of these Regulations;
- d) facilitate a formal stakeholder hearing where ElK and other affected parties can present expert views, concerns and constructive recommendations to inform the development of regulations that are fair, equitable and supportive of sound environmental governance; and
- e) ensure that any future regulatory reforms in environmental management prioritize transparency, fairness, affordability and the empowerment of environmental professionals as a foundation for sustainable development and ecological stewardship.

21. The Petition was premised on the following grounds—
- a) that the process surrounding the development and gazettment of the Regulations violates Articles 10 (2) (a), (b) and (c), 35, 47(1) and (2) and 201(d) of the Constitution for failure to consult stakeholders meaningfully by denying them the opportunity to review or respond to the draft regulations and fee schedules;
 - b) that the Regulations conflict with the Environmental Management and Co-ordination Act, Cap. 387 by prescribing fee structures that are punitive, lacking proportionality and unrelated to actual services provided; and
 - c) that the Regulations are unreasonable and oppressive as the fee increments are devoid of any demonstrated rational impact assessments or evidence-based justification.
22. A copy of the Petition from the Environment Institute of Kenya is attached to this Report as *Annex 4*.
23. On Thursday, 24th July, 2025, the Committee met with the Environment Institute of Kenya, the Petitioner, and the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry. A copy of the response by the Ministry on the issues raised in the Petition is attached to this Report as *Annex 5*.
24. Whereas it was not disputed that the Petitioner was represented in the public participation exercise conducted in 2018, the Petitioner alleged that the public participation exercise was inadequate in respect of the now published Regulations, as the content of the draft Regulations uploaded on the National Environment Management Authority website at the time did not contain the schedule on fees, hence they did not have an opportunity to submit their comments on the same.
25. Subsequently, the Committee requested the Cabinet Secretary to share a copy of the draft Regulations submitted for public participation so as to compare the fees in the draft and in the published Regulations. The Committee further resolved to hold a follow-up meeting on Monday, 28th July, 2025.
26. On Monday, 28th July, 2025, the Principal Secretary, State Department for Environment and Climate Change appeared before the Committee on behalf of the Cabinet Secretary and informed the meeting that the Ministry had made the decision to withdraw the Regulations to facilitate further public participation.
27. Copies of letters from the Principal Secretary to the Clerk of the Senate and the

Solicitor General communicating the withdrawal of the Regulations are attached to this Report as *Annex 6*.

28. Subsequently, the Committee resolved that the Ministry gazettes the revocation of Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025 by Friday, 1st August, 2025. A copy of the letter communicating the Committee's resolution is attached to this Report as *Annex 7*.
29. As at Monday, 4th August, 2025, the revocation had not been published in the *Kenya Gazette* as resolved by the Committee.

CHAPTER THREE: COMMITTEE OBSERVATIONS

30. Upon scrutinizing the Regulations together with the submissions made by the regulation-making authority and the Petition by the Environment Institute of Kenya, the Committee makes the following observations—

Regulatory impact statement

- (a) section 6 of the Statutory Instruments Act, Cap. 2A provides that if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulation making authority shall, prior to making the statutory instrument, prepare a regulatory impact statement about the instrument. A copy of the regulatory impact statement is to be tabled in Parliament with the statutory instrument in accordance with section 7(5) of the Act. Section 7(1)(g) provides that the regulatory impact statement shall include a draft copy of the proposed statutory rule. Further, section 8 provides that preparation of a regulatory impact statement for a proposed statutory instrument shall be notified in the *Gazette* and in a newspaper likely to be read by people particularly affected by the proposed legislation;
- (b) whereas the regulation making authority submitted a regulatory impact statement of the Regulations, a draft copy of the Regulations was not included in the statement as required above, and notification of preparation of a regulatory impact statement appears not to have been conducted, hence falling short of the requirements of the Act;

Public participation

- (c) section 5 of the Statutory Instruments Act, Cap. 2A requires a regulation making authority to conduct public participation prior to publication of a statutory instrument. Whereas the regulation making authority indicated that it had conducted public participation on the Regulations, the said consultations were conducted from March to May, 2018 and almost seven (7) years had lapsed between the time when the consultations were held and the time of publication of the Regulations. The consultation process for statutory instruments is generally expected to be conducted relatively close to the time the instrument is made, often with the goal of informing the final text of the instrument before it is published;
- (d) due to the long passage of time, circumstances have most likely changed significantly, rendering the consultation outdated. The regulation making authority ought to have at a minimum, sought additional comments on the final draft instrument developed in 2018 prior to publication;

- (e) the draft document which was to be subjected to the national validation exercise which was posted on the National Environment Management Authority's website in 2018 was incomplete as it did not contain the schedule on various fees charged under the Regulations (Fourth Schedule). As such, the public was deprived of the opportunity of giving its comments on the proposed fees;
- (f) by not availing to members of the public the complete draft Regulations, the regulation making authority appears to be treating public participation as a separate activity conducted in isolation and as just a mere step in the regulation making process, instead of treating it as an exercise meant to gather feedback and input on the proposed content of the Regulations so as to ensure that they are effective and reflect the needs of those they will affect. For this reason, the public participation exercise conducted in 2018 was not meaningful or adequate in respect of the Regulations published in 2025;

Unjustifiable delay in the publication or laying of the instrument in Parliament

- (g) section 13(j) of the Statutory Instrument Act, Cap. 2A requires Parliament to examine whether a statutory instrument appears to have had unjustifiable delay in its publication or laying before Parliament. It is observed that the Regulations having been developed prior to 2018 and with public participation having been conducted in 2018, a reasonable justification ought to have been given as to why they were not published until 2025; and
- (h) additionally, the Regulations seek to revoke Regulations published in 2003, which by dint of section 21 of the Statutory Instruments Act, Cap. 2A were deemed to have expired in 2023. No effort was made to explain to the Committee why they were not published earlier and for this reason, the delay in publication was not justified.

CHAPTER FOUR: RECOMMENDATIONS

31. Arising from its observations as set out in the preceding Chapter, the Committee on Delegated Legislation recommends that the House **annuls** the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025.

LIST OF ANNEXES

- Annex 1:** Minutes of the Committee in Considering the Regulations
- Annex 2:** The Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025
- Annex 3:** Response from the Cabinet Secretary, Ministry of Environment and Climate Change on issues raised by the Committee
- Annex 4:** Petition by the Environment Institute of Kenya
- Annex 5:** Response from the Cabinet Secretary, Ministry of Environment and Climate Change on issues raised in the Petition
- Annex 6:** Copies of letters from the Principal Secretary to the Clerk of the Senate and the Solicitor General communicating the withdrawal of the Regulations
- Annex 7:** Copy of a letter from the Clerk of the Senate to the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry communicating the Committee's resolution for revocation of the Regulations by Friday, 1st August, 2025

ANNEX 1



13TH PARLIAMENT | 4TH SESSION

**MINUTES OF THE 25TH SITTING OF THE COMMITTEE ON DELEGATED
LEGISLATION HELD ON SATURDAY, 17TH MAY, 2025 AT 10.00 A.M. AT THE
FOUR POINTS BY SHERATON HOTEL, MACHAKOS COUNTY**

PRESENT

- | | |
|---|--------------------|
| 1. Sen. Mwenda Gataya Mo Fire, CBS, MP | - Chairperson |
| 2. Sen. Danson Buya Mungatana, MGH, MP | - Vice-Chairperson |
| 3. Sen. Julius Murgor Recha, CBS, MP | |
| 4. Sen. Daniel Kitonga Maanzo, EBS, MP | |
| 5. Sen. Mohamed Faki Mwinyihaji CBS, MP | |
| 6. Sen. Boy Issa Juma, MP | |

ABSENT WITH APOLOGY

1. Sen. Joyce Chepkoech Korir, MGH, MP
2. Sen. Betty Batuli Montet, MP
3. Sen. Gloria Orwoba, MP

SECRETARIAT

- | | |
|----------------------------|-------------------------------|
| 1. Ms. Carol Kirorei | - Clerk Assistant I |
| 2. Mr. Eric Ososi | - Research Officer I |
| 3. Ms. Lillian Waweru | - Legal Counsel II |
| 4. Ms. Rahma Abdullahi | - Clerk Assistant III |
| 5. Mr. Nandemu Barasa | - Media Relations Officer III |
| 6. Mr. John Pere | - Serjeant-at-Arms |
| 7. Ms. Fatuma Mohamud Abdi | - Audio Officer |

MIN. NO.SEN/CDL/142/2025

PRELIMINARIES

The meeting was called to order at 10.30 a.m. followed by a word of prayer.

MIN. NO.SEN/CDL/143/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Mwenda Gataya Mo Fire, CBS, MP and seconded by Sen. Mohamed Faki Mwinyihaji, CBS, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Consideration of the Environmental Management and Co-Ordination (Access to Biological Resources and Benefit Sharing) (No. 2) Regulations, 2025, Legal Notice No. 68 of 2025
4. Consideration of the Environmental Management and Co-Ordination (Strategic and integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/CDL/144/2025

CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (ACCESS TO BIOLOGICAL RESOURCES AND BENEFIT SHARING) (NO.2) REGULATIONS, 2025, LEGAL NOTICE NO. 68 OF 2025

The Committee considered Paper No. 18 (*The Environmental Management and Co-ordination (Access to Biological Resources and Benefit Sharing) (No.2) Regulations, 2025, Legal Notice No. 68 of 2025.*

During deliberations, the Committee made the following observations –

1. The regulation-making body submitted an explanatory memorandum and indicated in the memorandum that public participation was conducted. However, the available documentation only shows attendance records of the persons who attended the technical committee meeting to review the 2006 regulations, and not the stakeholders likely to be affected by the regulations or members of the general public. There were also no notices to show that stakeholders and members of the public were invited to any forums;
2. The regulatory impact statement submitted was very scanty and only lists items in every section;
3. The first paragraph of the Third Schedule erroneously refers to the Regulations as 2023 Regulations instead of 2025 Regulations. Additionally, some parts of the Regulations refer to “the Authority” while others refer to “the competent national authority” interchangeably;
4. The definitions of the terms “biological resource”, “genetic resource”, sustainable use” and “traditional knowledge” as contained in the regulations are different from the definitions of the same terms as contained in the enabling Act. Additionally, the definition of “fair and equitable” to mean “sharing of benefits” is superfluous;

5. The fees charged for commercial access are exorbitant in respect of individuals or entities conducting small scale value addition activities;
6. Members of the community may be obstructed from accessing resources in forests controlled by various government entities;
7. County governments should be consulted before granting permits for commercial access; and
8. Although the Regulations, according to the explanatory memorandum, seek to domesticate the provisions of an international agreement, the name and citation of the agreement have not been provided for.

Resolution

The Committee-

1. resolved to communicate the aforementioned observations to the Ministry of Environment and Climate Change; and
2. resolved to invite the Cabinet Secretary, Ministry of Environment and Climate Change to a meeting scheduled to be held on Tuesday, 27th May, 2025 to deliberate on the Regulations.

MIN.NO.SEN/CDL/145/2025

CONSIDERATION OF THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL AUDITS) (NO.2) REGULATIONS, 2025, LEGAL NOTICE NO. 71 OF 2025

The Committee considered Paper No. 19 (*The Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025*).

During deliberations, Members observed that-

1. The Regulations have been made by the Cabinet Secretary pursuant to section 147(1) of the Environmental Management and Co-ordination Act, which gives the Cabinet Secretary general powers to make regulations. However, the powers to make these Regulations are expressly provided for in section 58(6A) and (6B) of the Environmental Management and Co-ordination Act which provide as follows—

(6A) The Cabinet Secretary in consultation with the Authority shall make regulations and formulate guidelines for the practice of Integrated Environmental Impact Assessments and Environmental Audits.

(6B) The Cabinet Secretary shall make regulations for the accreditation of experts on environmental impact assessments.

The Regulations therefore ought to have referred to section 58(6A) and (6B) of the Environmental Management and Co-ordination Act as the enabling sections;

2. The Cabinet Secretary did not submit an explanatory memorandum as required under the Statutory Instruments Act, Cap. 2A;
3. The Cabinet Secretary did not submit a regulatory impact statement as required under the Statutory Instruments Act, Cap. 2A;
4. The Regulations seek to revoke the Environmental (Impact Assessment and Audit Regulations, 2003, which by dint of section 21 of the Statutory Instruments Act, Cap. 2A are deemed to have expired in 2023;
5. Part VIII imposes a fee of Kshs. 1,000,000 is payable to the Authority once it determines that a strategic environmental assessment ought to be carried out. The said fee is exorbitant;
6. The Regulations have also increased the fee payable for integrated environmental assessment licences from 0.05% of project cost to 0.1% to 0.05% of project cost. All other fees in the Fourth Schedule have also been increased by more than fifty percent, and the said increases are exorbitant and unjustified;
7. Regulations 11(1), 13(1) and 17(1) make reference to the Second Schedule as being one that identifies whether a project is low-risk, medium-risk or high-risk. However, the Second Schedule contains the criteria for registration of environmental assessment experts not the various categories of projects;
8. The Regulations make numerous references to phrases including “environmental assessment studies”, “environmental assessment experts”, and “environmental assessment licence”, whereas the parent Act uses phrases such as, “environmental impact assessment studies”, “environmental impact assessment experts”, and “environmental impact assessment licence” to refer to the same thing. This makes the regulations defective in their drafting; and
9. The Regulations do not provide for due process, including giving of notice, fair hearing and written reasons prior to suspension and revocation of environmental assessment licences, thus violating Article 47 of the Constitution.

Resolution

The Committee resolved to-

1. resolved to communicate the aforementioned observations to the Ministry of Environment and Climate Change; and
2. resolved to invite the Cabinet Secretary, Ministry of Environment and Climate Change to a meeting scheduled to be held on Tuesday, 27th May, 2025 to deliberate on the Regulations.

MIN.NO.SEN/CDL/146/2025

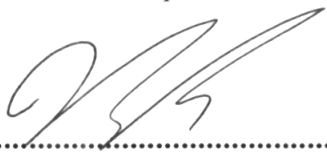
ANY OTHER BUSINESS

There was no other business discussed at the meeting.

MIN.NO.SEN/CDL/147/2025

DATE OF THE NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 12.10 p.m. The next meeting would be held on Saturday, 17th May, 2025 at 1.00 p.m.

SIGNED: 

DATE: 06/08/2025'



13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 29TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON TUESDAY, 27TH MAY, 2025 AT 11.00 A.M. IN COMMITTEE ROOM 5, FIRST FLOOR, MAIN PARLIAMENT BUILDINGS

PRESENT

- | | |
|---|--------------------|
| 1. Sen. Mwenda Gataya Mo Fire, CBS, MP | - Chairperson |
| 2. Sen. Danson Buya Mungatana, MGH, MP | - Vice-Chairperson |
| 3. Sen. Mohamed Faki Mwinyihaji CBS, MP | |
| 4. Sen. Boy Issa Juma, MP | |
| 5. Sen. Betty Batuli Montet, MP | |

ABSENT WITH APOLOGY

1. Sen. Joyce Chepkoech Korir, MGH, MP
2. Sen. Julius Murgor Recha, CBS, MP
3. Sen. Daniel Kitonga Maanzo, EBS, MP

SECRETARIAT

- | | |
|-------------------------|-------------------------------|
| 1. Ms. Carol Kirorei | - Clerk Assistant I |
| 2. Ms. Lillian Waweru | - Legal Counsel II |
| 3. Ms. Rahma Abdullahi | - Clerk Assistant III |
| 4. Ms. Belinda Ogolla | - Research Officer III |
| 5. Mr. Jack Lemeteki | - Media Relations Officer III |
| 6. Mr. John Pere | - Serjeant-at-Arms |
| 7. Mr. Johnstone Simiyu | - Audio Officer |

IN ATTENDANCE

1. Dr. Deborah Barasa
2. Dr. Eng. Festus Ngeno, MIEK
Environment and Climate Change
3. Mr. Erastus Gitonga
4. Dr. Selly Kimosop
5. Ms. Caroline Muema

MINISTRY OF ENVIRONMENT

- | |
|---|
| - Cabinet Secretary |
| - Principal Secretary, State Department for |
| - Head of Legal, NEMA |
| - Environment Secretary |
| - Head of Communications |

- | | |
|-------------------------|---------------------------------|
| 6. Ms. Linah Meme | - Legal Counsel |
| 7. Mr. Titus Simiyu | - NEMA |
| 8. Mr. Dennis Diffu | - Office of the CS |
| 9. Mr. Rodney Omari | - Parliamentary Liaison Officer |
| 10. Ms. Zipporah Lotam | - Parliamentary Liaison Officer |
| 11. Ms. Winifred Masaku | - Parliamentary Liaison Officer |

MIN. NO.SEN/CDL/143/2025

PRELIMINARIES

The meeting was called to order at 11.30 a.m. followed by a word of prayer. This was followed by introduction of Members and attendees present.

