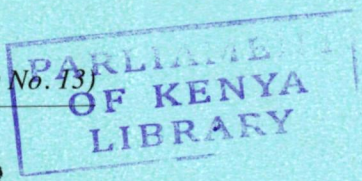


**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 121 (Senate Bills No. 13)*



REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2025**

**NAIROBI, 22nd July, 2025**

CONTENT

Bill for Introduction into the Senate—	PAGE
The Constitution of Kenya (Amendment) Bill, 2025 .....	179



REPUBLIC OF KENYA

MINISTRY OF HOME AFFAIRS



OFFICE OF THE ATTORNEY GENERAL

# KENYA GAZETTE SUPPLEMENT

PARLIAMENTARY PAPERS

LAWS, ORDINANCES AND REGULATIONS

1963

PRINTED AND PUBLISHED BY THE GOVERNMENT

1963

1963

PRINTED AND PUBLISHED BY THE GOVERNMENT

**THE CONSTITUTION OF KENYA (AMENDMENT)  
BILL, 2025**

**A Bill for**

**AN ACT of Parliament to amend the Constitution.**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Constitution of Kenya (Amendment) Act, 2025 and shall come into force after fourteen days following the official declaration of the results of a referendum conducted in accordance with Article 255 of the Constitution.

Short title and commencement.

2. Article 94 of the Constitution is amended by—

Amendment of Article 94 of the Constitution.

(a) inserting the following new clauses immediately after clause 1—

(1A) Parliament shall perform its legislative, representation, and oversight role over the executive and other state organs in accordance with this Constitution.

(1B) All legislative authority at the national level, shall be exercised by the National Assembly and the Senate in accordance with Part 4 of this Chapter.

(1C) In exercising its legislative authority, Parliament shall ensure that all laws respect the functions and powers assigned under the Fourth Schedule to the national and county governments and take into account the national values and principles of governance set out in Article 10.

(b) inserting the following new clause immediately after clause (2)—

(2A) Parliament exercises oversight over—

(a) national revenue allocated to the national government and its expenditure; and

(b) State organs and other public entities.

3. Article 95 of the Constitution is amended by deleting clause (4).

Amendment of Article 95 of the Constitution.

4. Article 96 of the Constitution is amended by—

Amendment of Article 96 of the Constitution.

(a) inserting the words “and represents special interests in the Senate” at the end of clause (1);

- (b) inserting the following new clauses immediately after clause (1)—

(1A) The Senate deliberates on and resolves issues of concern to the people in counties.

(1B) The Senate enacts legislation in accordance with Part 4 of this Chapter.

- (c) deleting clause (2);

- (d) inserting the words “and revenue raised by” immediately after the words “revenue allocated to” in clause (3); and

- (e) inserting the following new clause immediately after clause (4)—

(5) Parliament shall enact legislation providing for the procedure of removal of state officers at the national level.

**5. Article 108 of the Constitution is amended—**

Amendment of  
Article 108 of the  
Constitution.

- (a) by inserting the words “for each House of Parliament” at the end of clause (1);

- (b) in clause (2) by deleting the words “National Assembly” appearing immediately after the words “who is a leader in the” and substituting therefor the words “respective House”;

- (c) in clause (3) by deleting the words “National Assembly” appearing immediately after the words “who is the leader in the” and substituting therefor the words “respective House”;

- (d) by inserting the following new clause immediately after clause (4)—

(5) The following order of precedence shall be observed in the Senate—

(a) the Speaker;

(b) the leader of the majority party; and

(c) the leader of the minority party.

**6. Article 109 of the Constitution is amended by deleting clauses (2), (3), (4) and (5) and substituting therefor the following new clauses—**

Amendment of  
Article 109 of the  
Constitution.

(2) A Bill may be introduced by a member or committee in the National Assembly or the Senate.

(3) A Bill may originate in either House of Parliament, but a Bill on raising national revenue may be originated in the National Assembly.

(4) When a Bill has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House for introduction, consideration and passage.

(5) A Bill shall be referred to the President for assent only after it has been passed by both Houses of Parliament.

(6) The Speaker of the originating House shall, within a period of seven days after a Bill has been passed by both Houses, submit to the President—

- (a) the Bill, for assent and publication; and
- (b) a certificate signed by both Speakers certifying that the Bill has been passed by both Houses in accordance with this Article.

7. The Constitution is amended by repealing Article 110.

Amendment of Article 110 of the Constitution.

8. The Constitution is amended by repealing Article 111 and replacing therefor with the following new Article—

Amendment of Article 111 of the Constitution.

### **Procedure for Allocation and Appropriation Bills**

**111.** (1) An allocation Bill may originate in the Senate, but the National Assembly may propose and pass amendments to the Bill.

(2) An appropriation Bill may originate in the National Assembly, but the Senate may propose and pass amendments to the Bill.

