

Approved for tabling,
Bis SNA

Paper laid
By Hon Samuel Chepkongyath
Vice Mediation Comm. on the
Statute Law (Misc Amendments) (No.2)
Bill, 2013
Thurs 24/3/16
(PM)
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24/3/16



PARLIAMENT OF KENYA
ELEVENTH PARLIAMENT
FOURTH SESSION (2016)

24 MAR 2016



THE MEDIATION COMMITTEE
REPORT

ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
(NO.2) NATIONAL ASSEMBLY BILL NO.33 OF 2013

Clerk's Chambers,
Parliament Buildings,
NAIROBI.
MARCH, 2016

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1.0 INTRODUCTION

The Mediation Committee on Statute Law (Miscellaneous Amendments) (No.2) National Assembly Bill No.33 of 2013 and the Political Parties (Amendment) Senate Bill No.3 of 2014 was constituted by the Speakers of the two Houses of Parliament on 16th October, 2015 pursuant to Articles 112 and 113 of the Constitution and the Standing Orders of the Senate and the National Assembly comprising the following members-

1. Sen. Amos Wako, M.P
2. Hon. Samuel Chepkong'a, M.P
3. Sen. Kipchumba Murkomen, M.P
4. Hon. Njoroge Baiya, MP
5. Sen. Stephen Sang, MP
6. Hon. Timothy Bosire, M.P
7. Sen. Bonny Khalwale, M.P
8. Hon. Daniel Maanzo, M.P

1.1 Committee's Mandate

The Mediation Committee derives its mandate from the provisions of Articles 112 and 113 of the Constitution, Standing Order 149 of the National Assembly and Standing Order 154 of the Senate which outline the functions of the Committee as follows:-

- i. To consider Bills where the two Houses do not agree on all or any of the amendments made by either House;
- ii. To consider Bills where either House rejects a Motion that a Bill which originated in the other House be read a Second or Third time; and
- iii. To attempt to develop a version of the Bill that both Houses will pass.

The Mediation Committee Report on Statute Law (Miscellaneous Amendments) Bill, 2013

1.2 Committee Meetings and Methodology

The Committee held a total of three sittings to deliberate on the Statute Law (Miscellaneous Amendments) (No.2) National Assembly Bill No.33 of 2013 in accordance with the Constitution and relevant provisions of the Standing Orders of the Senate and the National Assembly.

During the first sitting, the Committee conducted the election of the Chairperson and the Vice-Chairperson where Sen.Amos Wako and Hon. Samuel Chepkong'a were elected Chair and Vice-Chair respectively.

Members noted that they will apply the precedent set by the first Mediation Committee of this Parliament where it was settled that, the Chair of the Committee should be elected from amongst members of the House that originated the Bill.

The Committee commenced its work by considering mediation process of the Bill. On amendment to the Transition to Devolved Government Act, members noted that the subject of the amendment under consideration was to enhance powers of the Transitional Authority. The provision has been overtaken by events as the Transitional Authority term had since lapsed.

Members perused the Hanzard proceedings from the two Houses and versions of the two Bills as passed by the two Houses.

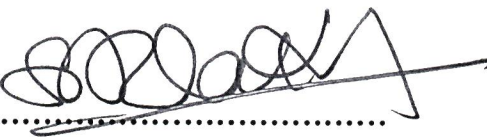
Appended to this report is a mediated version of the Bill developed by the Committee for consideration and passage by both Houses.

1.3 Acknowledgements

The Chairperson, on behalf of the Committee, wishes to sincerely thank the offices of the Speakers and the Clerks of the two Houses of Parliament for the necessary support extended to it in the execution of its mandate.

The Chairperson also thanks all Members of the Committee for their patience, sacrifice, endurance and commitment to their assignment under tight schedules which enabled us to complete the task within the stipulated period.