MIN. NO.SEN/CDL/144/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Danson Buya Mungatana, MGH, MP and seconded by Sen. Boy Issa Juma, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Cabinet Secretary, Ministry of Environment and Climate Change to deliberate on-
 - a) The Environmental Management and Coordination (Controlled Substances) Regulations, 2025, Legal Notice No. 53 of 2025;
 - b) The Environmental Management and Coordination (Deposit Bonds) (No.2) Regulations, 2025, Legal Notice No. 67 of 2025;
 - c) The Environmental Management and Coordination (Access to Biological resources and Benefit Sharing) (No.2) Regulations, 2025, Legal Notice No. 68 of 2025; and
 - d) The Environmental Management and Coordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025
4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/CDL/145/2025

**MEETING WITH THE CABINET
SECRETARY, MINISTRY OF
ENVIRONMENT AND CLIMATE CHANGE
TO DELIBERATE ON LEGAL NOTICES
NO. 53, 67, 68 AND 71 OF 2025**

The Chairperson welcomed the delegation from the Ministry of Environment, Climate Change and Forestry led by the Cabinet Secretary to the meeting. He stated that the purpose of the meeting was to deliberate on the following Regulations before the Committee-

1. The Environmental Management and Coordination (Controlled Substances) Regulations, 2025, Legal Notice No. 53 of 2025;
2. The Environmental Management and Coordination (Deposit Bonds) (No.2) Regulations, 2025, Legal Notice No. 67 of 2025;
3. The Environmental Management and Coordination (Access to Biological resources and Benefit Sharing) (No.2) Regulations, 2025, Legal Notice No. 68 of 2025; and
4. The Environmental Management and Coordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025

He added that the Committee in its consideration of the Regulations had raised a number of concerns, and invited the Cabinet Secretary to respond to the issues.

The Cabinet Secretary responded to the issues raised by the Committee as summarized below-

A. The Environmental Management and Coordination (Controlled Substances) Regulations, 2025, Legal Notice No. 53 of 2025

1. The annexes in the First Schedule appear to prohibit certain controlled substances. However, regulation 6 appears to authorize dealings in all controlled substances as long as the person dealing has obtained the requisite licenses. There is need to re-draft regulation 6 for consistency with the status of various controlled substances under the First Schedule.

Response: The Ministry noted the error and agreed to amend the Regulations.

2. There is also need to have the correct cross-references for some of the forms contained in the schedules, such as Form 3A and Form 15 in the Second Schedule, as well as the cross-references in the Sixth Schedule.

Response: The Ministry noted the error and agreed to amend the Regulations.

3. Development of the Regulations, including public participation appears to have been conducted in 2020. It is not clear why the Regulations were then published in 2025.

Response: The drafting and development of the Regulations coincided with the effects of the COVID-19 pandemic throwing most activities into disarray. Further the Constitution and the Statutory Instruments Act, Cap. 2A did not outlaw such delays in the public participation process.

Committee intervention: The views of the public may have evolved over time.

B. The Environmental Management and Coordination (Deposit Bonds) (No.2) Regulations, 2025, Legal Notice No. 67 of 2025

1. The explanatory memorandum makes reference to 2015 regulations not the 2025 regulations and public participation appears to have been conducted in 2015. Ten years have lapsed since the public participation was conducted; it would have been necessary to re-engage stakeholders as well as members of the public as their concerns would have evolved over time.

Response: Consultations began in 2015 and there exists no statutory or regulatory timeframes under the Constitution and the Statutory Instruments Act, Cap. 2A prescribing a timeframe for public participation. ✓

Committee intervention: The views of the public may have evolved over time. If the Regulations would have been published in 2015, then they would be deemed to expired in 2025 and would be due for review. ✓

2. Whereas the Ministry prepared and submitted a regulatory impact statement, no documentation has been provided to show whether the public was notified of the regulatory impact statement, both in the Kenya Gazette and in two newspapers as required under the Statutory Instruments Act, Cap. 2A. ✓

Response: The documentation could not be traced. ✓

3. Refugee camps have been listed in the First Schedule as an activity which would require a deposit bond to be placed. It is however not clear who would be placing the bond, whether it is the government or the UNHCR and other relief agencies which operate the camps.

Response: Regulation 8(1) refers to the proponent or operator i.e. the person proposing or executing or proprietor of a project, programme or undertaking listed in the First Schedule. This might be government, UNHCR or other agency. Therefore the one placing the bond will be the entity operating or owning the refugee camp.

Committee Response: The provision was not practical, there was need for further research and consultations on the same.

4. The provisions of section 28(2) of the Environmental Management and Co-ordination Act, Cap. 387, give the Cabinet Secretary for Finance power to prescribe that certain undertakings place deposit bonds. There is need to clarify whether this power has been exercised as the Regulations cannot operate without the bond amounts being prescribed.

Response: The determination by the Cabinet Secretary for Finance under Regulation 8(3)(h) is one of the Requirements of the of the Deposit Bonds Assessment Report. The reasoning here is that the cost of the deposit bond should not be predetermined because many factors influence future costs which may vary from one project to the other.

C. The Environmental Management and Coordination (Access to Biological resources and Benefit Sharing) (No.2) Regulations, 2025, Legal Notice No. 68 of 2025

1. The regulation-making body submitted an explanatory memorandum and indicated in the memorandum that public participation was conducted. However, the available documentation only shows attendance records of the persons who attended the technical committee meeting to review the 2006 regulations, and not the stakeholders likely to be affected by the regulations or members of the general public. There were also no notices to show that stakeholders and members of the public were invited to any forums.

Response: Supporting documents were provided.

2. The first paragraph of the Third Schedule erroneously refers to the Regulations as 2023 Regulations instead of 2025 Regulations. Additionally, some parts of the

Regulations refer to “the Authority” while others refer to “the competent national authority” interchangeably.

Response: The words refer to one and the same thing hence the interchangeable use.

Committee intervention: There is need for consistency therefore the Regulations need to be amended to use one term throughout the document.

3. The definitions of the terms “biological resource”, “genetic resource”, sustainable use” and “traditional knowledge” as contained in the regulations are different from the definitions of the same terms as contained in the enabling Act. Additionally, the definition of “fair and equitable” to mean “sharing of benefits” is superfluous.

Response: The definitions of the words have been enhanced and enriched to bring in more meaning of the terms and expound on the scope of coverage. The Ministry agreed to amend the definition of “fair and equitable”.

Committee intervention: Regulations cannot purport to amend an Act. Any amendment to terms should first be amended in the Act as Regulations are anchored in the Act. Regulations cannot contradict an Act.

4. The fees charged for commercial access are exorbitant in respect of individuals or entities conducting small scale value addition activities.

Response: The fees proposed are in consideration of management of biodiversity resources where the activity will have adverse effects to the conservation efforts and resource regenerative structures and will be used for processing of applications.

Committee intervention: There is no categorization of the fees chargeable to locals ✓ and the fee of Kshs. 500,000 was too high. The fee should be reviewed downward.

- ✓ 5. Members of the community may be obstructed from accessing resources in forests controlled by various government entities.

Response: Regulation 4(2) protects the interests of the community and will not cause any obstruction in accessing the resources for their use.

6. County governments should be consulted before granting permits for commercial access.

Response: Applications are required to be accompanied by Prior Informed Consent and Mutually Agreed Terms from interested persons and the process involves wide stakeholders from national and county governments, the local community and individual wanting access to the resource during the decision-making process.

Committee intervention: There is need for express provision for consultations with the county governments.

7. Although the Regulations, according to the explanatory memorandum, seek to domesticate the provisions of an international agreement, the name and citation of the agreement have not been provided for.

Response: The Nagoya Treaty is cited in the Explanatory memorandum under clause 2.

D. The Environmental Management and Coordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025

1. The Regulations have been made by the Cabinet Secretary pursuant to section 147(1) of the Environmental Management and Co-ordination Act, which gives the Cabinet Secretary general powers to make regulations. However, the powers to make these Regulations are expressly provided for in section 58(6A) and (6B).

Response: The Ministry acknowledged the error and committed to make the necessary amendments.

2. The Cabinet Secretary did not submit an explanatory memorandum and regulatory impact statement as required under the Statutory Instruments Act, Cap. 2A.

Response: The documents were submitted to the Committee.

3. The Regulations seek to revoke the Environmental (Impact Assessment and Audit Regulations, 2003, which by dint of section 21 of the Statutory Instruments Act, Cap. 2A are deemed to have expired in 2023.

Response: Section 21 of the Statutory Instruments Act was repealed by the Finance act, 2023 and therefore did not apply to the Regulations.

Committee intervention: The Senate's and the Committee's position was that Regulations expire after a period of ten (10) years.

4. Part VIII imposes a fee of Kshs. 1,000,000 is payable to the Authority once it determines that a strategic environmental assessment ought to be carried out. The said fee is exorbitant.

Response: The strategic environmental assessment targets high risk projects such as Tatu City or Lapsset Corridor and is a critical environmental planning tool.

Committee intervention: Without the explanation that the fees are for high-risk projects, the Regulations indicate that all projects must undergo a strategic environmental assessment. There was therefore need to amend the Regulations for clarity.

5. The Regulations have also increased the fee payable for integrated environmental assessment licences from 0.05% of project cost to 0.1% to 0.05% of project cost. All other fees in the Fourth Schedule have also been increased by more than fifty percent, and the said increases are exorbitant and unjustified.

Response: prior to the gazettment of the Regulations, the environmental impact assessment fees were pegged at 0.1% and not 0.05. Therefore, no change had been introduced. Review of the fees was also necessary to enhance the operations and efficiency of NEMA.

6. Regulations 11(1), 13(1) and 17(1) make reference to the Second Schedule as being one that identifies whether a project is low-risk, medium-risk or high-risk. However, the Second Schedule contains the criteria for registration of environmental assessment experts not the various categories of projects.

Response: The schedule referred to is as provided under the EMCA Act, Cap. 387.

Committee intervention: There was need for amendment to provide clarity.

7. The Regulations make numerous references to phrases including "environmental assessment studies", "environmental assessment experts", and "environmental assessment licence", whereas the parent Act uses phrases such as, "environmental impact assessment studies", "environmental impact assessment experts", and

“environmental impact assessment licence” to refer to the same thing. This makes the regulations defective in their drafting.

Response: The definition section of the Regulations make reference to the Act and thus removes any ambiguity.

Committee intervention: There is need for consistency in the Regulations with the provisions of the Act.

8. The Regulations do not provide for due process, including giving of notice, fair hearing and written reasons prior to suspension and revocation of environmental assessment licences, thus violating Article 47 of the Constitution.

Response: The Act makes provision for this and the Ministry is alive to the provisions of the Fair Administrative Act.

Committee intervention: In other processes in the Regulation, the drafter was specific and went to great detail. There is therefore need for consistency.

During deliberations, Members-

1. raised concern on the public participation documentation submitted in respect of the Environmental Management and Coordination (Controlled Substances) Regulations, 2025, Legal Notice No. 53 of 2025, whose participants were all from NEMA; and
2. observed that the public participation documentation provided for Legal Notices No. 67, 68 and 71 were insufficient.

Resolution

The Committee-

1. **acceded to the Environmental Management and Coordination (Controlled Substances) Regulations, 2025, Legal Notice No. 53 of 2025;**
2. **resolved that the Cabinet Secretary, Ministry of Environment and Climate Change resubmits proper public participation documentation in respect of Legal Notices No. 67, 68 and 71; and**
3. **resolved to hold a follow-up meeting with the Cabinet Secretary, Ministry of Environment and Climate Change to further deliberate on issues raised and consider the proposed final amendments to Legal Notices No. 67, 68 and 71 of 2025.**

MIN.NO.SEN/CDL/146/2025

ANY OTHER BUSINESS

1. County Visit to Machakos and Kajiado Counties

Members were reminded of the upcoming county visits to Machakos and Kajiado Counties between 5th and 8th June, 2025 and were urged to attend.

2. Foreign Visit

Members resolved to proceed for a Foreign Visit to Arusha, Tanzania between 15th and 22nd June, 2025. The Committee nominated the following Members to proceed on the visit-

- a) Sen. Mwenda Gataya Mo Fire, CBS, MP;

- b) Sen. Danson Mungatana, MGH, MP; and
- c) Sen. Joyce Korir, MGH, MP.

MIN.NO.SEN/CDL/147/2025

**DATE OF THE NEXT MEETING AND
ADJOURNMENT**

The Chairperson adjourned the meeting at 2.00 p.m. The next meeting would be held on Thursday, 29th May, 2025 at 11.00 a.m.

SIGNED:

DATE:



13TH PARLIAMENT | 4TH SESSION

**MINUTES OF THE 32ND SITTING OF THE COMMITTEE ON DELEGATED
LEGISLATION HELD ON TUESDAY, 15TH JULY, 2025 AT 11.00 A.M. IN
COMMITTEE ROOM 6, FIRST FLOOR, BUNGE TOWER**

PRESENT

1. Sen. Danson Buya Mungatana, MGH, MP - Vice-Chairperson
2. Sen. Julius Murgor Recha, CBS, MP
3. Sen. Boy Issa Juma, MP
4. Sen. Betty Batuli Montet, MP

ABSENT WITH APOLOGY

1. Sen. Mwenda Gataya Mo Fire, CBS, MP - Chairperson
2. Sen. Joyce Chepkoech Korir, MGH, MP
3. Sen. Mohamed Faki Mwinyihaji CBS, MP
4. Sen. Daniel Kitonga Maanzo, EBS, MP

SECRETARIAT

1. Ms. Carol Kiorei - Clerk Assistant I
2. Ms. Lillian Waweru - Legal Counsel II
3. Ms. Belinda Ogollah - Research Officer III
4. Mr. David Barasa - Serjeant-at-Arms
5. Mr. Nicholas Arusei - Audio Officer
6. Mr. Baraza Pius Were - Attaché, DGAC

MIN. NO.SEN/CDL/179/2025

PRELIMINARIES

The meeting was called to order at 11.29 a.m. followed by a word of prayer.

MIN. NO.SEN/CDL/180/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Issa Boy Juma, MP, and seconded by Sen. Julius Murgor Recha, CBS, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Briefing on correspondence before the Committee (*Committee Paper No. 21*)
4. Consideration of a Petition regarding the gazettment and re-gazettment of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025 (*Committee Paper No. 22*)
5. Any Other Business
6. Date of the Next Meeting and Adjournment

MIN.NO.SEN/CDL/181/2025

**BRIEFING ON CORRESPONDENCE
BEFORE THE COMMITTEE**

The Committee considered Paper No. 21 (*Briefing on correspondence before the Committee*).

During deliberations, Members observed that-

1. the Ministry of Environment, Climate Change and Forestry had not submitted any documentation on public participation in respect of the Regulations as requested by the Committee;
2. the Ministry had captured the amendments proposed by the Committee in respect of the following Regulations-
 - a) The Environmental Management and Coordination (Controlled Substances) Regulations, 2025, Legal Notice No. 53 of 2025;
 - b) The Environmental Management and Coordination (Deposit Bonds) (No.2) Regulations, 2025, Legal Notice No. 67 of 2025;
 - c) The Environmental Management and Coordination (Access to Biological resources and Benefit Sharing) (No.2) Regulations, 2025, Legal Notice No. 68 of 2025; and
 - d) The Environmental Management and Coordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2), 2025, Legal Notice No. 71 of 2025.
3. With respect to the Environmental Management and Coordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025, whereas the Committee's proposed amendments have been captured by the Ministry, additional amendments not agreed upon at the meeting of 27th May, 2025 have been included in the amendments forwarded to the Attorney General. These include the following-
 - a) instructions to amend the fees for Environmental Impact Assessment fees to read as follows-
 - i. Low Risk Projects; 0.1% of the project cost to a minimum of Kshs. 20,000;
 - ii. Medium Risk Projects; 0.1% of project cost to a minimum of Kshs. 50,000; and
 - iii. High Risk Projects; 0.1% of project cost to a minimum of Kshs. 100,000.

- b) instructions to reintroduce the forms and fees related to Designation of Strategic and Integrated Environmental Assessment Training Institutions provided by the Ministry in earlier drafts.
- 4. Legal Notice No. 71 of 2025 was laid in the Senate on 9th April, 2025 and were to be considered by the Committee within twenty-eight (28) sitting days which lapse on 17th July, 2025.

Resolution

The Committee-

- 1. noted the contents of the Paper;**
- 2. resolved to seek an extension of time for the consideration of the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025; and**
- 3. resolved to engage with the petitioners and the Ministry of Environment and Climate Change on Legal Notice No. 71 of 2025 on Thursday, 24th July, 2025.**

MIN. NO.SEN/CDL/182/2025

CONSIDERATION OF A PETITION REGARDING THE GAZETTEMENT AND RE-GAZETTEMENT OF THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL AUDITS) REGULATIONS, 2025

The Committee considered Paper No. 22 (*Consideration of a Petition regarding the gazettelement and re-gazettelement of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025*).

During deliberations, Members observed that-

1. the petition raised serious issues on the adequacy of public consultations conducted during the development of the Regulations;
2. following a request by the Committee, the Ministry submitted documentation on public participation and the regulatory impact assessment. However, the documentation on public participation and regulatory impact assessment was inadequate and the Committee had requested the Cabinet Secretary to resubmit the same as well as provide additional evidence of public participation;
3. according to attendance lists provided by the Cabinet Secretary, the Petitioner (EIK) was represented in stakeholder forums held on 13th March, 2018 at Pride Inn Hotel, Shanzu, Mombasa County, and in Isiolo, and also at a Task Force sitting held on 18th April, 2018, at Kongoni Hotel, Naivasha; and

4. whereas the Petitioners were involved in the public participation, the said exercise took place in 2018 while the Regulations were published in 2025. This duration of seven (7) years since the exercise took place was inordinately long.