(3) Subject to clauses (1) and (2), where a receiving House amends an allocation or an appropriation Bill, the originating House may veto the amendments by a resolution supported by at least—

- (a) two thirds of all the county delegations in the Senate; or

- (b) two thirds of the membership in the National Assembly.

(4) An allocation or an appropriation Bill shall be referred to the President for assent in accordance with Article 109(5) if the originating House—

- (a) concurs with amendments passed by the receiving House; or
- (b) vetoes the amendments in accordance with clause (3).

(5) In this Article—

- (a) an allocation Bill means—
  - (i) a County Allocation of Revenue Bill; or
  - (ii) a County Governments Additional Allocations Bill; and
- (b) an appropriation Bill means—
  - (i) an Appropriation Bill; or
  - (ii) a Supplementary Appropriation Bill.

9. Article 112 of the Constitution is amended—

Amendment of  
Article 112 of the  
Constitution.

- (a) by deleting the heading and substituting therefor the following new heading—

**Consideration of Bills**

- (b) in clause (1) by deleting the introductory phrase and substituting therefor the following new phrase—

(1) Subject to Article 111, if one House passes a Bill and the second House—

- (c) in clause (2) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) passes the Bill as amended, the Bill shall be referred to the President for assent in accordance with Article 109; or

**10.** Article 113 of the Constitution is amended by—

Amendment of Article 113 of the Constitution.

(a) deleting clause (3) and substituting therefor the following new clause—

(3) If both Houses approve the version of the Bill proposed by the mediation committee, the Bill shall be referred to the President for assent in accordance with Article 109.

(b) inserting the following new clause immediately after clause (4) —

(5) This Article shall not apply to an allocation or an appropriation Bill under Article 111.

**11.** The Constitution is amended by repealing Article 114.

Repeal of Article 114 of the Constitution.

**12.** Article 115 of the Constitution is amended—

Amendment of Article 115 of the Constitution.

(a) by deleting clause (3) and substituting therefor the following new clause—

(3) If Parliament amends the Bill fully accommodating the President's reservations, the Bill shall be referred to the President for assent in accordance with Article 109.

(b) in clause (4) by deleting the words “if it is a Bill that requires the approval of the Senate” appearing at the end of paragraph (b); and

(c) in clause (5) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a) the Bill shall be referred to the President for assent in accordance with Article 109.

**13.** Article 116 of the Constitution is amended by deleting clause (1) and replacing therefor the following new clause—

Amendment of Article 116 of the Constitution.

(1) A Bill passed by Parliament shall be published in the *Gazette* within seven days after assent or on the expiry of the period of assent under Article 115(6).

**14.** Article 157 of the Constitution is amended in clause (2) by deleting the words “the National Assembly”

Amendment of Article 157 of the Constitution.

appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

**15.** Article 173 of the Constitution is amended—

Amendment of  
Article 173 of the  
Constitution.

(a) in clause (3) by deleting the words “the National Assembly” appearing immediately after the words “submit them to” and substituting therefor the word “Parliament”; and

(b) in clause (4) by deleting the words “the National Assembly” appearing immediately after the words “approval of the estimates by” and substituting therefor the word “Parliament”.

**16.** The Constitution is amended by inserting the following new Article immediately after Article 199 —

Amendment of  
Article 199 of the  
Constitution.

### **County Assembly Fund**

**199A** (1) There is established, for each county assembly, a County Assembly Fund.

(2) The Fund shall be used for administrative expenses of a county assembly and for such other purposes as may be necessary for the discharge of the functions of a county assembly.

(3) Each financial year, a county assembly shall prepare estimates of expenditure for the following year and submit them to a county assembly for approval.

(4) On approval of the estimates by a county assembly, the expenditure of a county assembly as approved by Parliament in the County Allocation of Revenue Act for the respective year, shall be a charge on a County Revenue Fund and the funds shall be paid directly into a County Assembly Fund.

(5) A county assembly in each county shall enact legislation to provide for the regulation of the Fund.

**17.** Article 215 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “approved by” in paragraph (a) and substituting therefor the word “Parliament”.

Amendment of  
Article 215 of the  
Constitution.

**18.** Article 221 of the Constitution is amended—

Amendment of Article 221 of the Constitution.

- (a) by deleting clause (1) and replacing therefor the following new clause—

(1) At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to Parliament estimates of the revenue and expenditure of the national government for the next financial year to be tabled in Parliament.

- (b) by deleting the words “The National Assembly” appearing at the beginning of clause (3) and substituting therefor the word “Parliament”;

- (c) by deleting clauses (4), (5) and (6) substituting therefor the following new clauses—

(4) Before Parliament considers the estimates of revenue and expenditure, committees of the respective Houses shall discuss and review the estimates and make recommendations to the Houses.

(5) In discussing and reviewing the estimates, the committees shall seek representations from the public and the recommendations shall be taken into account when the committees make their recommendations to the respective Houses.