Finally, it is now my pleasant duty and privilege, on behalf of the Mediation Committee on Statute Law (Miscellaneous Amendments) (No.2) National Assembly Bill No.33 of 2013 to present and commend this report including agreed version of the Bill to the Houses for approval pursuant to Article 113(2) of the Constitution and Standing Order 155 (3) of the Senate and Standing Order 150 (3) of the National Assembly.

Signed.....

Sen. S.Amos Wako

(Chairperson, Mediation Committee)

Date.....24/03/16.....

2.0 BACKGROUND

2.1 Establishment of the Mediation Committee

The Mediation Committee was established pursuant to Articles 112 (1) (a) and 113 of the Constitution which states-

Article 112(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”

Article 113-

- 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.**

2.2 Appointment Process of Members

Pursuant to Article 113 of the Constitution and Standing Order 149 of the National Assembly, the Clerk of the National Assembly wrote to the Clerk of the Senate vide letter dated 13th October, 2015 notifying him of the members to *The Mediation Committee Report on Statute Law (Miscellaneous Amendments) Bill, 2013*

represent the National Assembly in the Mediation Committee on the Statute Law (Miscellaneous Amendments) (No.2) National Assembly Bill No.33 of 2013.

Pursuant to the said provision of the Constitution and Standing Order 154 of the Senate, the Senate appointed its members to the Mediation Committee. The Joint Clerks consequently convened the first sitting of the Committee which was held on 16th March, 2016.

3.0 CONSIDERATION OF THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO.2) NATIONAL ASSEMBLY BILL NO.33 OF 2013

3.1 The Statute Law (Miscellaneous Amendments) (No.2) Bill of 2013

The Statute Law (Miscellaneous Amendments) (No.2) N.A Bill No.33 of 2013, originated in the National Assembly and on Wednesday, September 30, 2015, the National Assembly concurred with the Senate on its amendment to the Bill save for part of the amendments in respect to the provisions relating to the Transition to Devolved Government Act, 2012.

4.0 THE COMMITTEE'S OBSERVATIONS AND RECOMMENDATIONS

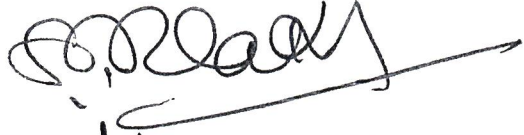
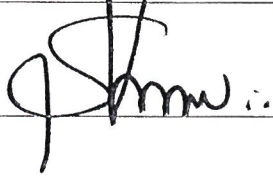

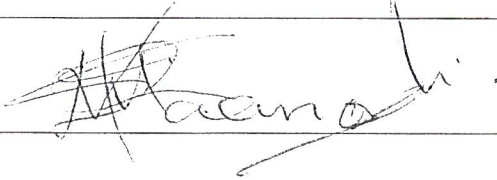

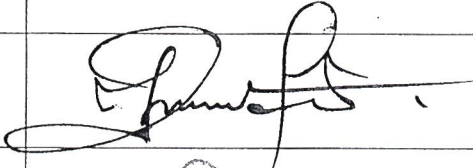
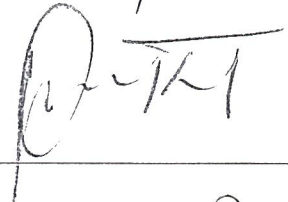
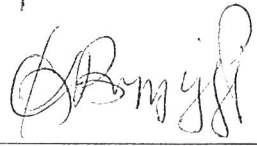
The Mediation Committee observed that the amendment to the Transition to Devolved Government Act has been overtaken by events as the term for the Transition Authority has lapsed as provided for in the Constitution.

The Committee by consensus recommended developing the annexed version of the Bill for consideration and passage by the two Houses of Parliament.

The Mediation Committee therefore recommends to the Houses of Parliament to approve this report and its appendix thereof.