Resolution

The Committee-

1. noted the contents of the Paper;
2. resolved to seek an extension of time for the consideration of the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessment and Environmental Audits) (No.2) Regulations, 2025, Legal Notice No. 71 of 2025; and
3. resolved to engage with the petitioners and the Ministry of Environment and Climate Change on Legal Notice No. 71 of 2025 on Thursday, 24th July, 2025.

MIN.NO.SEN/CDL/183/2025

ANY OTHER BUSINESS

There was no other business discussed at the meeting.

MIN.NO.SEN/CDL/184/2025

**DATE OF THE NEXT MEETING AND
ADJOURNMENT**

The Chairperson adjourned the meeting at 12.18 p.m. The next meeting would be held on Tuesday, 22nd July, 2025 at 11.00 a.m.

SIGNED:

DATE:



13TH PARLIAMENT | 4TH SESSION

**MINUTES OF THE 34TH SITTING OF THE COMMITTEE ON DELEGATED
LEGISLATION HELD ON THURSDAY, 24TH JULY, 2025 AT 11.00 A.M. IN
COMMITTEE ROOM 1, FIRST FLOOR, BUNGE TOWER**

PRESENT

- | | |
|---|---------------|
| 1. Sen. Mwenda Gataya Mo Fire, CBS, MP | - Chairperson |
| 2. Sen. Mohamed Faki Mwinyihaji CBS, MP | |
| 3. Sen. Daniel Kitonga Maanzo, EBS, MP | |
| 4. Sen. Julius Murgor Recha, CBS, MP | |
| 5. Sen. Betty Batuli Montet, MP | |
| 6. Sen. Boy Issa Juma, MP | |

ABSENT WITH APOLOGY

- | | |
|--|--------------------|
| 1. Sen. Danson Buya Mungatana, MGH, MP | - Vice-Chairperson |
| 2. Sen. Joyce Chepkoech Korir, MGH, MP | |

SECRETARIAT

- | | |
|-------------------------|-------------------------------|
| 1. Ms. Carol Kirorei | - Clerk Assistant I |
| 2. Ms. Lillian Waweru | - Legal Counsel II |
| 3. Ms. Belinda Ogollah | - Research Officer III |
| 4. Mr. Nandimu Baraza | - Media Relations Officer III |
| 5. Mr. John Pere | - Serjeant-at-Arms |
| 6. Ms. Angelica Wachira | - Protocol Officer |
| 7. Mr. Johnstone Simiyu | - Audio Officer |
| 8. Mr. Baraza Pius Were | - Attaché, DGAC |
| 9. Mr. Kevin Kamau | - Attaché, Legal Services |
| 10. Ms. Joy Musyoka | - Attaché, Legal Services |
| 11. Ms. Phenny Owino | - Attaché, Legal Services |
| 12. Ms. Stacey Chumba | - Attaché, Legal services |

IN ATTENDANCE

1. Dr. Deborah Barasa

MINISTRY OF ENVIRONMENT

- Cabinet Secretary

- | | |
|--------------------------------|--|
| 2. Dr. Eng. Festus Ngeno, MIEK | - Principal Secretary, State Department for Environment and Climate Change |
| 3. Mr. Erastus Gitonga | - Head of Legal, NEMA |
| 4. Dr. Selly Kimosop | - Environment Secretary |
| 5. Ms. Caroline Muema | - Head of Communications |
| 6. Ms. Linah Meme | - Legal Counsel |
| 7. Ms. Fatma Ali | - State Counsel |
| 8. Mr. Derrick Mukona | - Office of the CS |
| 9. Mr. Titus Simiyu | - NEMA |
| 10. Mr. Dennis Diffu | - Office of the CS |
| 11. Mr. Rodney Omari | - Parliamentary Liaison Officer |
| 12. Ms. Zipporah Lotam | - Parliamentary Liaison Officer |
| 13. Ms. Winifred Masaku | - Parliamentary Liaison Officer |

IN ATTENDANCE

1. Mr. Alex Mugambi
2. Mr. Edwin Otieno
3. Mr. Edgar Wambilianga
4. Mr. Titus Mutuku
5. Mr. Apopo Lentana

EIK

- Chairperson
- Vice- Chairperson
- Legal Counsel
- CEO
- Member of Council

MIN. NO.SEN/CDL/185/2025

PRELIMINARIES

The meeting was called to order at 11.22 a.m. followed by a word of prayer. This was followed by introduction of Members and attendees present.

MIN. NO.SEN/CDL/186/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mohamed Faki Mwinyihaji CBS, MP and seconded by Sen. Betty Batuli Montet, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Petitioners and the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry to deliberate on a Petition regarding the gazettelement and re-gazettelement of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025 (*Committee Paper No. 19A*)
4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/CDL/187/2025

MEETING WITH THE PETITIONERS AND THE CABINET SECRETARY,

**MINISTRY OF ENVIRONMENT,
CLIMATE CHANGE AND FORESTRY TO
DELIBERATE ON A PETITION
REGARDING THE GAZETTEMENT AND
RE-GAZETTEMENT OF THE
ENVIRONMENTAL MANAGEMENT AND
COORDINATION (STRATEGIC AND
INTEGRATED ENVIRONMENTAL
ASSESSMENTS AND ENVIRONMENTAL
AUDITS) REGULATIONS, 2025**

The Chairperson welcomed the delegation from the Ministry of Environment, Climate Change and Forestry led by the Cabinet Secretary and the Environment Institute of Kenya to the meeting to deliberate on Petition regarding the gazettelement and re-gazettelement of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025. He then welcomed the petitioners to present their petition.

The Chairperson, EIK briefed the meeting on the highlights of the Petition as summarized below-

- a) that the process surrounding the development and gazettelement of the Regulations violates Articles 10 (2) (a), (b) and (c), 35, 47(1) and (2) and 201(d) of the Constitution for failure to consult stakeholders meaningfully by denying them the opportunity to review or respond to the draft regulations and fee schedules;
- b) that the Regulations conflict with the Environmental Management and Co-ordination Act, Cap. 387 by prescribing fee structures that are punitive, lacking proportionality and unrelated to actual services provided; and
- c) that the Regulations are unreasonable and oppressive as the fee increments are devoid of any demonstrated rational impact assessments or evidence-based justification.

The Cabinet Secretary responded as follows-

1. the public participation process for the Regulations began in 2018 and only stalled owing to an earlier policy direction to have the parent Act revised as a pre-requisite to the Regulations leading to the EMCA Amendment Bill No. 7 of 2020. The process was reignited in 2024;
2. the petitioner EIK participated in the public participation process as evidenced in the attendance sheets provided. EIK was represented by one Ms. Joyce Macharia and Mr. Ronal Kimtai;
3. meetings for public participation for all stakeholders were published in the Daily Nation in March, 2018; and
4. the fees proposed by the Regulations will enable NEMA to discharge its functions and streamline Environmental Impact Assessment (EIA) experts' profession and ensure EIA standards are improved. The biggest challenge in the sector is the

proliferation of the EIA practice. Since the licensing is based on reporting done by experts, the integrity of the protection must be protected and undesirable characters must be weeded out from the industry.

During deliberations it emerged that whereas it was not disputed that the Petitioner was represented in the public participation exercise conducted in 2018, the Petitioner alleged that the public participation exercise was inadequate in respect of the now published Regulations, as the content of the draft Regulations uploaded on the National Environment Management Authority website at the time did not contain the schedule on fees, hence they did not have an opportunity to submit their comments on the same.

Resolution

The Committee-

- a) resolved that the Ministry of Environment, Climate Change and Forestry submits a copy of the draft Environmental (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018 that were subjected to public participation in 2018; and
- b) that a follow-up meeting be held on Monday, to deliberate further on the Petition.

MIN.NO.SEN/CDL/189/2025

ANY OTHER BUSINESS

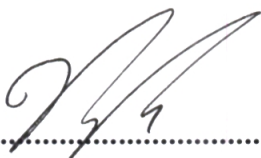
There was no other business discussed at the meeting.

MIN.NO.SEN/CDL/190/2025

**DATE OF THE NEXT MEETING AND
ADJOURNMENT**

The Chairperson adjourned the meeting at 1.07 p.m. The next meeting would be held on Monday, 28th July, 2025 at 2.00 p.m.

SIGNED:



DATE:

06/08/2025



13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 35TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON MONDAY, 28TH JULY, 2025 AT 2.00 P.M. IN COMMITTEE ROOM 4, FIRST FLOOR, MAIN PARLIAMENT BUILDINGS

PRESENT

1. Sen. Mwenda Gataya Mo Fire, CBS, MP - Chairperson
2. Sen. Mohamed Faki Mwinyihaji CBS, MP
3. Sen. Daniel Kitonga Maanzo, EBS, MP
4. Sen. Boy Issa Juma, MP
5. Sen. Betty Batuli Montet, MP

ABSENT WITH APOLOGY

1. Sen. Danson Buya Mungatana, MGH, MP - Vice-Chairperson
2. Sen. Joyce Chepkoech Korir, MGH, MP
3. Sen. Julius Murgor Recha, CBS, MP

SECRETARIAT

1. Ms. Carol Kirorei - Clerk Assistant I
2. Ms. Lillian Waweru - Legal Counsel II
3. Mr. Nandimu Baraza - Media Relations Officer III
4. Mr. John Pere - Serjeant-at-Arms
5. Ms. Angelica Wachira - Protocol Officer
6. Mr. Johnstone Simiyu - Audio Officer
7. Mr. Baraza Pius Were - Attaché, DGAC
8. Mr. Lenkai Saeni - Pupil, Legal Services
9. Mr. Kevin Kamau - Attaché, Legal Services
10. Ms. Joan Musyoka - Pupil, Legal Services
11. Ms. Stacey Chumba - Pupil, Legal services

IN ATTENDANCE

1. Dr. Eng. Festus Ngeno, MIEK
Environment and Climate Change

MINISTRY OF ENVIRONMENT

- Principal Secretary, State Department for

- | | |
|------------------------|---------------------------------|
| 2. Mr. Mamo B. Mamo | - Director-General, NEMA |
| 3. Mr. Erastus Gitonga | - Head of Legal, NEMA |
| 4. Ms. Fatma Ali | - State Counsel |
| 5. Mr. Rodney Omari | - Parliamentary Liaison Officer |
| 6. Ms. Zipporah Lotam | - Parliamentary Liaison Officer |
| 7. Ms. Winifred Masaku | - Parliamentary Liaison Officer |

IN ATTENDANCE

1. Mr. Alex Mugambi
2. Mr. Edwin Otieno
3. Mr. Edgar Wambilianga
4. Mr. Apopo Lentana
5. Mr. Titus Mutuku

EIK

- Chairperson
- Vice-Chairperson
- Legal Counsel
- Member of Council
- CEO

MIN. NO.SEN/CDL/191/2025

PRELIMINARIES

The meeting was called to order at 2.30 p.m. followed by a word of prayer. This was followed by introduction of Members and attendees present.

MIN. NO.SEN/CDL/192/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Mohamed Faki Mwinyihaji CBS, MP and seconded by Sen. Betty Batuli Montet, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Meeting with the Petitioners and the Cabinet Secretary, Ministry of Environment, Climate Change and Forestry to deliberate on a Petition regarding the gazettment and re-gazettment of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025 (*Committee Paper No. 19B*)
4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/CDL/193/2025

MEETING WITH THE PETITIONERS AND THE CABINET SECRETARY, MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY TO DELIBERATE ON A PETITION REGARDING THE GAZETTEMET AND RE-GAZETTEMET OF THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC AND

**INTEGRATED ENVIRONMENTAL
ASSESSMENTS AND ENVIRONMENTAL
AUDITS) REGULATIONS, 2025**

The Chairperson welcomed the delegation from the Ministry of Environment, Climate Change and Forestry led by the Principal Secretary, State Department for Environment and Climate Change and the Environment Institute of Kenya to the meeting to deliberate on Petition regarding the gazettment and re-gazettment of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025. The Principal Secretary conveyed the apologies of the Cabinet Secretary, who was engaged in other official duties. The Chairperson stated that the meeting was a follow-up of the meeting held on Thursday, 24th July, 2025 where it was resolved that the Ministry submits a copy of the draft Environmental (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018 that were subjected to public participation in 2018.

The Principal Secretary informed the meeting that-

1. the Ministry had resolved to withdraw the Regulations from the legislative process to allow for further public participation;
2. the Ministry had written to the Clerk of the Senate, the Clerk of the national assembly and the Office of the Solicitor General notifying them of the revocation;
3. NEMA had been directed to conduct fresh public participation on the said Regulations and that every interested stakeholder would be involved in the process; and
4. the Ministry is in the process of finalizing on a further eight (8) Regulations under the Forest Conservation and Management Act to be submitted to the Committee for scrutiny.

During deliberations, Members-

1. commended the Ministry for the decision to withdraw the Regulations in the interest of public participation so as ensure the instrument was beneficial to the public;
2. advised the Ministry to involve the Committee for pre-publication scrutiny on statutory instruments under development;
3. observed that whereas the Ministry had committed to revoke the Regulations, there was need for a gazette notice to be published to that effect;
4. advised the Ministry to republish fresh Regulations for Regulations that had expired.

Resolution

The Committee resolved that the Ministry gazettes the revocation of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025 on or before Friday, 1st August, 2025.

MIN.NO.SEN/CDL/194/2025

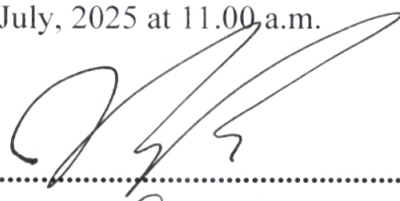
ANY OTHER BUSINESS

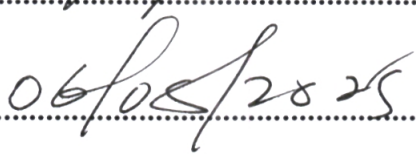
There was no other business discussed at the meeting.

MIN.NO.SEN/CDL/195/2025

DATE OF THE NEXT MEETING AND
ADJOURNMENT

The Chairperson adjourned the meeting at 3.10 p.m. The next meeting would be held on Tuesday, 29th July, 2025 at 11.00 a.m.

SIGNED: 

DATE: 



13TH PARLIAMENT | 4TH SESSION

MINUTES OF THE 39TH SITTING OF THE COMMITTEE ON DELEGATED LEGISLATION HELD ON WEDNESDAY, 6TH AUGUST, 2025 AT 8.00 A.M. ON THE ZOOM ONLINE MEETING PLATFORM

PRESENT

1. Sen. Danson Buya Mungatana, MGH, MP - Vice-Chairperson
2. Sen. Joyce Chepkoech Korir, MGH, MP
3. Sen. Daniel Kitonga Maanzo, EBS, MP
4. Sen. Mohamed Faki Mwinyihaji CBS, MP
5. Sen. Betty Batuli Montet, MP
6. Sen. Boy Issa Juma, MP

ABSENT WITH APOLOGY

1. Sen. Mwenda Gataya Mo Fire, CBS, MP - Chairperson
2. Sen. Julius Murgor Recha, CBS, MP

IN ATTENDANCE

1. Sen. Catherine Mumma, MP

SECRETARIAT

- | | |
|-------------------------|-------------------------------|
| 1. Ms. Carol Kirorei | - Clerk Assistant I |
| 2. Ms. Lillian Waweru | - Legal Counsel II |
| 3. Ms. Rahma Abdullahi | - Clerk Assistant III |
| 4. Ms. Belinda Ogollah | - Research Officer III |
| 5. Mr. Nandimu Baraza | - Media Relations Officer III |
| 6. Mr. John Pere | - Serjeant-at-Arms |
| 7. Ms. Angelica Wachira | - Protocol Officer |
| 8. Mr. Johnstone Simiyu | - Audio Officer |

MIN. NO.SEN/CDL/214/2025

PRELIMINARIES

The meeting was called to order at 8.15 a.m. followed by a word of prayer.

MIN.NO.SEN/CDL/215/2025

ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Betty Montet, MP and seconded by Sen. Issa Juma Boy, MP as follows-

1. Prayer
2. Adoption of the Agenda
3. Consideration and adoption of the Report on the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025
4. Any Other Business
5. Date of the Next Meeting and Adjournment

MIN.NO.SEN/CDL/216/2025

**CONSIDERATION AND ADOPTION OF
THE REPORT ON THE
ENVIRONMENTAL MANAGEMENT AND
CO-ORDINATION (STRATEGIC AND
INTEGRATED ENVIRONMENTAL
ASSESSMENTS AND ENVIRONMENTAL
AUDITS) (NO. 2) REGULATIONS, 2025,
LEGAL NOTICE NO. 71 OF 2025**

The Committee considered the Report on the consideration of the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025.

The Committee adopted the Report after being proposed by Sen. Daniel Kitonga Maanzo, EBS, MP and seconded by Sen. Mohamed Faki Mwinyihaji, CBS, MP.

MIN.NO.SEN/CDL/217/2025

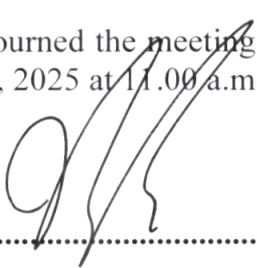
ANY OTHER BUSINESS

There was no other business discussed at the meeting.