(6) When the estimates of national government expenditure, and the estimates of expenditure for the Judiciary and Parliament have been approved by Parliament, they shall be included in an Appropriation Bill, which shall be introduced in Parliament in accordance with Article 111 to authorise the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill.

**19.** Article 222 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” in paragraph (b) and substituting therefor the word “Parliament”.

Amendment of Article 222 of the Constitution.

**20.** Article 223 of the Constitution is amended in clause (4) by deleting the words “the National Assembly”

Amendment of Article 223 of the Constitution.

appearing immediately after the word “When” and substituting therefor the word “Parliament”.

**21.** The Constitution is amended by repealing Article 224 of the Constitution and replacing therefor the following new Article—

Amendment of  
Article 224 of the  
Constitution.

### **County Appropriation Bills**

**224.** (1) On the basis of the County Allocation of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament.

(2) If the Division of Revenue Bill or the County Allocation of Revenue Bill for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, Parliament may authorise counties to withdraw money from the Consolidated Fund.

(3) Money withdrawn under clause (2) shall—

- (a) be for the purpose of meeting expenditure necessary to carry on the services of the relevant county government during that year until such time as the Division of Revenue Bill or the County Allocation of Revenue Bill is assented to;
- (b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the County Assembly; and
- (c) be included, under separate votes for the several services in respect of which they were withdrawn.

**22.** Article 228 of the Constitution is amended in clause (1) by deleting the words “the National Assembly” appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

Amendment of  
Article 228 of the  
Constitution.

**23.** Article 229 of the Constitution is amended in clause (1) by deleting the words “the National Assembly”

Amendment of  
Article 229 of the  
Constitution.

appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

**24.** Article 233 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “with the approval of” and substituting therefor the word “Parliament”.

Amendment of Article 233 of the Constitution.

**25.** Article 250 of the Constitution is amended in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “approved by” in paragraph (b) and substituting therefor the word “Parliament”.

Amendment of Article 250 of the Constitution.

**26.** Article 251 of the Constitution is amended—

Amendment of Article 251 of the Constitution.

(a) in clause (2) by deleting the words “the National Assembly” appearing immediately after the words “may present a petition to” and substituting therefor the word “Parliament”; and

(b) by deleting the words “The National Assembly” at the beginning of clause (3) and substituting therefor the word “Parliament”.

## MEMORANDUM OF OBJECTS AND REASONS

The operationalization of the Constitution, particularly devolved governance and bicameralism has seen many successes but has also brought to the fore a number of challenges of constitutional design and architecture that require reform so as to strengthen and secure the devolved system of government and for greater unity and harmony of the constitutional dispensation.

The principal object of the Bill is to strengthen and secure devolution. The draft Bill seeks to provide a framework to achieve this purpose by –

- (a) clarifying the role of various organs and institutions established by the Constitution in the process of devolution;
- (b) reviewing the mandate of the Senate and the National Assembly in order to clarify the shared role of the Houses of Parliament and the special roles assigned to each House of Parliament;
- (c) refining the legislative process set out in the Constitution in order to ensure that both Houses of Parliament play an effective role in the legislative process; and
- (d) ensuring that both the National Assembly and the Senate play an effective role in the budget making process in order to safeguard the implementation of devolution.

The Bill proposes to amend **Article 94, 95 and 96** of the Constitution to provide clarity on the role of Parliament as a whole and of each Houses. This amendment seeks to ensure that there is clarity in the role of each House so as to avoid the overlap and varied interpretations of the role of the respective Houses.

The Bill proposes to amend of **Article 108** of the Constitution to provide for the leadership and the order of precedence in the Senate. As currently worded, Article 108 of the Constitution only provides for the leadership and the order of precedence in the National Assembly, omitting that of the Senate.

The Bill proposes to amend **Article 109** of the Constitution to provide for the origination of any Bill in either House of Parliament, save for a Bill on raising national revenue which may only originate in the National Assembly.

The Bill further seeks to repeal **Article 110** to grant full legislative mandate to both Houses of parliament. The current state of affairs has

caused confusion in the legislative role of Parliament and the various Court decisions have not made the matter any better.

The Bill further seeks to amend **Articles 111 and 112** to provide for the procedure for the consideration of allocation Bills i.e. the County Allocation of Revenue Bill, the County Additional Allocation of Revenue Bill and appropriation Bills i.e. the Appropriation Bill and a Supplementary Appropriation Bill by both Houses of Parliament and to provide for the procedure for the consideration of Bills by both Houses of Parliament.

The proposed amendment to **Article 113** of the Constitution relates to referral of a Bill for assent after the mediation process and further excludes the allocation and appropriation Bills from the mediation process.

The Bill proposes to repeal **Article 114** of the Constitution which definition of the term “money Bill” has led to multiple interpretations and ultimately hindered legislative processes in the Senate.

The amendment to **Article 115** of the Constitution seeks to provide for the joint submission of a Bill passed by Parliament by the Speakers of both Houses of Parliament to the President for assent.