ADOPTION OF THE MEDIATION COMMITTEE REPORT

24TH MARCH 2016

| NO | NAME | SIGNATURE |
|----|--|--|
| 1 | Sen. Amos Wako Chairperson |  |
| 2 | Hon. Samuel Chepkong'a Vice Chairperson |  |
| 3 | Sen. Bonny Khalwale, M.P |  |
| 4 | Hon. Daniel Maanzo, M.P |  |
| 5 | Sen. Stephen Sang, MP |  |
| 6 | Hon. Timothy Bosire, M.P |  |
| 7 | Sen. Kipchumba Murkomen, M.P |  |
| 8 | Hon. Njoroge Baiya, M.P |  |

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS
(Bill No. 33 of 2013)

**THE STATUTE LAW (MISCELLANEOUS
AMENDMENTS) (NO.2) BILL, 2013**

(A Bill published in the Kenya Gazette Supplement No.147 of 2013 and passed by the National Assembly, with amendments, on 23rd July, 2014 and further passed by the Senate, with amendments, on 17th February, 2015.)

**THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)
(No. 2) BILL, 2013**

A Bill for

AN ACT of Parliament to make minor amendments to statute law

ENACTED by the Parliament of Kenya, as follows-

- Short title. **1.** This Act may be cited as the Statute Law (Miscellaneous Amendments) Act, 2013.
- Amendment of written laws. **2.** The several laws specified in the first column of the Schedule are amended, in the provisions specified in the second column thereof, in the manner respectively specified in the third column.

SCHEDULE (s. 2)

| Written law | Provision | Amendment |
|---------------------------------------|------------|--|
| The Land Adjudication Act (Cap. 284). | Long title | Delete the expression “trust land” and substitute therefor the expression “community land”. |
| | s.2 | Insert the following new definitions in proper alphabetical sequence – “Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to land. “Minister” means Cabinet Secretary. |
| | s.3(1) | Delete the expression “Trust Land” and substitute therefor the expression “community land”. Delete the expression “county council” appearing in paragraph (a) |

and substitute therefor the expression
“county government”.

s.23(2) Delete the expression “county council” wherever it appears in paragraph (d) and substitute therefor the expression “county government”.

s.23(3) Delete the expression “county council” appearing in subparagraph (b) (iii) and substitute therefor the expression “county government”.

Delete the expression “Trust Land” appearing in subparagraph (b)(iii) and substitute therefor the expression “community land”.

The Urban Areas and Cities Act, 2011 (No. 13 of 2011).

s. 5 Delete the expression “five hundred thousand” and substitute therefor the expression “two hundred and fifty thousand.

s. 9(3) Delete the expression “two hundred and fifty thousand” appearing in paragraph (a) and substitute therefor the words “between seventy thousand and two hundred and forty-nine thousand”.

Insert the following new subsection immediately after subsection (3)-

“(4) Notwithstanding the provisions of subsection (1), the county governor shall confer the status of a special municipality to the headquarters of the county even where it does not meet the threshold specified under subsection (3)(a).”

s.10(2) Delete the expression “ten thousand” appearing in paragraph (a) and insert the

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013

“two thousand”.

New Add the following new section immediately after section 60 –

Charges and rates.

61. Until such time as a new law relating to imposition of rates and charges is enacted, urban areas and cities may, continue to impose rates and charges under the law for the time being in force in relation thereto with necessary modifications.

The Transition to Devolved Government Act, 2012 (No.1 of 2012).

s.23 Insert the following new subsections immediately after subsection (5)-

(5A) Where the Authority determines that a county government meets the criteria ~~for the transfer of a function~~ under section 24, it shall propose a programme to support and strengthen the capacity of that county government, which shall be implemented by the national government in consultation with the county government, to enable that county government to perform the transferred function.

s.24 (1) Insert the words “and where county legislation does not exist regarding a particular function, the corresponding

national legislation shall apply, with necessary modification, until the county assembly enacts the required legislation” at the end of paragraph (a).

Delete paragraph (b).

Delete paragraph (c) and substitute therefor the following new paragraph-

- (c) whether a county government has established a county executive committee, chief officers, a county assembly and a county Public Service Board, and not appointed chief officers and has defined functional reporting for its various functions.

Delete paragraphs (d),(e) and (f).