MIN.NO.SEN/CDL/218/2025

**DATE OF THE NEXT MEETING AND
ADJOURNMENT**

The Chairperson adjourned the meeting at 8.46 a.m. The next meeting would be held on Thursday, 7th August, 2025 at 11.00 a.m.

SIGNED:

DATE: ~~07/08~~ 08/2025

ANNEX 2

SPECIAL ISSUE

2549

Kenya Gazette Supplement No. 13719th August, 2016(Legislative Supplement No. 63)

LEGAL NOTICE NO. 149

**THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION ACT***(No. 8 of 1999)*

IN EXERCISE of the powers conferred by section 147 of the Environmental Management and Coordination Act, 1999, the Cabinet Secretary for Environment, Natural Resources and Regional Development Authorities makes the following Regulations—

**THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT)
(AMENDMENT) REGULATIONS, 2016**

1. These Regulations may be cited as the Environment (Impact Assessment and Audit) (Amendment) Regulations, 2016. Citation.

2. Regulation 9 of the Environmental (Impact Assessment and Audit) Regulations, 2003, in these Regulations referred to as the “principal Regulations” is amended— Sub-leg.

(a) in sub-regulation (1)—

(i) by deleting the word “seven” and substituting therefor the word “five”;

(ii) by deleting the words “twenty one” and substituting therefor the word “fourteen” in paragraph (c);

(b) in sub-regulation (2) by deleting the words “thirty” and substituting therefor the word “fourteen”.

3. Regulation 10 (1) of the principal Regulations is amended by deleting the words “forty-five” and substituting therefor the word “thirty”.

4. The principal Regulations are amended by deleting the Fifth Schedule and substituting therefor the following new Schedule—

FIFTH SCHEDULE**FEES**

1. Application for registration as an Environmental Impact Assessment/Audit expert

	<i>Category</i>	<i>Citizen (KSh.)</i>	<i>Non-Citizen (KSh.)</i>
(a)	Associate expert	4,000	12,000
(b)	Lead expert	6,000	18,000
(c)	Firm of experts	10,000	30,000

2. Annual licence to practice as an Environmental Impact Assessment Expert

	Category	Citizen (Ksh)	Non-Citizen (Ksh)
(a)	Associate expert	6,000	18,000
(b)	Lead expert	10,000	30,000
(c)	Firm of experts	40,000	120,000

3. Environmental Impact Assessment License for low risk projects.....0.1% of the total cost of the project subject to a minimum of Kenya Shillings Ten Thousand (KSh. 10,000) and a maximum of Kenya Shillings Three Million (KSh. 3,000,000).

4. Environmental Impact Assessment License for medium risk projects.....0.1% of the total cost of the project subject to a minimum of Kenya Shillings Twenty Thousand (KSh. 20,000) and a maximum of Kenya Shillings Ten Million (KSh. 10,000,000).

5. Environmental Impact Assessment License for high risk projects.....0.1% of the total cost of the project subject to a minimum of Kenya Shillings Fifty Thousand (KSh. 50,000) and a maximum of Kenya Shillings Forty Million (KSh. 40,000,000).

6. Surrender, transfer or variation of Environmental Impact Assessment licence.....Kenya Shillings Ten Thousand (KSh. 10,000)

Dated the 18th May, 2016.

JUDI W. WAKHUNGU,
*Cabinet Secretary for Environment, Natural Resources
and Regional Development Authorities.*

LEGAL NOTICE NO. 150

THE ENVIRONMENTAL MANAGEMENT AND CO-
ORDINATION ACT

(No. 8 of 1999)

REPLACEMENT OF THE SECOND SCHEDULE

IN EXERCISE of the powers conferred by section 58(4) of the Environmental Management and Coordination Act, 1999, the Cabinet Secretary for Environment, Natural Resources and Regional Development Authorities deletes the Second Schedule to the Act and substitutes therefor the following Schedule—

SECOND SCHEDULE (s 58 (1)

PROJECTS TO UNDERGO ENVIRONMENTAL IMPACT
ASSESSMENT

1. Low Risk Projects.

- (a) establishment of places of worship including churches, mosques and temples;
- (b) community based and social projects including sport facilities, stadia, social halls;
- (c) community water projects including boreholes, water pans, sand dams and sub-surface dams;
- (d) dispensaries, health centers and clinics;
- (e) livestock holding grounds and cattle dips;
- (f) expansion or rehabilitation of markets;
- (g) car and bus parks;
- (h) local roads and facility access roads;
- (i) business premises including shops, stores, urban market sheds;
- (j) cottage industry, jua kali sector and garages;
- (k) small scale rehabilitation, maintenance and modernization of projects; and
- (l) schools and related infrastructure for learners not exceeding one hundred.

2. Medium Risk Projects.

- (1) Urban Development including—
 - (a) establishment of multi-dwelling housing developments in not exceeding one hundred units;
 - (b) tourism and related infrastructure;
 - (c) hotels with bed capacity not exceeding one hundred and fifty; and
 - (d) shopping centers, commercial centers and complexes, business premises, shops and stores not exceeding ten thousand square meters.
- (2) Transportation including—
 - (a) construction and rehabilitation of roads including collectors and access roads;
 - (b) construction of a light rail transit;
 - (c) construction of jetties, marinas, piers and pontoons;
 - (d) rehabilitation works of airport and airstrips;
 - (e) helipads;
 - (f) parking facilities; and
 - (g) construction of bridges.

-
- (3) Water resources and infrastructure including—
- (a) drilling for purposes of utilizing ground water resources and related infrastructure;
 - (b) water abstraction works; and
 - (c) water supply and distribution infrastructures.
- (4) Artisanal mining including quarrying of—
- (a) precious metals and gemstones;
 - (b) limestone and dolomite;
 - (c) harvesting of aggregate, sand, gravel, soil, clay, stone and slate;
 - (d) gypsum;
 - (e) pozzollana;
 - (f) carbon dioxide; and
 - (g) ferrous and non-ferrous ores.
- (5) Forestry related activities including—
- (a) timber harvesting in plantation forests;
 - (b) reforestation and afforestation; and
 - (c) wood preservation or treatment facilities.
- (6) Agriculture and related activities including—
- (a) medium-scale agriculture not exceeding one hundred hectares;
 - (b) medium size grain storage;
 - (c) medium size agricultural and livestock produce storage facilities;
 - (d) aquaculture not exceeding one hectares; and
 - (e) medium scale irrigation projects.
- (7) Medium scale processing and manufacturing industries including—
- (a) brick and earth-ware manufacture;
 - (b) abattoirs and meat-processing plants;
 - (c) fish-processing plants;
 - (d) plants for the construction or repair of aircrafts or railway equipment;
 - (e) plants for the manufacture of tanks, reservoirs and sheet-metal containers;
 - (f) plants for manufacturing or recycling of plastics or paper;
 - (g) plants for manufacturing pharmaceuticals;

- (h) plants for the manufacture of coal briquettes;
 - (i) distilleries;
 - (j) any other food-processing plants or agro-based processing plants; and
 - (k) go-downs for storage and warehouses.
- (8) Power and infrastructure projects including—
- (a) hydropower development not exceeding ten megawatts;
 - (b) electrical sub-stations;
 - (c) pumped-storage schemes;
 - (d) cogeneration of power;
 - (e) low voltage power transmission lines; and
 - (f) solar power farms or plants.
- (9) Hydrocarbons projects including—
- (a) service stations;
 - (b) LPG filling plant; and
 - (c) lubricant blending facilities.
- (10) Waste disposal including—
- (a) waste transfer stations or storage facilities;
 - (b) composting sites or plants;
 - (c) removal and onsite disposal of asbestos.
- (11) Packaged treatment plants or onsite waste water treatment plants.
- (12) Biofuels processing plants.
- (13) Telecommunication infrastructures.
- (14) Expansion of tertiary institutions and related infrastructures.

2. The following projects shall require submission of environmental impact assessment study reports under section 58(2) of the Environmental Management and Co-ordination Act, 1999—

High Risk Projects —

- (1) General —
- (a) an activity out of character with its surrounding; and
 - (b) any structure of a scale not in keeping with its surrounding.
- (2) Changes in land use including—
- (a) major changes in land use; and
 - (b) large scale resettlement schemes.

- (3) Urban Development including—
 - (a) designation of new townships;
 - (b) establishment or expansion of industrial estates;
 - (c) establishment or expansion of recreational areas in National Parks, National reserves, forests, nature reserves and any areas designated as environmentally sensitive;
 - (d) establishment of shopping centers, commercial centers and complexes;
 - (e) establishment of hospitals;
 - (f) hotels with a bed capacity exceeding one hundred and fifty;
 - (g) establishment of new housing estate developments exceeding one hundred housing units;
 - (h) establishment of schools and other learning institutions exceeding one hundred learners; and
 - (i) other related urban developments.
- (4) Transportation and related infrastructure projects including—
 - (a) all new major roads including trunk roads;
 - (b) railway lines;
 - (c) airports and airfields;
 - (d) oil and gas pipelines;
 - (e) harbors and ports;
 - (f) construction of tunnels and channels;
 - (g) metro transport facilities; and
 - (h) underground transport works.
- (5) Water resources and related infrastructure including—
 - (a) storage dams and barrages;
 - (b) river diversions and water transfer between catchments;
 - (c) flood control schemes;
 - (d) sea walls; and
 - (e) water abstraction works.
- (6) Mining and other related activities including—
 - (a) precious metals;
 - (b) salt firms;
 - (c) gemstones;
 - (d) ferrous and non-ferrous ores;
 - (e) coal;

- (f) phosphates;
 - (g) limestone and dolomite;
 - (h) quarrying of stone and slate;
 - (i) harvesting of aggregate, sand, gravel, soil and clay; and
 - (j) exploration for the production of petroleum and minerals in any form.
- (7) Forestry related activities including—
- (a) clearance of forest areas;
 - (b) reforestation and afforestation with alien species;
 - (c) introduction of alien species;
 - (d) excisions of gazette forests;
 - (e) conversion of forests for whatever purposes; and
 - (f) any projects located within forest reserves such as construction of dams or other control structures that flood large areas.
- (8) Agriculture including—
- (a) aerial spraying;
 - (b) large-scale agriculture exceeding one hundred hectares;
 - (c) introduction of new crops and animals;
 - (d) large scale irrigation exceeding one hundred hectares;
 - (e) major developments in biotechnology including the introduction and testing of genetically modified organisms; and
 - (f) biofuel plantations.
- (9) Processing and manufacturing industries including—
- (a) mineral or ores refining and processing;
 - (b) large scale brick and earth-ware manufacture;
 - (c) cement manufacturing plants and lime processing;
 - (d) glass works;
 - (e) fertilizer manufacture or processing;
 - (f) explosive plants;
 - (g) tanneries;
 - (h) abattoirs handling more than one hundred animals per day and meat-processing plants;
 - (i) brewing and malting;
 - (j) bulk grain processing and storage plants;

- (k) large scale fish-processing plants;
 - (l) pulp and paper mills;
 - (m) heavy manufacturing plants;
 - (n) lead smelting and processing plants;
 - (o) edible oil plants;
 - (p) steel mills;
 - (q) sugar factories; and
 - (r) any other chemical works and processing plants.
- (10) Power and infrastructure projects —
- (a) thermal and hydropower development exceeding ten megawatts;
 - (b) geothermal development;
 - (c) wind farms;
 - (d) nuclear reactors and nuclear plants; and
 - (e) high voltage electrical transmission lines.
- (11) Hydrocarbon projects including —
- (a) depots and refinery facilities for hydrocarbons;
 - (b) depots for natural gas;
 - (c) oil and gas fields development; and
 - (d) oil refineries and petro-chemical works.
- (12) Waste disposal including —
- (a) sewerage works and waste water treatment plants;
 - (b) installation for disposal of industrial wastes;
 - (c) installation of incinerators;
 - (d) sanitary landfill sites;
 - (e) hazardous wastes treatments or disposal facilities;
 - (f) facilities involved in solid or liquid hazardous waste;
 - (g) sludge treatment facility;
 - (h) recycling of e-waste;
 - (i) waste oil recycling facilities;
 - (j) waste tyre processing and recycling facilities; and
 - (k) commercial asbestos disposal site.
- (13) Activities in natural conservation areas including —
- (a) establishment of protected areas, buffer zones and wilderness areas;

- (b) actions likely to affect endangered species of flora and fauna;
 - (c) formulation or modification of water catchment management projects;
 - (d) projects for the management of ecosystems especially by manipulating fire and water;
 - (e) commercial exploitation of natural fauna and flora;
 - (f) introduction of alien species of fauna and flora into ecosystems;
 - (g) wetlands reclamation or any projects likely to affect wetlands;
 - (h) projects located in indigenous forest including those outside of gazetted forests; and
 - (i) any project on environmentally sensitive area.
- (14) Marine resource exploitation and reclamation including—
- (a) mineral exploitation of resources in the marine areas;
 - (b) reclamation of marine areas; and
 - (c) mariculture.
- (15) Any other project which poses high environmental risks.
- Dated the 16th June, 2016.

JUDI W. WAKHUNGU,
*Cabinet Secretary for Environment, Natural Resources and
Regional Development Authorities.*

LEGAL NOTICE NO. 151

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED ACQUISITION OF 74% OF THE ISSUED SHARE
CAPITAL OF LAW AFRICA PUBLISHING LTD BY LONGHORN
PUBLISHERS LIMITED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of 74% of the issued share capital of Law Africa Publishing Ltd by Longhorn Publishers Limited from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer's turnover for the preceding year, 2015, was KES 848, 377,000 while the target turnover was KES 93,006,091. Therefore, the combined turnover of KES 941,383,091 does not meet the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 27th July, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 152

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED ACQUISITION OF ASSETS BELONGING TO KIP
MELAMINE COMPANY BY TAIFA TAPES LIMITED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of assets belonging to Kip Melamine Company by Taifa Tapes Limited from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer is a newly incorporated company and therefore has no turnover;
- (c) the target's turnover was KES 78,159,222 for the preceeding year, 2014, and therefore is below the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 27th July, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 153

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

SALE OF SHARES IN STEENSTRUP CONSULTING SERVICES
LIMITED BY BARBARA ROBIN STEENSTRUP TO WINWA
DEVELOPMENT LIMITED

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed sale of shares in Steenstrup Consulting Services Limited by Barbara Robin Steenstrup to Winwa Development Limited from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer's turnover for the preceding year, 2015, was NIL while the target turnover was KES 2,024,285. Therefore, the turnover of KES 2,024,285 does not meet the merger threshold required for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 27th July, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 154

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED TRANSFER OF 100% ISSUED ORDINARY SHARES
IN CROSSKEY INVESTMENTS LIMITED TO SUNSET RIDGE
PROPERTIES LIMITED (99%) AND HUMPHREY KARIUKI
NDEGWA (1%)

IN EXERCISE of the powers conferred by section 42(1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed transfer of 100% issued ordinary shares in Crosskey Investments Limited to Sunset Ridge Properties Limited (99%) and Humphrey Kariuki Ndegwa (1%) from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the Acquirer's had no relevant turnover in Kenya while the target's assets for the preceding year 2015 were KES 62,311,912. Therefore, the turnover of KES 62,311,912 does not meet the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 11th August, 2016.

WANG'OMBE KARIUKI,
Director-General.

LEGAL NOTICE NO. 155

THE COMPETITION ACT, 2010

(No. 12 of 2010)

EXCLUSION

PROPOSED ACQUISITION OF SHARES AND CERTAIN VETO
RIGHTS IN SILAFRICA PLASTICS AND PACKAGING
INTERNATIONAL LIMITED BY AFRICINVEST III LLC

IN EXERCISE of the powers conferred by section 42 (1) of the Competition Act, 2010, the Competition Authority of Kenya excludes the proposed acquisition of shares and certain veto rights in Silafrica Plastics and Packaging International Limited by Africinvest III LLC from Part IV of the Act due to the following reasons—

- (a) the merger will not affect competition negatively; and
- (b) the acquirer's turnover for the preceding year, 2015 was NIL while the target's turnover was KES. 949,195,000. Therefore, the turnover of KES. 949,195,000 does not meet the required merger threshold for mandatory notification as provided in the Merger Threshold Guidelines.

Dated the 11th August, 2016.

WANG'OMBE KARIUKI,
Director-General.

ANNEX 3



REPUBLIC OF KENYA

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE & FORESTRY

PRESENTATION OF THE REGULATIONS UNDER THE ENVIRONMENTAL
MANAGEMENT AND COORDINATION ACT CAP 387 TO THE COMMITTEE ON
DELEGATED LEGISLATION OF THE SENATE

27TH MAY, 2025

Hon. Chair, thank you for giving me this opportunity to appear before you to scrutinize the Regulations we submitted to this house through the Clerk of the Senate on 19th and 21st May 2025 respectively.

A. BACKGROUND

1. Hon. Chair, pursuant to section 11 of the Statutory Instruments Act, Cap. 2A, the following Four (4) regulations made pursuant to the Environmental Management and Co-ordination Act (EMCA) Cap. 387 were forwarded to the House for tabling—
 - (1) L.N. No. 53 The Environmental Management and Co-ordination (Controlled Substances) Regulations, 2025;
 - (2) L. N. No. 67 The Environmental Management and Co-ordination (Deposit Bonds) Regulations, 2025;
 - (3) L. N. No. 68 The Environmental Management and Co-ordination (Access to Biological Resources and Benefit Sharing) Regulations, 2025; and
 - (4) L. N. No. 71 The Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025.
2. Hon. Chair, permit me now to give a highlight of the salient features of Four (4) Regulations.