The amendment to **Article 116** seeks to provide clarity on the coming into force of Bills that are deemed to have been assented to under Article 115(6) of the Constitution.

The Bill proposes to amend **Article 173** of the Constitution as a consequential amendment to **Article 221** of the Constitution which requires the approval of the estimates of the Judicial Service Commission by the National Assembly and the Senate.

The Bill proposes to amend the Constitution to insert a new **Article 199A** to provide for the establishment of a County Assembly Fund with respect to each county assembly.

The Bill proposes to amend **Articles 221, 222 and 223** of the Constitution to provide for the procedure for the submission and consideration of estimates of revenue and expenditure of entities at the National level of Government by the Senate and the National Assembly.

The Bill proposes to amend **Article 224** of the Constitution to clarify that the basis for the preparation of budgets by county governments is a County Allocation of Revenue Bill. The Bill also proposes to insert new clauses in Article 224 which will enable county governments access funding in the event there is a delay in the passage or assent of the Division of Revenue Bill or the County Allocation of Revenue Bill.

The Bill also proposes to amend Articles 157, 215, 228, 229, 233 and 250 of the Constitution to assign the responsibility of approving or vetting of various State officers to both Houses of Parliament. In line with the proposed amendment to Article 250 of the Constitution, the Bill proposes to amend Article 251 to assign the process of removing from office a member of a commission or of a holder of an independent office to both Houses of Parliament.

The Bill proposes to provide a framework that would strengthen the existing system of devolution. It aims to do this by aligning the roles and functions of Parliament in a manner that would promote the effective administration of the devolved system of government. In addition, the Bill proposes to provide a system of accountability at the national and county levels of government particularly with regard to the allocation and utilization of resources allocated by, and to, the respective levels of government.

Dated the 22nd July, 2025.

AARON CHERUIYOT,  
*Senate Majority Leader.*

STEWART MADZAYO,  
*Senate Minority Leader.*

*Article 94 of the Constitution of which it is proposed to amend—*

**94. Role of Parliament**

(1) The legislative authority of the Republic is derived from the people and, at the national level, is vested in and exercised by Parliament.

(2) Parliament manifests the diversity of the nation, represents the will of the people, and exercises their sovereignty.

(3) Parliament may consider and pass amendments to this Constitution, and alter county boundaries as provided for in this Constitution.

(4) Parliament shall protect this Constitution and promote the democratic governance of the Republic.

(5) No person or body, other than Parliament, has the power to make provision having the force of law in Kenya except under authority conferred by this Constitution or by legislation.

(6) An Act of Parliament, or legislation of a county, that confers on any State organ, State officer or person the authority to make provision having the force of law in Kenya, as contemplated in clause (5), shall expressly specify the purpose and objectives for which that authority is conferred, the limits of the authority, the nature and scope of the law that may be made, and the principles and standards applicable to the law made under the authority.

*Article 95 of the Constitution of which it is proposed to amend—*

**95. Role of the National Assembly**

(1) The National Assembly represents the people of the constituencies and special interests in the National Assembly.

(2) The National Assembly deliberates on and resolves issues of concern to the people.

(3) The National Assembly enacts legislation in accordance with Part 4 of this Chapter.

(4) The National Assembly—

(a) determines the allocation of national revenue between the levels of government, as provided in Part 4 of Chapter Twelve;

(b) appropriates funds for expenditure by the national government and other national State organs; and

(c) exercises oversight over national revenue and its expenditure.

(5) The National Assembly—

(a) reviews the conduct in office of the President, the Deputy President and other State officers and initiates the process of removing them from office; and

(b) exercises oversight of State organs.

(6) The National Assembly approves declarations of war and extensions of states of emergency.

*Article 96 of the Constitution of which it is proposed to repeal—*

### **96. Role of the Senate**

(1) The Senate represents the counties, and serves to protect the interests of the counties and their governments.

(2) The Senate participates in the law-making function of Parliament by considering, debating and approving Bills concerning counties, as provided in Articles 109 to 113.

(3) The Senate determines the allocation of national revenue among counties, as provided in Article 217, and exercises oversight over national revenue allocated to the county governments.

(4) The Senate participates in the oversight of State officers by considering and determining any resolution to remove the President or Deputy President from office in accordance with Article 145.

*Article 108 of the Constitution of which it is proposed to amend—*

### **108. Party leaders**

(1) There shall be a leader of the majority party and a leader of the minority party.

(2) The leader of the majority party shall be the person who is the leader in the National Assembly of the largest party or coalition of parties.

(3) The leader of the minority party shall be the person who is the leader in the National Assembly of the second largest party or coalition of parties.

(4) The following order of precedence shall be observed in the National Assembly—

(a) the Speaker of the National Assembly;

(b) the leader of the majority party; and

(c) the leader of the minority party.