B. KEY HIGHLIGHTS OF THE REGULATIONS

1. *L. N. No. 53 THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (CONTROLLED SUBSTANCES) REGULATIONS, 2025*
3. Hon. Chair, the Environmental Management and Co-ordination (Controlled Substances) Regulations, 2025 are made pursuant to section 13, as read with section 147 of the Environmental Management and Co-ordination Act.

Object and purpose of the regulations

4. Hon. Chair, the object and purpose of the Regulations are to—
 - (a) protect the ozone layer from chemicals that deplete it; and
 - (b) to regulate trade and practice in controlled substances.

Application of the regulations

5. Hon. Chair, in terms of the application of the regulations, the regulations shall apply to the management of controlled substances and equipment containing controlled substances including storage, handling, production, packaging, import, export, transit, use and disposal.
6. The regulations shall not apply to controlled substances or equipment containing controlled substances for critical uses.

Classification and control measures

7. Hon. Chair, the regulations provide for classification of Controlled substances and equipment classified in the First Schedule.

Enforcement of the regulations

8. Hon. Chair, to ensure compliance, the regulations require all persons intending to produce or manufacture, export, import a controlled substance to apply for a licence with NEMA in Form 5 as set out in the Second Schedule.
9. Further, a person intending to transit a controlled substance destined for another country through Kenya to apply for consent to NEMA. An application for a consent to transport through Kenya a controlled substance shall be accompanied by a deposit bond which shall be refundable after the substance has been transported outside Kenya. A licence issued under these Regulations, shall be valid for a period of one year from the date of issuance and may be renewed upon compliance with these regulations.
10. Hon. Chair, any person who imports any prohibited controlled substance or equipment or product containing a prohibited controlled substance shall be required by the NEMA to—
 - (a) return the prohibited controlled substance or equipment or product to the country of origin at that person's cost; or
 - (b) pay for the cost of disposal of the prohibited controlled substance or equipment or product to the Authority.

11. Hon. Chair, on enforcement, no person shall import refrigeration and air conditioning equipment containing or dependent on hydrobromofluorocarbons or hydrobromofluorocarbon compressors as from the 1st January, 2026.

Monitoring

12. Hon. Chair, NEMA shall in consultation with lead agencies monitor the activities of the licensees to ensure compliance with the conditions of the Regulations.
13. NEMA shall determine quantities of controlled substances and equipment containing controlled substances due for disposal.
14. Further, NEMA shall publish a list of controlled substances and persons holding licences and permits on or before 31st December every year in the Kenya Gazette.
15. Hon. Chair, finally, the regulations prescribe offences for persons who fail to comply with the provisions of the regulations.

2. L.N No. 67 THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (DEPOSIT BONDS) REGULATIONS, 2025;

16. Hon. Chair, moving on to the Environmental Management and Co-ordination (Deposit Bonds) Regulations, 2025, the regulations are made pursuant to section 147(1) of the Environmental Management and Coordination Act.

Object and purpose of the regulations

17. The objective of the regulations is to provide the procedure for managing of deposit bonds.

Application of the regulations

18. Hon. Chair, in terms of application, the regulations shall apply to activities, industrial plants and undertakings set out in the First Schedule which have or are likely to have adverse effects on the environment.

Management of Deposit Bonds

19. **Hon. Chair**, the first schedule of the regulations provides for Activities, industrial plants and undertakings eligible for deposit bonds.
20. **Hon. Chair**, the Director General of NEMA will be responsible for the management of deposit bonds.
21. **Hon. Chair**, in managing the deposit bonds the Director General shall;
- (a) prepare and maintain a register of activities, industrial plants and undertakings that require deposit bonds;
 - (b) review the terms of reference developed by the competent experts in carrying out a deposit bond assessment;
 - (c) review the Deposit Bond Assessment Report to determine the adequacy and reliability of deposit bonds payable to the Restoration Fund;
 - (d) issue approvals on Deposit Bonds Assessment Reports and notices of the deposit bonds payable to the persons liable to pay the deposit bond;
 - (e) make recommendations to the Cabinet Secretary on the prescription of payments of deposit bonds by the Cabinet Secretary responsible for finance, pursuant to section 28(2) of the Act;
 - (f) undertake a joint inspection and monitoring with the relevant county government or lead agency to determine compliance with good environmental practices in line with the approval on terms and conditions based on the Deposit Bond Assessment Report;
 - (g) receive periodic status reports of any on-going remediation work from the operators; and
 - (h) prepare annual reports on deposit bonds received, refunded, confiscated, status of sites remediated and matters which have been determined or are pending before the Tribunal.
22. **Hon. Chair**, the regulations obligate NEMA to keep and maintain a Deposit Bonds Register of activities, industrial plants or undertakings which are likely to have adverse effect on public health and the environment.

23. Hon. Chair, the regulations require each project proponent to ensure that a Deposit Bond Assessment Report is prepared on any project set out in the First Schedule likely to have significant adverse effects on the environment when operated in a manner that is not in conformity with good environmental practices. The report should be prepared by a competent expert approved by NEMA.
24. Further Hon. Chair, the deposit bond will be paid to the National Environment Restoration Fund established under section 25 of EMCA.
25. If the project proponent has observed good environmental practices, NEMA will issue a refund of the deposit bond and confiscate the deposit bond where the project proponent has not observed good environmental practices in accordance with section 28(3) of EMCA.

Enforcement provisions

26. To ensure compliance with the regulations, any person who is carrying out an activity, industrial plant or undertaking set out in the First Schedule shall, within twelve months of the commencement of these Regulations, comply with the provisions of these Regulations and any person who fails to comply with these regulations commits an offence.

3. L.N No. 68 THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (ACCESS TO BIOLOGICAL RESOURCES AND BENEFIT SHARING) REGULATIONS, 2025;

27. Hon. Chair, moving on to the Environmental Management and Co-ordination (Access to Biological Resources and Benefit Sharing) Regulations, 2025, the regulations are made pursuant to section 147 of the Environmental Management and Co-ordination Act.

Object and purpose of the regulations

- (a) provide mechanisms to protect and prevent exploitation of endangered and threatened plant and animal species;
- (b) provide for access to and the fair and equitable sharing of benefits arising from the utilization of biological resources;

- (c) provide for the consultation of local communities and other stakeholders in the process of accessing biological resources for research, bio trade, commercial and other purposes;
- (d) safeguard access to biological resources, and biological resources associated with traditional knowledge held by local communities in conservation of biological resources; and
- (e) to domesticate relevant provisions of international conventions and protocols.

Application

28. **Hon. Chair**, in terms of application, the regulations shall apply to;
- (a) the conservation of all biological resources in Kenya, whether or not they are found in their natural environment;
 - (b) access to genetic resources in Kenya and the fair and equitable sharing of benefits derived from their utilization;
 - (c) approved research and activities that relate to biological resources and biological resources with associated traditional knowledge;
 - (d) commercialization and trade in biological resources; and
 - (e) any digital sequence information relating to Kenya biological resources.
29. **Hon. Chair**, these regulations will not apply to;
- (a) the exchange of biological resources, their derivative products, or the intangible components associated with them, carried out by members of any local Kenyan community amongst themselves and for their own consumption and benefits;
 - (b) access to genetic resources derived from plant breeders in accordance with the Seeds and Plant Varieties Act and the International Treaty on Plant Genetic Resources for Food and Agriculture; or
 - (c) human genetic resources.
30. **Further, Hon. Chair**, NEMA shall be the competent National Authority responsible for granting access or as applicable, issuing written evidence that access requirements have been met and be responsible for advising applicants, local communities, other Government agencies and any interested persons on the applicable procedures and requirements for

obtaining prior informed consent and entering into mutually agreed terms.

Conservation of Biological Diversity

31. **Hon. Chair**, the regulations provide for restrictions on activities that relate to access to biological resources and biodiversity that may have adverse impact on any ecosystem, lead to introduction of any exotic species, lead to the unsustainable use of natural resources and operation of a facility for the conservation of any species outside its natural habitat.
 32. **Additionally**, the regulations will prohibit access and use of threatened species to ensure regeneration and maximum sustainable yield and establish maintenance of facilities for recovery and rehabilitation of threatened species as well as determine full recovery and rehabilitation measures of threatened species to ensure its restoration into its natural habitat.
 33. **Hon. Chair**, the regulation gives authority to NEMA to undertake an assessment of the status of biological resources once every five years and to establish and maintain an inventory of all biological and genetic resources of the country which shall include a register of threatened species, endangered and rare species of plants and animals.
 34. **Further Hon. Chair**, NEMA in consultation with the relevant stakeholders shall develop a community biodiversity register comprising of indigenous and local community practices for conserving biodiversity and uses of various biological resources.
4. L.N No. 71 THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL AUDITS) (NO. 2) REGULATIONS, 2025, LEGAL NOTICE NO 71 OF 2025;
35. **Hon. Chair**, moving on to the Environmental Management and Co-Ordination (Strategic and Integrated Environmental Assessment and Environmental Audits) Regulations, 2025, the regulations are made pursuant to section 147(1) of the Environmental Management and Co-ordination Act.

Purpose of the regulations

36. The Regulations shall apply to policies, plans, programmes, projects and activities specified in the Act.

Environmental Assessment

37. Hon. Chair, no proponent shall implement a project that is likely to have a negative environmental impact unless that proponent has undertaken or caused to be undertaken an integrated environmental assessment and NEMA has granted the proponent with an integrated environmental assessment licence.
38. Every ministry, county, department, agency, institution, or private entity implementing a policy, plan or programme shall undertake a strategic environmental assessment and shall submit it to NEMA for review and pay the fee prescribed in the Fourth Schedule.
39. Hon. Chair, Pursuant to section 61 of the Act, NEMA may constitute a technical advisory committee comprising of not less than five and not more than nine multi-disciplinary specialists to advise it on integrated environmental assessments and strategic environmental assessment reports.

Registration of Experts

40. Hon. Chair, a person or firm intending to conduct strategic environmental assessment, integrated environmental assessment and environmental audits shall apply to the Authority for registration in Form 1 as set out in the First Schedule and pay the fee prescribed in the Fourth Schedule if that person or firm satisfies the criteria set out in the Second Schedule.
41. Hon. Chair, where the application has been approved, NEMA shall register the applicant and issue the applicant with a certificate of registration in Form 2 as set out in the First Schedule within thirty days from the date of the application. The certificate of registration of an environmental assessment expert shall indicate the category and field of expertise under which the expert is registered.

42. A person registered under sub-regulation (3)(a) shall be required to become a member of a professional body of environmental assessment experts recognised by NEMA.
43. Additionally Chair, NEMA may revoke the registration of a person registered) if that person contravenes any provision of the code of practice set out in the Third Schedule.
44. **Hon. Chair**, NEMA shall keep and maintain a register of environmental assessment experts holding a current environmental assessment practicing licence and shall publish it on its website.

Project Reports

45. **Hon. Chair**, each proponent undertaking a low-risk, medium risk and high risk project shall submit to NEMA a summary project report, comprehensive project report and environmental assessment studies respectively in accordance with the second schedule.
46. **Hon. Chair**, the report shall contain the nature of the project, the methodology of undertaking the environmental assessment study, the location of the project including GPS co-ordinates, proof of land ownership, the relevant applicable legislative and regulatory frameworks, the objectives of the project and technology used for implementation of the project among others.
47. **Hon. Chair**, on enforcing these regulations NEMA may suspend, revoke or cancel a licence if;
- a) the holder of the licence contravenes the conditions set out in the licence;
 - b) there is a substantial change or modification in the project or in the manner in which the project is being implemented;
 - c) the project poses an environmental threat which could not be reasonably foreseen before the licence was issued; or
 - d) the Authority establishes that the information or data given by the proponent in support of the application for the licence was false, incorrect or intended to mislead.

Environmental Audits and Monitoring

48. Hon. Chair, each relevant proponent shall be required to undertake or cause to be undertaken an environmental audit in respect of—

(a) existing facilities or entities which are likely to have adverse environmental impacts in the following categories—

(i) for facilities or entities listed in paragraph 1 of the Second Schedule to the Act, being low-risk projects, once every three years;

(ii) for facilities or entities listed in paragraph 2 of the Second Schedule to the Act, being medium-risk projects, once every two years; and

(iii) for facilities or entities listed as high-risk projects under the Second Schedule to the Act, once every twelve months.

Strategic Environmental Assessments

49. The objectives of a strategic environmental assessment under section 57A of the Act shall be to—

a) guide policy, programme or plan proposals to ensure they are compatible with sustainable environmental planning and management;

b) ensure the full consideration of alternative options including the do-nothing option, at the earliest opportunity during the development of the policy, programme or plan;

c) enhance the consistency of a policy, programme or plan across different sectors, and when relevant, make explicit the trade-offs or alignments made between different sectoral objectives;

d) recognize and evaluate trans-boundary and regional environmental impacts of multi-sectoral developments over a specified time and broader geographical scales including on ecosystems and landscapes;

e) guide investment programs or plans that involve multiple sectoral policies;

f) identify environmental impacts and integrate mitigation measures during the policy, plan, programme formulation, process to enhance environmental management;

- g) ensure the impacts of activities to be undertaken in the implementation of the policy, plan or programme are considered, including any unintended consequences;
- h) provide a strategic assessment of issues and impacts;
- i) ensure environmental principles are integrated in the development, appraisal and selection of policy, plan or programme options;
- j) prioritize environmental considerations in decision making alongside economic and social concerns including trade-offs;
- k) provide an early opportunity to check whether or not a proposal is consistent with national and international environmental policies and ensure compliance with related legislative obligations;
- l) contribute to the establishment of contexts and baselines for future development assessments and proposals; and
- m) provide a transparent and accountable decision-making framework.

50. **Hon. Chair**, in accordance with the Constitution and the policy, plan or programme the owner shall consult relevant county governments, lead agencies, key stakeholders and members of the public during the strategic environmental assessment study process.

Access to information

51. **Hon. Chair**, Information or documents submitted to the NEMA by any person in connection with these Regulations, the Authority's decisions and reasons thereof may be accessed by any person in accordance with the written law on access to information.

Offences

52. any person who commences, proceeds with, executes or conducts or causes to commence, proceed with, execute or conduct any project without approval required under these Regulations commits an offence and on conviction is liable, to the penalty prescribed under section 144 of the Act.

C. SUPPORTING DOCUMENTS

53. Hon. Chair, finally, it is noteworthy, that I have annexed to all the Four (4) Regulations the necessary Explanatory Memoranda, Regulatory Impact Statements, Compliance Certificates and public participation documents as required by the provisions of section 5A of the Statutory Instruments Act, for your consideration.

D. CONCLUSION

54. Hon. Chair, as I conclude, allow me to reiterate our commitment as a Ministry in putting in place the necessary legal framework that guarantees the rights of our people to a clean and healthy environment.

55. To this end, I request for the support of the House in approving the four (4) regulations that I have just highlighted. This shall enable us to continue ensuring the sustainable management and conservation of the environment for our people.

56. With these few remarks, I thank you.


DEBORAH M. BARASA
CABINET SECRETARY

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY

DATE.....27/5/21.....

The regulation making process would then go into a lull and was reignited in the year 2024 when the review of the Environment Policy (2013) and the Environmental Management and Coordination Act (EMCA) came into earnest discussions.

Hon. Chair, on the five year gap, the Constitution and Statutory Instruments Act does not seem to legislate or outlaw such delays in the public participation process stages.

Question 3. We request that you submit evidence of public participation as well as any documents that may be referred to at the meeting on or before Monday, 26th May, 2025.

Hon. Chair, the Stakeholders comments have been provided in my supporting documents as earlier stated.

B. ENVIRONMENTAL MANAGEMENT AND COORDINATION (DEPOSIT BONDS) REGULATIONS, 2025, LEGAL NOTICE NO 67 OF 2025

Question 1. The explanatory memorandum makes reference to 2015 regulations not the 2025 regulations and public participation appears to have been conducted in 2015. Ten years have lapsed since the public participation was conducted, and it would therefore have been necessary to re-engage stakeholders, county governments, as well as members of the public as their concerns would have evolved over time

Hon. Chair, the public consultations began in the year 2015 and there exists no statutory or regulatory timeframes under the Constitution and the Statutory Instruments Act prescribing timeframe for public participation.

Question 2. Whereas the Cabinet Secretary prepared and submitted a regulatory impact statement, no documentation has been provided to show whether the public was notified of the regulatory impact statement, both in the Kenya Gazette and in two newspapers as required under the Statutory Instruments Act. Cap.2A.

Hon. Chair, the facilitators in the process and who are staff of the Ministry and NEMA confirm that these processes were undertaken. The Ministry notes that some of the documentation that dates way back in 2015, could not be traced and has put in place mechanisms and guidance to ensure better documentation of legislative records.