*Article 109 of the Constitution of which it is proposed to amend—*

**109. Exercise of legislative powers**

(1) Parliament shall exercise its legislative power through Bills passed by Parliament and assented to by the President.

(2) Any Bill may originate in the National Assembly.

(3) A Bill not concerning county government is considered only in the National Assembly, and passed in accordance with Article 122 and the Standing Orders of the Assembly.

(4) A Bill concerning county government may originate in the National Assembly or the Senate, and is passed in accordance with Articles 110 to 113, Articles 122 and 123 and the Standing Orders of the Houses.

(5) A Bill may be introduced by any member or committee of the relevant House of Parliament, but a money Bill may be introduced only in the National Assembly in accordance with Article 114.

*Article 110 of the Constitution of which it is proposed to repeal—*

**110. Bills concerning county government**

(1) In this Constitution, “**a Bill concerning county government**” means—

- (a) a Bill containing provisions affecting the functions and powers of the county governments set out in the Fourth Schedule;
- (b) a Bill relating to the election of members of a county assembly or a county executive; and
- (c) a Bill referred to in Chapter Twelve affecting the finances of county governments.

(2) A Bill concerning county governments is—

- (a) a special Bill, which shall be considered under Article 111, if it—
  - (i) relates to the election of members of a county assembly or a county executive; or
  - (ii) is the annual County Allocation of Revenue Bill referred to in Article 218; or
- (b) an ordinary Bill, which shall be considered under Article 112, in any other case.

(3) Before either House considers a Bill, the Speakers of the National Assembly and Senate shall jointly resolve any question as to whether it is

a Bill concerning counties and, if it is, whether it is a special or an ordinary Bill.

(4) When any Bill concerning county government has been passed by one House of Parliament, the Speaker of that House shall refer it to the Speaker of the other House.

(5) If both Houses pass the Bill in the same form, the Speaker of the House in which the Bill originated shall, within seven days, refer the Bill to the President for assent.

*Article 111 of the Constitution of which it is proposed to amend—*

### **111. Special Bills concerning county governments**

(1) A special Bill concerning a county government shall proceed in the same manner as an ordinary Bill concerning county government, subject to clauses (2) and (3).

(2) The National Assembly may amend or veto a special Bill that has been passed by the Senate only by a resolution supported by at least two-thirds of the members of the Assembly.

(3) If a resolution in the National Assembly to amend or veto a special Bill fails to pass, the Speaker of the Assembly shall, within seven days, refer the Bill, in the form adopted by the Senate, to the President for assent.

*Article 112 of the Constitution of which it is proposed to amend—*

### **112. Ordinary Bills concerning county governments**

(1) If one House passes an ordinary Bill concerning counties, and the second House—

- (a) rejects the Bill, it shall be referred to a mediation committee appointed under Article 113; or
- (b) passes the Bill in an amended form, it shall be referred back to the originating House for reconsideration.

(2) If, after the originating House has reconsidered a Bill referred back to it under clause (1)(b), that House—

- (a) passes the Bill as amended, the Speaker of that House shall refer the Bill to the President within seven days for assent; or
- (b) rejects the Bill as amended, the Bill shall be referred to a mediation committee under Article 113.

*Article 113 of the Constitution of which it is proposed to amend—*

### **113. Mediation committees**

(1) If a Bill is referred to a mediation committee under Article 112, the Speakers of both Houses shall appoint a mediation committee consisting of equal numbers of members of each House to attempt to develop a version of the Bill that both Houses will pass.

(2) If the mediation committee agrees on a version of the Bill, each House shall vote to approve or reject that version of the Bill.

(3) If both Houses approve the version of the Bill proposed by the mediation committee, the Speaker of the National Assembly shall refer the Bill to the President within seven days for assent.

(4) If the mediation committee fails to agree on a version of the Bill within thirty days, or if a version proposed by the committee is rejected by either House, the Bill is defeated.

*Article 114 of the Constitution of which it is proposed to repeal—*

### **114. Money Bills**

(1) A money Bill may not deal with any matter other than those listed in the definition of “**a money Bill**” in clause (3).

(2) If, in the opinion of the Speaker of the National Assembly, a motion makes provision for a matter listed in the definition of “a money Bill”, the Assembly may proceed only in accordance with the recommendation of the relevant Committee of the Assembly after taking into account the views of the Cabinet Secretary responsible for finance.

(3) In this Constitution, “**a money Bill**” means a Bill, other than a Bill specified in Article 218, that contains provisions dealing with—

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(4) In clause (3), “tax”, “public money”, and “loan” do not include any tax, public money or loan raised by a county.

*Article 115 of the Constitution of which it is proposed to amend—*

**115. Presidential assent and referral**

(1) Within fourteen days after receipt of a Bill, the President shall—

- (a) assent to the Bill; or
- (b) refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.

(2) If the President refers a Bill back for reconsideration, Parliament may, following the appropriate procedures under this Part—

- (a) amend the Bill in light of the President's reservations; or
- (b) pass the Bill a second time without amendment.