Question 3. Refugee camps have been listed in the First Schedule as an activity which would require a deposit bond to be placed. It is however not clear who would be placing the bond, whether it is the government or the UNHCR and other relief agencies which operate the camps. The impact of requiring the placement of a deposit bond in respect of refugee camps was not discussed in the regulatory impact statement

Hon. Chair, regulation 8(1) refers to the proponent also referred to as operator which according to these regulations means a person proposing or

executing or proprietor of a project, programme or undertaking listed in the First Schedule. This might be government, UNHCR or other agency. Therefore, one placing the bond will be the entity operating or owning the refugee camp.

Question 4. The provisions of section 28(2) of the Act give the Cabinet Secretary for Finance power to prescribe that certain undertakings place deposit bonds. There is need to clarify whether this power has been exercised as the Regulations cannot operate without the bond amounts being prescribed, and also whether the Restoration Fund is currently in operation.

Hon. Chair, Section 28(2) states “The Cabinet Secretary responsible for Finance may, on the recommendations of the Cabinet Secretary, prescribe that persons engaged in activities or operating industrial plants and other undertakings identified under subsection (1) pay such deposit bonds as may constitute appropriate security for good environmental practice.

Hon. Chair, according to regulation 8(1) as currently provided for, starts with Determination of Deposit Bond for facilities in operation through Preparation of Deposit Bond Assessment Report by a competent expert at regulation 8(2) in accordance with terms of reference approved by the Authority.

Regulation 8(3) provides the guidelines for the Deposit Bond Assessment Report, while Regulation 8(3)(h) which states that “an analysis of the amount of deposit bond payable in respect of the projected cumulative risks of the project activities to the recipient environment and affected media and persons as shall be prescribed by the Cabinet Secretary responsible for matters relating to finance on the recommendation of the Cabinet Secretary.

The determination by the Cabinet Secretary for Finance under regulation 8(3)(h) above is one of the requirements of the Deposit Bond Assessment Report. The reasoning here is that the cost of Deposit Bond should not be predetermined (prescribed) because many factors influence the future cost which vary from one project to another, site conditions, type of project, scale and scope of the project among others.

Therefore, the prescription of the Cabinet Secretary for Finance as well as the bond amounts can only be properly done within the Deposit Bond Assessment Report.

**C. ENVIRONMENTAL MANAGEMENT AND COORDINATION
(STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENT
AND ENVIRONMENTAL AUDITS) (NO. 2) REGULATIONS, 2025,
LEGAL NOTICE NO 71 OF 2025**

Question 1. The Regulations have been made by the Cabinet Secretary pursuant to section 147(1) of the Environmental Management and Co-ordination Act. which gives the Cabinet Secretary general powers to make regulations. However, the powers to make these Regulations are expressly provided for in section 58(6A) and (6B) of the Environmental Management and Co-ordination Act which provide as follows-

(6A) The Cabinet Secretary in consultation with the Authority shall make regulations and formulate guidelines for the practice of Integrated Environmental Impact Assessments and Environmental Audits.

(6B) The Cabinet Secretary shall make regulations for the accreditation of experts on environmental impact assessments.

The Regulations therefore ought to have referred to section 58(6A) and (6B) of the Environmental Management and Co-ordination Act as the enabling sections;

✓ Hon. Chair, I acknowledge that the provisions of sections 58(6A) and 6B are more specific than section 147 of EMCA. The Ministry supports therefore the amendment of the regulations to reflect sections 58(6A) and (6B) of the Act as the enabling sections.

Question 2. The Cabinet Secretary did not submit an explanatory memorandum as required under the Statutory Instruments Act, Cap.2A;

Hon. Chair, I have submitted the explanatory memorandum as part of my supporting documents as early stated in my brief on the regulations.

Question 3. The Cabinet Secretary did not submit a regulatory impact statement as required under the Statutory Instruments Act. Cap.2A;

Hon. Chair, I have submitted the regulatory impact statement as part of my supporting documents as early stated in my brief on the regulations.

Question 4. The Regulations seek to revoke the Environmental (Impact Assessment and Audit Regulations, 2003, which by dint of section 21 of the Statutory Instruments Act. Cap.2A are deemed to have expired in 2023;

Hon. Chair, section 21 of the Statutory Instruments Act was repealed by the Finance Act, 2023, Act No. 4 of 2023 section 89 therefore, this section does not apply to these regulations and the purpose of the review is to comply with the Constitution and emerging areas in the environment sector.

Question 5. Part VIII imposes a fee of Kshs. 1,000,000 is payable to the Authority once it determines that a strategic environmental assessment ought to be carried out. The said fee is exorbitant;

Hon. Chair, the Strategic Environmental Assessment (SEA) fees is referred to as the processing and monitoring fees that is payable one off during the entire processing of the SEA applications which is quite an intensive and iterative process that requires financial resources for the Authority to effectively undertake the process.

Hon. Chair, it is important to note that the one-off payment being the processing and monitoring fees is used by the Authority throughout the entire SEA process without requiring additional payment from the Policies, Plans and Programmes (PPP) owners. The SEA stages are screening, scoping, assessment stage, validation, final report and decision making and then monitoring and evaluation during the PPP implementation.

Hon. Chair, the Authority will use the amount to send the various draft SEA reports to the lead agencies for sectoral comments, undertake site for the implementation areas for the various Plans and Programmes, participate in the stakeholder engagement validation workshops and send the final SEA

report to lead agencies to assist in monitoring during the implementation phase.

Additionally, **Hon. Chair**, SEA is a critical environmental planning framework tool that complements that spatial and physical planning aspects that provides safeguards against adverse environmental impacts and enhances the environmental decision making while ensuring that the cumulative environmental and social issues are highlighted, well-articulated and incorporated in the various Policies, Plans and Programmes (PPPs) by the decision makers.

Hon. Chair, the practice worldwide is that the SEA processing and monitoring fees is paid by the Policy, Plan and Programme (PPP) owner with the main goal of ensuring sustainable development and in line with polluter pay principles, Inter-Generational Equity Principle, Duty of Care Principle, Precautionary Principle and Equitable Sharing among others.

Hon. Chair, if this fee is reduced, the SEA process will be compromised and hinder effective Compliance Inspections, Environmental Monitoring, Surveillance and Environmental Auditing which are central components of environmental management and delivery of a clean and healthy environment to Kenyans.

Hon. Chair, the processing aspect of the fees enhances synergy building and inter-agency coordination among Ministries, Departments, Counties and Agencies (MDCA) in environmental management. This offers alternatives through consideration of best practices for decision making to promote sustainable development.

Further, the Monitoring aspect of the fees provide the requisite facilitation in instituting preventive and corrective measures against destruction of the environment by proposed projects, programmes, policies and plans.

Question 6. The Regulations have also increased the fee payable for integrated environmental assessment licences from 0.05% of project cost to 0.1% of project cost. All other fees in the Fourth Schedule have also been increased by more than fifty percent and the said increases are exorbitant and unjustified;

Hon. Chair, before the gazettelement of these regulations, the Environmental Impact Assessment (EIA) fees were pegged at 0.1% of project cost and not 0.05% as presented. Therefore, no change has been introduced to this percentage.

Hon. Chair, the EIA process is not only complex but also detailed in nature and requires undertaking rigorous technical review and site visit to assess the suitability and compatibility of the proposed project.

In addition, Hon. Chair, some High-Risk projects require public hearing at proposed projects sites to provide another opportunity for project affected persons and other interested stakeholders to engage on the impacts of the project. The public hearing sessions are fully organized by NEMA and chaired by the respective County Commissioner.

Therefore, Hon. Chair, the EIA fees are used to facilitate the processing of applications in terms of organizing for technical reviews, site visits, multi-agency technical taskforce, and public hearings.

Question 7. Regulations 11(1), 13(1) and 17(1) make reference to the Second Schedule as being one that identifies whether a project is low-risk, medium-risk or high-risk. However, the Second Schedule contains the criteria for registration of environmental assessment experts not the various categories of projects;

Hon. Chair, the Second schedule being referred to in the Regulations at 11(1), 13(1) and 17(1) is as provided for under EMCA CAP 387.

Therefore, the reference to the 2nd Schedule is to the Act and not to the proposed Regulations.

Question 8. The Regulations make numerous references to phrases including "environmental assessment studies", "environmental assessment experts", and "environmental assessment licence", whereas the parent Act uses phrases such as, "environmental impact assessment studies", "environmental impact assessment experts", and "environmental impact assessment licence" to refer to the same thing. This makes the regulations defective in their drafting;

Hon. Chair, I note the concerns of the House and the omission of the word 'impact' in each of the highlighted phrases.

Hon. Chair, the definition/interpretation section of the Regulations make reference to the Act and thus removes any ambiguity. In any event, the words environmental assessment even when used in the absence of the word 'impact' are in common parlance known to mean assessment of impacts both positive and negative.

Question 9. The Regulations do not provide for due process, including giving of notice, fair hearing and written reasons prior to suspension and revocation of environmental assessment licences, thus violating Article 47 of the Constitution.

Hon. Chair, these provisions on cancelation, revocation or suspension are explicitly provided for in the main Act at Section 67(1)(a)(b) and 1A. *Section 67(1A) states "Where the Authority cancels, revokes or suspends a license in accordance with this section, the reasons for such action shall be given to the licensee in writing".*

The Ministry is alive to the cross cutting and mandatory provisions of the Fair Administrative Actions Act that require administrative actions to be carried out on the basis of fair hearing.

D. ENVIRONMENTAL MANAGEMENT AND COORDINATION (ACCESS TO BIOLOGICAL RESOURCES AND BENEFIT SHARING) NO. 2 REGULATIONS 2025, LEGAL NOTICE NO. 68 OF 2025

Question 1: The Regulations making body submitted an explanatory memorandum and indicated in the memorandum that public participation was conducted. However, the available documentation only shows attendance records of the persons who attended the technical committee meetings to review the 2006 regulations, and not the stakeholders likely to be affected by the regulations or members of the general public. There were also no notices to show that stakeholders and members of the public were invited to any forums.

Hon. Chair, I have provided the supporting documents in relation to this regulation.

Question 2. The first paragraph of the Third Schedule erroneously refers to the Regulations as 2023 Regulations instead of 2025.

Hon. Chair, the review of the Regulation was undertaken in the year 2023 and submitted to the Attorney General's office for review and publication in 2023. The error on this clause seems to have been missed out in the 2025 review of the document and shall be corrected to reflect the correct year.

Question 3. Additionally, some parts of the regulations refer to the 'Authority' while others refer to the 'Competent National Authority' interchangeably

Hon. Chair, section 5 of the Regulation states that the ‘Authority’ shall be the ‘Competent National Authority’ and shall be responsible for granting access or as applicable, issuing written evidence that access requirements have been met and be responsible for advising applicants, local communities, other Government agencies and any interested persons on the applicable procedures and requirements for obtaining prior informed consent and entering into mutually agreed terms. Based on this, the word “Authority” and “Competent National Authority” refer to one and the same thing hence the interchangeable use.

Question 4. The definitions of terms ‘biological resource’, ‘genetic resource’, ‘sustainable use’ and ‘traditional knowledge’ as contained in the regulations are different from the definitions of the same terms as contained in the enabling Act.

Hon. Chair, the definition of ‘biological resource’ and ‘genetic resources’ as defined in the regulation has been enhanced and enriched to bring in more meaning of the terms and expound on the scope of coverage.

‘Sustainable use’ we recommend to harmonise and use the definition of the term as contained in the enabling act to read as “Sustainable use” means present use of the environment or natural resources which does not compromise the ability to use the same by future generations or degrade the carrying capacity of supporting ecosystems;

In relation the term “Traditional knowledge” the Regulations have not defined the same and the definition provided in the enabling Act is adopted.

Question 5. Additionally, the definition of ‘fair and equitable’ to mean ‘sharing of benefits’ is superfluous

Hon. Chair, this is noted and agreeable to be amended to read;

‘Benefit-sharing’ to mean participation and share in the economic, environmental, scientific, social, or cultural benefits resulting or arising from utilization of biological resources, associated traditional knowledge under mutually agreed terms (MATs);

Question 6. The fees charged for commercial access are exorbitant in respect of individuals or entities conducting small scale value addition activities

Hon. Chair, the fees charged for commercial access is referred to as the processing and monitoring fees which is paid one off. The stakeholders involved in the process is wide to be able determine the magnitude of the resource use and scale of commercialization. The fee proposed is in consideration of management of biodiversity resources where the activity will have adverse effects to the conservation efforts and resource regenerative structures. Further, the fee will be for processing of applications in terms of organizing for technical reviews, site visits and verifications, multi-agency technical taskforce, compliance and surveillance monitoring of the projects to ensure that the resource users adhere to the conditions issued to them and safeguard the resources from depletion.

Globally commercial fees for accessing biological resources can range significantly varying based on the type of resource, the purpose of the access and the location.

Question 7. Members of the community may be obstructed from accessing resources in the forests controlled by various government entities

Hon. Chair, Regulation 4(2) states as follows;

These Regulations shall not apply to—

(a) the exchange of biological resources, their derivative products, or the intangible components associated with them, carried out by members of any local Kenyan community amongst themselves and for their own consumption and benefits;

Hon. Chair, in principle the regulations take into consideration the interests of the community and it shall not cause any obstruction to accessing the resources for their use. Other legal framework have enabling governance structures on how communities can access resources for their use. For example, the Forest Conservation Act that has Community Forest Associations.

Question 8. County Governments should be consulted before granting permits for commercial access.

Hon. Chair, PART III—Access to Biological Resources Section 11, 4(b) states that where an application under sub-regulation (1) is for commercial access,

the application shall—be accompanied by evidence of Prior Informed Consent and Mutually Agreed Terms from interested persons and relevant stakeholders where applicable;

Hon. Chair, Prior Informed Consent and Mutually Agreed Terms is an intensive and interactive process that involves wide stakeholders from National Government, County Governments, the local community and the individual or entity that wants to access the resource during the decision-making process.

Question 9. Although the regulation, according to the explanatory memorandum, seek to domesticate the provisions of an international agreement, the name and citation of the agreement have not been provided for.

Hon. Chair, the treaty is the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity Adopted on 29th October 2010 and entered into force on 12th October 2014. The same is cited in the Explanatory Memorandum under Clause 2. “Legislative Framework” third paragraph.

Thank you, Hon. Chair and Hon. Members, I request the support of the house in approving the four (4) regulations.



Dr. Deborah M. Barasa

CABINET SECRETARY

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY

27th May 2025

ANNEX 4



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Web: www.eik.co.ke

To:
The Clerk of the National Assembly
Kenya National Assembly
Parliament Buildings
P.O. Box 41842 - 00100
Nairobi, Kenya

04 JUN 2025

AND

The Clerk of the Senate ✓
Kenya Senate
Parliament Buildings
P.O. Box 41842 - 00100
Nairobi, Kenya

AND

The Delegated Legislation Committee
Kenya National Assembly
Parliament Buildings
P.O. Box 41842 - 00100
Nairobi, Kenya

① Mr. Charles (Dowds)

ps process

② Mr. Macharia.

Kindly review and
facilitate as per the
S.O. D. Chandra

06/05/25

5/6/25

RE: PETITION TO PARLIAMENT UNDER ARTICLE 119 OF THE CONSTITUTION AND
STANDING ORDERS 202 OF THE NATIONAL ASSEMBLY ON THE GAZETTEMET AND RE-
GAZETTEMET OF THE ENVIRONMENTAL MANAGEMENT AND COORDINATION
(STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL
AUDITS) REGULATIONS, 2025

WE, the undersigned,
Citizens of the Republic of Kenya and members of the Environment Institute of Kenya (EIK)—
a professional body committed to upholding the standards, integrity, and interests of
environmental practitioners, and representing over 6,000 environmental professionals—
joined by other concerned stakeholders,

HEREBY SUBMIT this petition pursuant to Article 119 of the Constitution of Kenya, the
Statutory Instruments Act, 2013, and the relevant Standing Orders of Parliament.

PETITION TO PARLIAMENT UNDER ARTICLE 119 OF THE CONSTITUTION AND STANDING ORDERS 202 OF THE NATIONAL ASSEMBLY ON THE
GAZETTEMET AND RE-GAZETTEMET OF THE ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC AND INTEGRATED
ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL AUDITS) REGULATIONS, 2025

③ Ms. Hatarika

CONTEXT AND GROUNDS FOR THIS PETITION:

1. Background and Procedural Irregularities

The Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations, 2025 were first gazetted on 28th February 2025 through Kenya Gazette Supplement No. 27, Legislative Supplement No. 19, Legal Notice No. 52, and subsequently re-gazetted on 25th April 2025 under Kenya Gazette Vol. CXXVII – No. 80.

However, these regulations were promulgated in the absence of adequate and meaningful engagement with key stakeholders, including professional bodies such as the Environment Institute of Kenya (EIK), environmental practitioners, and the wider public. This exclusion contravenes the constitutional and legal requirement for public participation and undermines the integrity and legitimacy of the regulatory framework.

2. Constitutional Violations

- i. The process surrounding the development and gazettelement of the 2025 Regulations directly violates several provisions of the Constitution of Kenya, 2010, specifically:
- ii. **Article 10(2)(a), (b), and (c)** – which enshrines national values and principles of governance including participation of the people, transparency, and accountability. The failure to consult stakeholders meaningfully renders the regulations constitutionally infirm.
- iii. **Article 35** – which guarantees the right to access information. The stakeholders were denied the opportunity to review or respond to the draft regulations and fee schedules, in violation of this right.
- iv. **Article 47(1) and (2)** – which guarantees every person the right to fair administrative action that is expeditious, efficient, lawful, reasonable, and procedurally fair. The arbitrary imposition of substantial fee increases, without justification or public consultation, violates this principle.
- v. **Article 201(d)** – which provides that public money shall be used in a prudent and responsible manner. The steep and unexplained fee increments represent a fiscally irresponsible imposition on professionals and institutions.