(3) If Parliament amends the Bill fully accommodating the President's reservations, the appropriate Speaker shall re-submit it to the President for assent.

(4) Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—

- (a) by two-thirds of members of the National Assembly; and
- (b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate.

(5) If Parliament has passed a Bill under clause (4)—

- (a) the appropriate Speaker shall within seven days re-submit it to the President; and
- (b) the President shall within seven days assent to the Bill.

(6) If the President does not assent to a Bill or refer it back within the period prescribed in clause (1), or assent to it under clause (5)(b), the Bill shall be taken to have been assented to on the expiry of that period.

*Article 116 of the Constitution of which it is proposed to amend—*

**116. Coming into force of laws**

(1) A Bill passed by Parliament and assented to by the President shall be published in the Gazette as an Act of Parliament within seven days after assent.

(2) Subject to clause (3), an Act of Parliament comes into force on the fourteenth day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force.

(3) An Act of Parliament that confers a direct pecuniary interest on members of Parliament shall not come into force until after the next general election of members of Parliament.

(4) Clause (3) does not apply to an interest that members of Parliament have as members of the public.

*Article 157 of the Constitution of which it is proposed to amend—*

### **157. Director of Public Prosecutions**

(1) There is established the office of Director of Public Prosecutions.

(2) The Director of Public Prosecutions shall be nominated and, with the approval of the National Assembly, appointed by the President.

(3) The qualifications for appointment as Director of Public Prosecutions are the same as for the appointment as a judge of the High Court.

(4) The Director of Public Prosecutions shall have power to direct the Inspector-General of the National Police Service to investigate any information or allegation of criminal conduct and the Inspector-General shall comply with any such direction.

(5) The Director of Public Prosecutions shall hold office for a term of eight years and shall not be eligible for re-appointment.

(6) The Director of Public Prosecutions shall exercise State powers of prosecution and may—

- (a) institute and undertake criminal proceedings against any person before any court (other than a court martial) in respect of any offence alleged to have been committed;
- (b) take over and continue any criminal proceedings commenced in any court (other than a court martial) that have been instituted or undertaken by another person or authority, with the permission of the person or authority; and
- (c) subject to clauses (7) and (8), discontinue at any stage before judgment is delivered any criminal proceedings instituted by the Director of Public Prosecutions or taken over by the Director of Public Prosecutions under paragraph (b).

(7) If the discontinuance of any proceedings under clause (6)(c) takes place after the close of the prosecution's case, the defendant shall be acquitted.

(8) The Director of Public Prosecutions may not discontinue a prosecution without the permission of the court.

(9) The powers of the Director of Public Prosecutions may be exercised in person or by subordinate officers acting in accordance with general or special instructions.

(10) The Director of Public Prosecutions shall not require the consent of any person or authority for the commencement of criminal proceedings and in the exercise of his or her powers or functions, shall not be under the direction or control of any person or authority.

(11) In exercising the powers conferred by this Article, the Director of Public Prosecutions shall have regard to the public interest, the interests of the administration of justice and the need to prevent and avoid abuse of the legal process.

(12) Parliament may enact legislation conferring powers of prosecution on authorities other than the Director of Public Prosecutions.

*Article 173 of the Constitution of which it is proposed to amend—*

### **173. Judiciary Fund**

(1) There is established a fund to be known as the Judiciary Fund which shall be administered by the Chief Registrar of the Judiciary.

(2) The Fund shall be used for administrative expenses of the Judiciary and such other purposes as may be necessary for the discharge of the functions of the Judiciary.

(3) Each financial year, the Chief Registrar shall prepare estimates of expenditure for the following year, and submit them to the National Assembly for approval.

(4) On approval of the estimates by the National Assembly, the expenditure of the Judiciary shall be a charge on the Consolidated Fund and the funds shall be paid directly into the Judiciary Fund.

*Article 215 of the Constitution of which it is proposed to amend—*

### **215. Commission on Revenue Allocation**

(1) There is established the Commission on Revenue Allocation.

(2) The Commission shall consist of the following persons appointed by the President—

- (a) a chairperson, who shall be nominated by the President and approved by the National Assembly;
- (b) two persons nominated by the political parties represented in the National Assembly according to their proportion of members in the Assembly;
- (c) five persons nominated by the political parties represented in the Senate according to their proportion of members in the Senate; and
- (d) the Principal Secretary in the Ministry responsible for finance.

(3) The persons nominated under clause (2) shall not be members of Parliament.

(4) To be qualified to be a member of the Commission under clause (2)(a), (b) or (c), a person shall have extensive professional experience in financial and economic matters.

*Article 221 of the Constitution of which it is proposed to amend—*

### **221. Budget estimates and annual Appropriation Bill**

(1) At least two months before the end of each financial year, the Cabinet Secretary responsible for finance shall submit to the National Assembly estimates of the revenue and expenditure of the national government for the next financial year to be tabled in the National Assembly.