3. Conflicts with the Environmental Management and Coordination Act (EMCA), Cap. 387

The 2025 Regulations are inconsistent with several foundational provisions of EMCA, including:

- i. **Section 3(5)** – which underscores the principle of sustainable development. The imposition of excessive regulatory fees is likely to deter environmental audits, assessments, and compliance processes, thereby undermining sustainable development efforts.
- ii. **Section 58(2)** – which requires Environmental Impact Assessments (EIAs) to be conducted in a manner that is accessible and procedurally fair. The introduction of prohibitively high fees impedes access to this process.
- iii. **Section 86** – which establishes Environmental Audits (EAs) as a compliance mechanism. By introducing high financial barriers, the new regulations risk discouraging audits and environmental accountability.

4. Nature of the Legal Conflict

The 2025 Regulations are legally infirm on several grounds:

- i. **Ultra Vires:** The Cabinet Secretary appears to have exceeded the powers conferred under **Section 147 of EMCA** by prescribing fee structures that are punitive, lacking proportionality, and unrelated to actual regulatory service delivery.
- ii. **Procedural Impropriety:** The development of the regulations failed to meet the public participation thresholds required under the **Statutory Instruments Act, 2013**, particularly **Sections 5 and 6**, which mandate consultation, transparency, and regulatory impact assessment.
- iii. **Unreasonableness and Oppressiveness:** The fee increments—some exceeding 500%—are devoid of any demonstrated rationale, impact assessment, or evidence-based justification, rendering them arbitrary and oppressive.

5. Unjustified and Punitive Fee Increments

The regulations impose disproportionate fee hikes across critical categories without cost justification, economic rationale, or evidence of consultation. This undermines equitable access to environmental governance mechanisms and disproportionately burdens community-based organisations, SMEs, and conservation-focused initiatives.

The table above illustrates the fee increments introduced by the 2025 regulations:

Category	Previous Fee (Kshs)	New Fee (Kshs)	Percentage Increase (%)
Lead Expert (Citizen) Registration	3,000	20,000	567%
Lead Expert (Citizen) Annual Renewal	5,000	30,000	500%
Associate Expert (Citizen) Registration	2,000	10,000	400%
Associate Expert (Citizen) Annual Renewal	3,000	10,000	233%
Firm Registration (Local)	5,000	50,000	900%
Firm (Local) Annual Renewal	20,000	50,000	150%

Additionally, the Environmental Compliance Audit fees for projects categorized by risk have been set at:

- Low Risk Projects: Kshs 10,000
- Medium Risk Projects: Kshs 50,000
- High Risk Projects: Kshs 100,000

These fees are steep and place an undue financial burden on environmental practitioners and project proponents, which may discourage compliance and participation in environmental management frameworks.

THEREFORE, your humble Petitioners PRAY that the Committee on Delegated Legislations and Parliament in General to:

1. Conduct a thorough review of the 2025 Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) Regulations to assess their procedural legality, ensuring compliance with the Statutory Instruments Act, 2013, and constitutional mandates on public participation and transparency;
2. Recommend the immediate suspension or annulment of the said regulations pending a comprehensive, inclusive, and transparent stakeholder consultation process involving EIK, environmental professionals, civil society, and the public;
3. Summon the relevant authorities from the Ministry of Environment, Climate Change and Forestry, and the National Environment Management Authority (NEMA) to provide clear explanations and justifications for the procedural lapses and lack of engagement with key stakeholders during the formulation of these regulations;
4. Facilitate a formal stakeholder hearing where EIK and other affected parties can present expert views, concerns, and constructive recommendations to inform the development of regulations that are fair, equitable, and supportive of sound environmental governance;
5. Ensure that any future regulatory reforms in environmental management prioritize transparency, fairness, affordability, and the empowerment of environmental professionals as a foundation for sustainable development and ecological stewardship.

Our Commitments

We remain steadfast in our commitment to advancing sound environmental governance that respects Kenya's constitutional values and statutory requirements. We seek the Committee's urgent intervention to uphold transparency, accountability, and professional integrity in legislative processes affecting the environment sector.

We look forward to your earnest consideration and timely action on this matter.

PETITIONED and Dated at Nairobi, this 19th day of May, 2025

No.	NAME OF PETITIONER	FULL ADDRESS	NATIONAL ID/PP NO	SIGNATURE
1	Truus Kilonzo Mutuku	Nairobi	29674650	[Signature]
2	Alice Mwangi	Nairobi	20107700	[Signature]
3	Zella Kibicho	Nairobi	32469681	[Signature]
4	Edwin Okech Ojoro	Kisumu	23953113	[Signature]
5	Colin Kitongo	Nachakes	39466052	[Signature]
6	Shadrach Mutuku	Nairobi	34385407	[Signature]
7	Mwenda Mwangi	Nairobi	38205131	[Signature]
8	ANNA W. NIBVAT	NAIROBI	29526354	[Signature]
9	Veronica Kisiu	NAIROBI	25264134	[Signature]
10	Purity Mutithani	NAIROBI	24070619	[Signature]
11	Elias Ojoro	NAIROBI	31856293	[Signature]
12	Whitney George	NAIROBI	37437332	[Signature]

SIGNED BY


ALEX MUGAMBI
CHAIRMAN,

ENVIRONMENT INSTITUTE OF KENYA
ON BEHALF OF MEMBERS OF ENVIRONMENT INSTITUTE OF KENYA



ANNEX 5



REPUBLIC OF KENYA

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE & FORESTRY

PRESENTATION ON THE PETITION AGAINST THE ENVIRONMENTAL
MANAGEMENT AND COORDINATION (STRATEGIC AND INTEGRATED
ENVIRONMENTAL ASSESSMENTS AND ENVIRONMENTAL AUDITS(NO.2)
REGULATIONS, 2025, LEGAL NOTICE NO. 71 OF 2025 MADE TO THE
COMMITTEE ON DELEGATED LEGISLATION OF THE SENATE

24th July, 2025

Hon. Chair, thank you for giving me this opportunity to appear before you to present our response to the issues contained in the Petition by the Environment Institute of Kenya (EIK) dated 19th May, 2025.

Hon. Chair, the Environmental Management and Coordination CAP 387 (EMCA) was enacted in 1999 and amended in the year 2015 after the promulgation of the new Constitution 2010 to align the Act with the Constitution.

Hon Chair, principle 17 of the Rio Declaration on Environment and Development (1992) states that, *'Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.'*

Hon. Chair, Kenya being a signatory to the Rio Declaration on Environment and Development and in keeping with our international obligations as well as operationalizing EMCA, the Ministry developed the Environmental (Impact Assessment and Audit) Regulations, 2003 via Legal Notice No. 101 of 2003.

Hon. Chair, the 2003 Regulation is the maiden Regulation on Environmental Impact Assessment and Audit under EMCA and has not been amended substantively since the year 2003. Hon Chair, the fees set out under the fifth Schedule thereto, are the same to date since the year 2003.

The Petition dated 19th May 2025

Hon. Chair, the Petition by the EIK contains five heads titled Procedural irregularities, constitutional violations, conflicts with EMCA, legal infirmities, and unjustified and punitive fee increments. These, from the contents therein, can be well summarized and reclassified as two issues which I submit as follows-

- a) Public participation processes; and
- b) Unjustified and punitive fee increment.

A. Public participation processes

Hon. Chair, the EIK Petition contends that EIK was not consulted in the public participation processes leading up to the stage where we are at now. It is not contended that there was no public participation but that EIK was not singled out or profiled as a major stakeholder to perhaps be subjected to a separate and distinct sitting. Even this contention is inaccurate as I here submit.

Hon. Chair, the EIK petition cites the public participation process as inadequate and not meaningful, and it is denied.

Hon. Chair, the Ministry is presently before this honourable Committee of the Senate on Delegated Legislation for scrutiny of the proposed regulations. This Honourable Committee will recall, and may refer to the Regulatory Impact Statement submitted by this Ministry, that the public participation process for this Regulation commenced in the year 2018 and had only stalled owing to an earlier policy direction to have the parent Act revised as a pre requisite to the Regulations. This is what led to the EMCA

Amendment Bill, No. 7 of 2020.

Hon. Chair, the process was therefore only reignited in the year 2024 and we have submitted documents of public participation including attendance sheets that show the attendance of members of the petitioner (EIK).

Hon. Chair, we are aware of the fact that the EIK was at the material time governed by different committee members and that the present committee or officials are a new team. I, however, respectfully submit on the permanence and continuity of an office and that the same should always survive the office holders.

Hon. Chair, in any event, the EIK was ably and constantly represented during the review process. The EIK was represented ably and throughout by one Ms. Joyce Macharia, who appears in many of the attendance sheets submitted in support of the Regulations. In one of the meetings held at Kongoni Hotel in Naivasha on the 20th April 2018, the EIK Chief Executive Officer, Mr. Ronald Kimtai, also attended.

Hon. Chair, the documents in support of public participation will also show that meetings for public participation for all stakeholders were advertised in the Daily Nation in March 2018 (*see Annex 1*) and held as follows-

	REGIONS	VENUE	DATES
1.	Coast Region	Pride Inn Shanzu, Mombasa	13 th March, 2018
2.	Eastern/North Eastern	Silver Bells Hotel, Isiolo	13 th March, 2018
3.	Central	Nyeri Hotel	20 th March,

			2018
4.	Rift Valley	Cicada Hotel, Eldoret	20 th March, 2018
5.	Western	Kisumu Hotel	27 th March, 2018
6.	Nairobi	Intercontinental Hotel	27 th March, 2018
7.	National Validation	Intercontinental Hotel	28 th May 2018 (Postponed from 4 th April 2018)

Table 1: Daily Nation, March 2018

Hon. Chair, we also wish to demonstrate through reference to **Annex 2**, that EIK was represented by the said Ms Joyce Macharia and several other members of EIK as highlighted in **Annex 2**.

B. Unjustified and punitive fees increment

Hon. Chair, the 2003 Regulations at the Fifth Schedule, provide for fees towards application for registration as an Environmental Impact Assessment Expert as follows-

		Citizen (Ksh)	Non-Citizen (Ksh)
a)	Lead Expert	3,000	9,000
b)	Associate Expert	2,000	6,000
c)	Firm of Experts	5,000	15,000
Annual Licence to practice as Environmental Impact Assessment Expert			

a)	Lead Expert	5,000	15,000
b)	Associate Expert	3,000	9,000
c)	Firm of Experts	20,000	60,000

Table 2: Fifth Schedule of Legal Notice 101 of 2003

Hon. Chair, these fees have remained this way for over 22 years, since the year 2003, whereas the obligations of the NEMA to administer the EIA regime even after introduction of Strategic Environmental Assessments in 2015 have taken a steep incline. It cannot be gainsaid that over the years, construction activities and other EIA eligible projects have proliferated in tandem with industrialization.

Hon. Chair, opportunities for gainful employment for the EIA/EA experts have also increased significantly, extending from beyond preparing EIA/EA Reports to academia, court-oriented environmental assessments, ambient noise measurements, and other consultancies.

Hon. Chair, the Ministry had, however, attempted to revise the Fifth Schedule on Fees and published Legal Notice 149 of 2016 (See Annex 3), which proposed a 2-fold increase of the 2003 fees. However, this legal notice would subsequently be revoked by Parliament for non-compliance with the then 'new' Statutory Instruments Act, 2013. By default, the law reverted to the old 2003 fees and which remain in force to date.

Hon. Chair, NEMA is charged with registration and regulation of EIA/EA experts and requires adequate resources to play its role. To require Ksh 10,000 payment payable once a year for an associate EIA expert is not

legally infirm or imprudent of the Government, as has been submitted by the petitioner. On the contrary, reasonable fees such as those proposed by the Ministry vide Legal Notice No. 71 of 2025 will not only enable NEMA to discharge its functions but also streamline the EIA experts profession and ensure the EIA standards are improved. Members of this committee will agree that our biggest challenge as a sector is the proliferation of the EIA practice. Since our licensing is based on the reporting done by the experts, we must safeguard the integrity of this profession and weed out the undesirable characters from the industry.

Hon. Chair, as I conclude, allow me to reiterate our commitment as a Ministry in putting in place the necessary policy and legal framework that guarantees the rights of our people to a clean and healthy environment.

To this end, I request for the support of the Committee in approving the Legal Notice No. 71 of 2025. This shall enable us to continue ensuring the sustainable management and conservation of the environment for our people.

With these few remarks, I thank you.

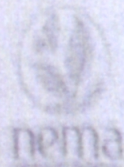

DR. DEBORAH M. BARASA
CABINET SECRETARY
MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY

DATE.....23/7/25.....

Annex 1: Daily Nation advertisement for regional meetings

Annex 2- Attendance sheets for the Regional and Task Force meetings

Annex 3: Legal Notice No. 149 of 2016.



PUBLIC NOTICE

INVITATION TO MEMBERS OF PUBLIC FOR STAKEHOLDERS FORUM ON THE DRAFT ENVIRONMENTAL (STRATEGIC ASSESSMENT, INTEGRATED IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2018

This is to bring to the attention of all stakeholders and members of the public that the National Environment Management Authority (NEMA), pursuant to the Environmental Management and Coordination Act, Cap 387 has prepared the draft Environmental (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018 intended to repeal the Environmental (Impact Assessment and Audit) Regulations, 2003.

The overall objective of the Environmental (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018 is to align it to the Environmental Management and Coordination Act, Cap 387 which was amended in 2015. The Regulations also seek to address emerging issues such as Strategic Environmental Assessments, environmental and social safeguard procedures and Climate change.

All stakeholders and members of the public who may wish to submit oral or written comments on the draft regulations are invited to do so as well as attend the various regional stakeholder forums organized by the Authority in collaboration with World Wildlife Fund (WWF) Kenya as per the Schedule below.

REGION	VENUE	DATE
COAST (Mombasa, Tana River, Kwale, Lamu, Kilifi, Taita Taveta)	Mombasa, Pride Inn, Shanzu	13 th March 2018
EASTERN/NORTH EASTERN (Merissa, Wajir, Mandera, Marsabit, Isiolo, Meru, Tharaka Nithi, Embu, Kitui)	Isiolo Silver Bells Hotel	13 th March 2018
CENTRAL (Nyandarua, Nyeri, Kirinyaga, Muranga, Laikipia)	Nyeri	20 th March 2018
HIGHT VALLEY (Turkana, Baringo, West Pokot, Samburu, Nakuru, Trans Nzoia, Uasin Gishu, Elgeyo Marakwet, Kericho, Nandi, Bomet)	Eldoret, Cicada Hotel	20 th March 2018
WESTERN (Kisumu, Kakamega, Vihiga, Homa Bay, Bungoma, Migori, Kisii, Siaya, Nyemira, Busia)	Kisumu	27 th March 2018
NAIROBI (Kiambu, Machakos, Kajiado, Makeni, Narok)	Nairobi	27 th March 2018

The national validation workshop shall be held in Nairobi on 4th April 2018

The draft regulations can be obtained from NEMA website www.nema.go.ke and submission of comments can be sent to elaregulations@nema.go.ke

Director General
National Environment Management Authority
Pope Road, Off Mombasa Road
P.O. Box 67839-00200



**NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY
(NEMA)**

**THE ENVIRONMENTAL MANAGEMENT AND COORDINATION
ACT CAP 387**

**INVITATION FOR NATIONAL VALIDATION WORKSHOP ON THE DRAFT
ENVIRONMENTAL (STRATEGIC ASSESSMENT, INTEGRATED IMPACT
ASSESSMENT AND AUDIT) REGULATIONS, 2018**

This is to bring to the attention of all stakeholders and members of the public that the National Environment Management Authority, pursuant to the Environmental Management and Coordination Act, Cap 387 has prepared the draft Environmental (Strategic Assessment, Integrated Impact Assessment and Audit) Regulations, 2018 intended to repeal the Environmental (Impact Assessment and Audit) Regulations, 2003.

The Authority has undertaken various workshops countrywide on the same and has received comments from stakeholders and members of the public on the draft regulations. We therefore invite all stakeholders and members of the public for a national validation workshop of stakeholder's comments on the draft regulations on **28th May 2018** to be held at the **Intercontinental Hotel Nairobi**, from **9.00am-2.00pm**. The draft Regulations will be uploaded on the **5th May, 2018** on the NEMA website. **www.nema.go.ke**

DIRECTOR GENERAL

National Environment Management Authority
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Report incidences and complaints to:
NEMA Incident line: 0786 101 100

Our Environment, Our Life, Our Responsibility.

National Environment Management Authority - Kenya @NemaKenya

Approved

Auth

21/5/2018

NATIONAL ENVIRONMENT
MANAGEMENT AUTHORITY (NEMA)
P.O. Box 67839-00200
Tel: 020 2101370
NAIROBI



NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (STRATEGIC ENVIRONMENTAL ASSESSMENT/ENVIRONMENTAL IMPACT ASSESSMENT/ENVIRONMENTAL AUDIT) REGULATION, STAKEHOLDER FORUM

VENUE: PRIDE INN, SHANZU MOMBASA

13/3/2018

ATTENDANCE LIST

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17	Kenneth. Etemu	MAINE COUNTY	chevrolet Equinox	01109366	
18	BRISTON SALLIM	MAINE COUNTY	Sallim Briston	07108723	
19	TERESA GUNTER, JIMMY	MAINE COUNTY	MAINE COUNTY	0710850433	
20	EMILY BOSTON	MAINE COUNTY	MAINE COUNTY	0710293237	
21	MURRAY BOSTON	MAINE COUNTY	MAINE COUNTY	07233110	
22	BRINACH KIRBY	MAINE COUNTY	BRINACH KIRBY	0720816274	
23	MICHAEL MORGAN	MAINE COUNTY	MICHAEL MORGAN	0722176521	
24	JOHN PAUL LORRA	MAINE COUNTY	JOHN PAUL LORRA	0721721215	
25	ALTA MORGAN	MAINE COUNTY	ALTA MORGAN	0722276535	
26	MORGAN MORGAN	MAINE COUNTY	MORGAN MORGAN	0722276535	
27	EMMANUEL KAPAVITA	MAINE COUNTY	EMMANUEL KAPAVITA	0720562172	
28	EMMANUEL KAPAVITA	MAINE COUNTY	EMMANUEL KAPAVITA	0720562172	
29	EMMANUEL KAPAVITA	MAINE COUNTY	EMMANUEL KAPAVITA	0720562172	
30	MR. MANABET SKIPPER	MAINE COUNTY	MR. MANABET SKIPPER	0720562172	
31	MR. OTUD GEDDE	MAINE COUNTY	MR. OTUD GEDDE	0722276535	
32	MS. MERT MORGAN	MAINE COUNTY	MS. MERT MORGAN	0722276535	
33	ADAMANTIA TUNYA	MAINE COUNTY	ADAMANTIA TUNYA	0722276535	
34	SUBSA JONGA	MAINE COUNTY	SUBSA JONGA	0722276535	
35	STEPHEN MORGAN	MAINE COUNTY	STEPHEN MORGAN	0722276535	
36					
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NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY



ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (STRATEGIC ENVIRONMENTAL ASSESSMENT/ENVIRONMENTAL IMPACT ASSESSMENT/ENVIRONMENTAL AUDIT) REGULATION, 2018, STAKEHOLDER FORUM

VENUE: SILVERBELLS ISIOLO 13TH MARCH 2018

ATTENDANCE SCHEDULE

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16	37	JEREMIAH KIRIMI	KFS	Jerimik@gmail.com	0721583497	
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18	39					
19	40					
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NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (STRATEGIC ENVIRONMENTAL ASSESSMENT/ENVIRONMENTAL IMPACT ASSESSMENT/ENVIRONMENTAL AUDIT) REGULATION, STAKEHOLDER FORUM

VENUE: CICADA HOTEL, ELDORET ON 20TH MARCH 2018

ATTENDANCE SCHEDULE

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13	WILLIAM MUGAT	NEMA	william.mugat@gmail.com	0718 841 11	

13	Konstantin Efremov	Pravoslavnyy	Chernobyl	0110198416	
14	Evgeniy H. Sazonov	Pravoslavnyy	Chernobyl	0110198416	
15	TEGESH (Tevdov, Torgov)	Moskovskiy	Chernobyl	0110198416	
16	CLIMET Boudinov	Pravoslavnyy	Chernobyl	0110198416	
17	Muraviev	Pravoslavnyy	Chernobyl	0110198416	
18	Pavlov	Pravoslavnyy	Chernobyl	0110198416	
19	Mikhail	Pravoslavnyy	Chernobyl	0110198416	
20	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
21	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
22	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
23	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
24	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
25	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
26	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
27	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
28	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
29	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
30	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
31	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
32	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
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34	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
35	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
36	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
37	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
38	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
39	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
40	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
41	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
42	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
43	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
44	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
45	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
46	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
47	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
48	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
49	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	
50	Stefan Pavlov	Pravoslavnyy	Chernobyl	0110198416	

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NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY
ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC ASSESSMENT, INTEGRATED IMPACT
ASSESSMENT AND ENVIRONMENTAL AUDIT) REGULATIONS, 2018

TASKFORCE MEETING

VENUE: HOTEL INTERCONTINENTAL NAIROBI

DATE: 29TH MAY 2018

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NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

ENVIRONMENTAL MANAGEMENT AND COORDINATION (STRATEGIC ASSESSMENT, INTEGRATED IMPACT ASSESSMENT AND ENVIRONMENTAL AUDIT) REGULATIONS, 2018

SECOND (2ND) NATIONAL VALIDATION WORKSHOP

VENUE: HOTEL INTERCONTINENTAL NAIROBI

DATE: 28TH MAY 2018

ATTENDANCE SCHEDULE

NO	NAME	ORGANISATION	EMAIL ADDRESS	TELEPHONE NO	SIGNATURE
1	Mr. John Mwangi	ESR - Kenya (Kenya)	john.mwangi@esr.or.ke	0722727172	[Signature]
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9	Mr. John Mwangi	Kenya Wildlife Service	john.mwangi@kws.or.ke	0722727172	[Signature]
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NO	NAME	ORGANISATION	EMAIL ADDRESS	TELEPHONE NO.	SIGNATURE
11	Daniel T Grettittu	Gruppe Lensut Sena	danielgrettittu@gmail.com	073899954	
12	Isaac W. C. Muriu	Laikipia University	chumani@laikipia.ac.ke	07260376	
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14	John Elia	KEPSA	john.elia@kepsa.ac.ke	07654511	
15	Clara Ruvira	Pharmaceuticals	Pharmaceuticals@gmail.com	07223834	
16	Deborah D. Muriu	CRS-APCA	deborahd@gmail.com	02027707	
17	Joseph Ochiyong	Corporate Affairs	JosephOchiyong@gmail.com	072491554	
18	William Chukwura	civil society Africa	williamchukwura@gmail.com	07220059	
19	Francis Njogu	UNA	FrancisNjogu@gmail.com	07220059	
20	Gabriel Katarigwa	Central Bank of Kenya	gabrielkatarigwa@gmail.com	072382734	
21	David W. Muriu	MEMO Africa	DavidW.Muriu@gmail.com	071010155	
22	Paul D. Muriu	UNA	PaulD.Muriu@gmail.com	07220059	
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24	William Katarigwa	National Treasury	WilliamKatarigwa@gmail.com	071010155	
25	William Katarigwa	UNA	WilliamKatarigwa@gmail.com	07220059	
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78	David Mwangi	ELK	davidmwangi@gmail.com	0708888888	
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99	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
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102	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
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107	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
108	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
109	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
110	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
111	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
112	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
113	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
114	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
115	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
116	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
117	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
118	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
119	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]
120	David M. M.	MTI	mti@mti.org.za	0721111111	[Signature]

nema

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

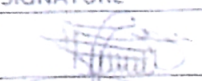
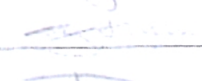
ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (STRATEGIC ENVIRONMENTAL ASSESSMENT/ENVIRONMENTAL IMPACT ASSESSMENT/ENVIRONMENTAL AUDIT) REGULATION, TASKFORCE

SECRETARIAT RETREAT

VENUE: EKA HOTEL

DATE: MONDAY 21ST MAY 2018

ATTENDANCE LIST

S/N	NAME	EMAIL	MOBILE NO.	SIGNATURE
1	Theresa K. Mungai	Theresa.K.Mungai@nema.go.ke	0722233625	
2	Simeon Ngari	simeon.ngari@nema.go.ke	0725891211	
3	John Mwangi	john.mwangi@nema.go.ke	0722233625	
4	Joyce Mwangi	joyce.mwangi@yahoo.co.ke	0715513166	
5	John Mwangi	john.mwangi@nema.go.ke	0722233625	
6	John Mwangi	john.mwangi@nema.go.ke	0722233625	
7	Emmanuel R. Kariuki	emmanuel.kariuki@nema.go.ke	0722233625	
8	Patience Mwangi	patience.mwangi@nema.go.ke	0722233625	
9	Justus B. Nyahoga	justus.nyahoga@yahoo.com	0715957920	

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY

ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (STRATEGIC ENVIRONMENTAL ASSESSMENT/ ENVIRONMENTAL IMPACT ASSESSMENT/ ENVIRONMENTAL ADMINISTRATION) 2018.

TASK FORCE SITTING TO FINALIZE THE DRAFT

VENUE: KONGONI HOTEL, AT NAIYASIRA - FRIDAY 20TH APRIL 2018

ATTENDANCE LIST

NAME	INSTITUTION	EMAIL	MOBILE NO.	SIGNATURE
Jessica Wapagat	WWF	JWapagat@worldwildlife.org	0722233665	
William Kibuka	KEPSA	william.kibuka@kepsa.or.ke	0722983324	
ROBERT KIMTAI	ELK	robert.kimtai@elk.or.ke	0728421910	
Justice Mwangi	ELK	justice.mwangi@elk.or.ke	0722983324	
Paul Njoroge	WWF	paul.njoroge@worldwildlife.org	0722983324	
Virginia Muthoni	NEMSA	virginia.muthoni@nema.go.ke	0722983324	
James Njoroge	NEMSA	james.njoroge@nema.go.ke	0722983324	
John Njoroge	NEMSA	john.njoroge@nema.go.ke	0722983324	
Stephen C. Guma	NEMSA	stephen.guma@nema.go.ke	0722983324	



nema

NATIONAL ENVIRONMENT MANAGEMENT AUTHORITY



ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT (STRATEGIC ENVIRONMENTAL ASSESSMENT/ENVIRONMENTAL IMPACT ASSESSMENT/ENVIRONMENTAL AUDIT) REGULATION, 2018, TASKFORCE SITTING TO CONSOLIDATE COMMENTS

VENUE: NEMA SMALL CONFERENCE - 3rd APRIL 2018

ATTENDANCE SCHEDULE

NO	NAMES	ORGANISATION	EMAIL	MOBILE NO.	SIGNATURE
1.	Jackson Kiprop	WDF	J.Kiprop@wdfkenya.org	0722233665	
2.	Gidder Riffa	NEMA	gidder@nema.go.ke	0720302631	
3.	Zephania Ouma	NEMA	zuma@nema.go.ke	0715572583	
4.	Anne Muthari	NEMA	lmuthari@nema.go.ke	0720 207004	
5.	Simon Njogu	NEMA	snjogu@nema.go.ke	0725891114	
6.	Vingene Njiru	NEMA	vnjiru@nema.go.ke	0936267052	
7.	Major William Kinyua	KEFISA	ce@clmkenya.org	0723735204	
8.	Joye Mwachae	GRE	joyemwachae@yahoo.com	0715513106	

ANNEX 6



REPUBLIC OF KENYA

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE & FORESTRY
State Department for Environment & Climate Change
Office of the Principal Secretary

Telegrams: "NATURE", Nairobi
Telephone: 254-20- 2730808/9
Fax: 254-20- 2734722
Email : psoffice@environment.go.ke

SHA BUILDING
RAGATI ROAD
P. O. BOX 30126-00100
NAIROBI

When replying, please quote:

Ref. No. MEF/L/6/9

28th July, 2025

Mr. Jeremiah Nyegenye, CBS
Clerk of the Senate
Parliament Building
NAIROBI



Dear *Clark,*

RE: REGULATIONS UNDER THE ENVIRONMENTAL MANAGEMENT AND COORDINATION ACT, CAP 387- LEGAL NOTICE NO. 71 OF 2025 ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENT AND ENVIRONMENTAL AUDITS) REGULATIONS, 2025

The above refers.

Reference is made to the above cited Legal Notice pending before the Senate Committee on Delegated Legislation for parliamentary scrutiny under the provisions of the Statutory Instruments Act, Cap. 2A Laws of Kenya.

The Ministry wishes to have the Legal Notice withdrawn from the legislative process so as to facilitate further public consultation processes being the outcome of further stakeholder deliberations.

The purpose of this letter, therefore, is to request your office to withdraw the Legal Notice No. 71 of 2025 from scrutiny. We endeavor to table the Statutory Instrument before the House at the appropriate time.

Yours

Sincerely,
Festus K. Ng'eno

Dr. Eng. Festus K. Ng'eno, MIEK, CBS
PRINCIPAL SECRETARY

Copy to: Dr. Deborah M. Barasa
Cabinet Secretary
Ministry of Environment, Climate Change and Forestry
NAIROBI

Sen. Mwenda Gataya, MP, CBS
Chairperson
Senate Select Committee on Delegated Legislation
Parliament Building
NAIROBI

MINISTRY OF ENVIRONMENT, CLIMATE CHANGE & FORESTRY
State Department for Environment & Climate Change
Office of the Principal Secretary

Telegrams: "NATURE", Nairobi
Telephone: 254-20- 2730018, 9
Fax: 254-20- 2734722
Email: info@kenyaenvironment.go.ke

SNA BUILDING
KARIAKI ROAD
P. O. BOX 30126-00100
NAIROBI

When replying, please quote:

Ref. No. MEF/L/6/9

Hon. Shadrack J. Mose, CBS
Solicitor General

Office of the Attorney General and Department of Justice
Sheria House
NAIROBI

Dear **SG**

RE: REGULATIONS UNDER THE ENVIRONMENTAL MANAGEMENT
AND COORDINATION ACT, CAP 387- LEGAL NOTICE NO. 71
ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION
STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENT
AND ENVIRONMENTAL AUDITS) REGULATIONS, 2025

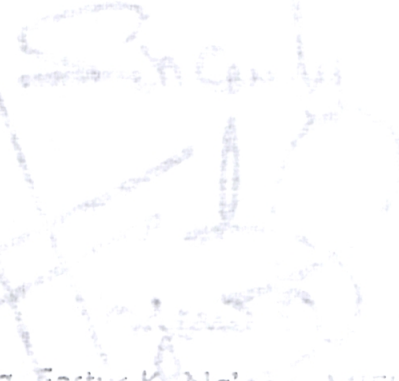
The above refers.

We make reference to the above cited legal notice published on 7th April, 2025 in the Kenya Gazette and pending before both the Senate and National Assembly Committees of Delegated Legislation for parliamentary scrutiny under the provisions of the Statutory Instruments Act, Cap. 2A.

The Ministry has encountered challenges with the Senate Integrated Committee on Legislation over public consultation processes related to the Legal Notice. The Ministry wishes to start the process of developing the Statutory Instrument afresh with consultations to all the relevant stakeholders.

The purpose of this letter, therefore, is to request for revocation of Legal Notice No. 71 of 2025 to allow further consultations with stakeholders.

Yours


Dr. Eng. Festus K. Ng'eno, MIEK, CDS
PRINCIPAL SECRETARY

Copy to: Dr. Deborah M. Barasa
Cabinet Secretary
Ministry of Environment, Climate Change and Forestry
NAIROBI

ANNEX 7

REPUBLIC OF KENYA

Telegraphic Address
'Bunge', Nairobi
Telephone 2848000
Fax: 2243694
E-mail: clerk.senate@parliament.go.ke



The Senate
Clerk's Chambers
Parliament Buildings
P. O. Box 41842 -00100
NAIROBI, Kenya

**PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE**

Ref. SEN/DGA/CDL/CORR/2025/14(13)

29th July, 2025

Dr. Deborah M. Barasa,
Cabinet Secretary,
Ministry of Environment, Climate Change and Forestry,
NHIF Building, 12th Floor,
P.O. Box 30126-00100,
NAIROBI.

Dear Sir,

**RE: THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION
(STRATEGIC AND INTEGRATED ENVIRONMENTAL ASSESSMENTS
AND ENVIRONMENTAL AUDITS) (NO. 2) REGULATIONS, 2025, LEGAL
NOTICE NO. 71 OF 2025**

Reference is made to various correspondence on the above matter.

At a meeting held on Monday, 28th July, 2025, the Committee on Delegated Legislation considered the Petition regarding the gazettment and re-gazettment of the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025.

The Principal Secretary, State Department for Environment and Climate Change, informed the meeting that the Ministry had resolved to withdraw the Environmental Management and Co-ordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 71 of 2025 to allow for further consultations and public participation.

Following deliberations, the Committee resolved that your Office gazettes the revocation of the Environmental Management and Coordination (Strategic and Integrated Environmental Assessments and Environmental Audits) (No. 2) Regulations, 2025, Legal Notice No. 1 of 2025 on or before **Friday, 1st August, 2025.**

The purpose of this letter is to inform you of the resolution of the Committee.

Ms. Carol Kiorei, Clerk Assistant I (carol.namunyak@parliament.go.ke, 0717488917) is the Clerk to the Committee and is responsible for facilitating this matter.

Yours faithfully,

For: E
J. M. NYEGENYE, CBS,
CLERK OF THE SENATE.

Copy to- **Dr. Eng. Festus K. Ng'eno, MIEK,**
Principal Secretary,
State Department for Environment and Climate Change,
Ministry of Environment, Climate Change and Forestry,
P. O. Box 30126 – 00100,
NAIROBI.

Mr. Mamo B. Mamo, EBS,
Director-General,
National Environment Management Authority,
P. O. Box 67839-00200,
NAIROBI.