(2) The estimates referred to in clause (1) shall—

- (a) include estimates for expenditure from the Equalisation Fund; and
- (b) be in the form, and according to the procedure, prescribed by an Act of Parliament.

(3) The National Assembly shall consider the estimates submitted under clause (1) together with the estimates submitted by the Parliamentary Service Commission and the Chief Registrar of the Judiciary under Articles 127 and 173 respectively.

(4) Before the National Assembly considers the estimates of revenue and expenditure, a committee of the Assembly shall discuss and review the estimates and make recommendations to the Assembly.

(5) In discussing and reviewing the estimates, the committee shall seek representations from the public and the recommendations shall be taken into account when the committee makes its recommendations to the National Assembly.

(6) When the estimates of national government expenditure, and the estimates of expenditure for the Judiciary and Parliament have been approved by the National Assembly, they shall be included in an Appropriation Bill, which shall be introduced into the National Assembly to authorise the withdrawal from the Consolidated Fund of the money needed for the expenditure, and for the appropriation of that money for the purposes mentioned in the Bill.

(7) The Appropriation Bill mentioned in clause (6) shall not include expenditures that are charged on the Consolidated Fund by this Constitution or an Act of Parliament.

*Article 222 of the Constitution of which it is proposed to amend—*

### **222. Expenditure before annual budget is passed**

(1) If the Appropriation Act for a financial year has not been assented to, or is not likely to be assented to, by the beginning of that financial year, the National Assembly may authorise the withdrawal of money from the Consolidated Fund.

(2) Money withdrawn under clause (1) shall—

- (a) be for the purpose of meeting expenditure necessary to carry on the services of the national government during that year until such time as the Appropriation Act is assented to;
- (b) not exceed in total one-half of the amount included in the estimates of expenditure for that year that have been tabled in the National Assembly; and
- (c) be included, under separate votes for the several services in respect of which they were withdrawn, in the Appropriation Act.

*Article 223 of the Constitution of which it is proposed to amend—*

### **223. Supplementary appropriation**

(1) Subject to clauses (2) to (4), the national government may spend money that has not been appropriated if—

- (a) the amount appropriated for any purpose under the Appropriation Act is insufficient or a need has arisen for expenditure for a purpose for which no amount has been appropriated by that Act; or
- (b) money has been withdrawn from the Contingencies Fund.

(2) The approval of Parliament for any spending under this Article shall be sought within two months after the first withdrawal of the money, subject to clause (3).

(3) If Parliament is not sitting during the time contemplated in clause (2), or is sitting but adjourns before the approval has been sought, the approval shall be sought within two weeks after it next sits.

(4) When the National Assembly has approved spending under clause (2), an appropriation Bill shall be introduced for the appropriation of the money spent.

(5) In any particular financial year, the national government may not spend under this Article more than ten per cent of the sum appropriated by Parliament for that financial year unless, in special circumstances, Parliament has approved a higher percentage.

*Article 224 of the Constitution of which it is proposed to amend—*

### **224. County appropriation Bills**

On the basis of the Division of Revenue Bill passed by Parliament under Article 218, each county government shall prepare and adopt its own annual budget and appropriation Bill in the form, and according to the procedure, prescribed in an Act of Parliament.

*Article 228 of the Constitution of which it is proposed to amend—*

### **228. Controller of Budget**

(1) There shall be a Controller of Budget who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Controller, a person shall have extensive knowledge of public finance or at least ten years experience in auditing public finance management.

(3) The Controller shall, subject to Article 251, hold office for a term of eight years and shall not be eligible for re-appointment.

(4) The Controller of Budget shall oversee the implementation of the budgets of the national and county governments by authorising withdrawals from public funds under Articles 204, 206 and 207.

(5) The Controller shall not approve any withdrawal from a public fund unless satisfied that the withdrawal is authorised by law.

(6) Every four months, the Controller shall submit to each House of Parliament a report on the implementation of the budgets of the national and county governments.

*Article 229 of the Constitution of which it is proposed to amend—*

**229. Auditor-General**

(1) There shall be an Auditor-General who shall be nominated by the President and, with the approval of the National Assembly, appointed by the President.

(2) To be qualified to be the Auditor-General, a person shall have extensive knowledge of public finance or at least ten years experience in auditing or public finance management.

(3) The Auditor-General holds office, subject to Article 251, for a term of eight years and shall not be eligible for re-appointment.

(4) Within six months after the end of each financial year, the Auditor-General shall audit and report, in respect of that financial year, on—

- (a) the accounts of the national and county governments;
- (b) the accounts of all funds and authorities of the national and county governments;
- (c) the accounts of all courts;
- (d) the accounts of every commission and independent office established by this Constitution;
- (e) the accounts of the National Assembly, the Senate and the county assemblies;
- (f) the accounts of political parties funded from public funds;
- (g) the public debt; and
- (h) the accounts of any other entity that legislation requires the Auditor-General to audit.

(5) The Auditor-General may audit and report on the accounts of any entity that is funded from public funds.

(6) An audit report shall confirm whether or not public money has been applied lawfully and in an effective way.

(7) Audit reports shall be submitted to Parliament or the relevant county assembly.

(8) Within three months after receiving an audit report, Parliament or the county assembly shall debate and consider the report and take appropriate action.

*Article 233 of the Constitution of which it is proposed to amend—*

**233. The Public Service Commission**

(1) There is established the Public Service Commission.

(2) The Public Service Commission consists of a chairperson, a vice chairperson and seven other members appointed by the President with the approval of the National Assembly.

(3) Subject to clause (4), a person is not eligible for appointment as a member of the Commission if the person—

(a) has, at any time within the preceding five years, held office, or stood for election as—

(i) a member of Parliament or of a county assembly; or

(ii) a member of the governing body of a political party; or

(b) holds any State office;

(c) is, or has at any time been, a candidate for election as a member of Parliament or of a county assembly; or

(d) is, or has at any time been, the holder of an office in any political organisation that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a member of Parliament or of a county assembly.

(4) Clause (3)(c) and (d) cease to apply to a person after two general elections for Parliament have been held since the person ceased to be such a candidate or office holder.

(5) There shall be a secretary to the Commission.

(6) The secretary—

(a) is the chief executive of the Commission; and

(b) shall be appointed by the Commission for a term of five years, and is eligible for re-appointment once.

*Article 250 of the Constitution of which it is proposed to amend—*

**250. Composition, appointment and terms of office**

(1) Each commission shall consist of at least three, but not more than nine, members.

(2) The chairperson and each member of a commission, and the holder of an independent office, shall be—

- (a) identified and recommended for appointment in a manner prescribed by national legislation;
- (b) approved by the National Assembly; and
- (c) appointed by the President.

(3) To be appointed, a person shall have the specific qualifications required by this Constitution or national legislation.

(4) Appointments to commissions and independent offices shall take into account the national values referred to in Article 10, and the principle that the composition of the commissions and offices, taken as a whole, shall reflect the regional and ethnic diversity of the people of Kenya.

(5) A member of a commission may serve on a part-time basis.

(6) A member of a commission, or the holder of an independent office—

- (a) unless *ex officio*, shall be appointed for a single term of six years and is not eligible for re-appointment; and
- (b) unless *ex officio* or part-time, shall not hold any other office or employment for profit, whether public or private.

(7) The remuneration and benefits payable to or in respect of a commissioner or the holder of an independent office shall be a charge on the Consolidated Fund.

(8) The remuneration and benefits payable to, or in respect of, a commissioner or the holder of an independent office shall not be varied to the disadvantage of that commissioner or holder of an independent office.

(9) A member of a commission, or the holder of an independent office, is not liable for anything done in good faith in the performance of a function of office.

(10) The members of a commission shall elect a vice-chairperson from among themselves—

- (a) at the first sitting of the commission; and
- (b) whenever it is necessary to fill a vacancy in the office of the vice-chairperson.

(11) The chairperson and vice-chairperson of a commission shall not be of the same gender.

(12) There shall be a Secretary to each commission who shall be—

- (a) appointed by the commission; and
- (b) the chief executive officer of the commission.

Article 251 of the Constitution of which it is proposed to amend—

**251. Removal from office**

(1) A member of a commission (other than an *ex officio* member), or the holder of an independent office, may be removed from office only for—

- (a) serious violation of this Constitution or any other law, including a contravention of Chapter Six;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
- (d) incompetence; or
- (e) bankruptcy.

(2) A person desiring the removal of a member of a commission or of a holder of an independent office on any ground specified in clause (1) may present a petition to the National Assembly setting out the alleged facts constituting that ground.

(3) The National Assembly shall consider the petition and, if it is satisfied that it discloses a ground under clause (1), shall send the petition to the President.

Article 23(1) of the Constitution of the Republic of Kenya is hereby amended to read as follows:

23. Removal from office

(1) A member of a commission or other office shall be removed from office only if the Commission or other authority to which he or she is appointed or assigned has found that he or she is

(a) incompetent to discharge his or her functions; or

(b) incapable of performing his or her functions; or

(c) has been convicted of a crime involving moral turpitude; or

(d) has been found to be in breach of the provisions of the Constitution or any other law; or

(e) has been found to be in breach of the provisions of the Code of Ethics for Public Officers and Employees; or

(2) If a member of a commission or other office is removed from office under clause (1), the Commission or other authority to which he or she is appointed or assigned shall have the power to make such arrangements as it may deem fit for the removal of the member from office and for the discharge of his or her functions.

(3) If the National Assembly finds that a member of a commission or other office has been removed from office under clause (1), it shall refer the matter to the President for his or her consideration.