Delete paragraph (h) and substitute therefor the following new paragraph—

- (h) whether the county government has an approved budget, provided that where a county government does not have an approved plan in relation to a particular function, the most recent plan developed by the national government in respect of that county shall, with necessary modifications, apply until the

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013

county government has an approved plan.

Delete paragraph (i).

The County Governments Act, 2012 (No.17 of 2012).

s.4(2) Insert the word “Committee” immediately after the word “Executive”.

s.5(2) Delete the words “establishment and staffing of” appearing in paragraph (f) and substitute therefor the words “establishing and staffing”.

s.32(1) Insert the word “First” immediately before the word “Schedule”.

s.38 Insert the word “First” immediately before the word “Schedule”.

s.45(4) Insert the word “the” immediately before the word “exercise”.

s.46(2) Insert the word “departments” immediately after the word “establishing”.

s.59(2) Delete the expression “(1)(a)” and substitute therefor the expression “(1)(b)”.

s.81(3) Delete the word “the” appearing immediately before the word “subsection” in paragraph (c) and substitute therefor the word “this”.

s.88(3) Delete the expression “section 88” and substitute therefor the words “this section”.

s.121(2) Delete the expressions “(a)” and “(e)” appearing in paragraph (i) and substitute

| | | |
|---|--|---|
| | | therefor the expressions “(b)” and “(f)” respectively. |
| | First Schedule. | Delete the expression “31”, “33” and “39” appearing in the heading and substitute therefor the expressions “30”, “32”, and “38” respectively. |
| The Agriculture, Fisheries and Food Authority Act, 2013(No. 13 of 2013. | s.1 | Delete the word “Fisheries”. |
| | s.2 | Delete the word “acquaculture” appearing in the definition of the word “agriculture”. |
| | | Delete paragraph (b) and (d) from the definition of the word “agriculture” |
| | s.3(1) | Delete the word “Fisheries” |
| | s.3(3) | Delete the word “and Fisheries Act” |
| | s.4(a) | Delete the expression “the Fisheries Act”. |
| | s.4(b) | Delete the expression “the Fisheries Act”. |
| | s.4(c) | Delete the expression “the Fisheries Act”. |
| | s.4(d) | Delete the words “and aquaculture”. |
| | s.4(e) | Delete the words “and aquatic levies”. |
| | s.4(f) | Delete the expression “the Fisheries Act”. |
| s.5(1) | Delete paragraph (a) and substitute therefor the following - | |

(a) a non-executive chairperson appointed by the President"

Delete paragraphs (d), (f), (g), (h) and (k).

Delete paragraph (i) and substitute therefor the following new paragraph-

(i) eight persons, being farmers representing farmer organizations in the major crop subsectors in Kenya appointed by the Cabinet Secretary in consultation with the Council of County Governors.

s.5(2) Delete.

s.5(3) Delete.

s.5(4) Delete the expression "and (i)" appearing immediately before the word "shall" in the prefatory clause.

Delete paragraph (a) and substitute therefor the following new paragraph-

(a) be a person who -

- (i) holds a degree from a university recognised in Kenya; and
- (ii) has knowledge and experience in agriculture, finance, law, administration,

human resource management or such other expertise as the appointing authority may consider relevant.

s. 10 (1) Delete and substitute therefor the following new subsection –

(1) There shall be a Director General who shall be the Chief Executive Officer of the Authority to be recruited by the Board of the Authority through a competitive process.

s.11 Delete subsections (2) and (5).

s.16 Delete subsections (2), (3) and substitute therefor the following new subsections–.

(2) Notwithstanding the provisions of subsection (1), all levies imposed under the Act on scheduled crops, shall be applied towards the sustenance, development, provision and for the benefit of the crop or sector in respect of which the levies are imposed.

(3) All levies imposed under the Act shall be collected and remitted to the respective directorate responsible for the crops appearing under the First Schedule of the Crops Act and if not remitted on or

before the date prescribed by the notice, the amount due shall be a civil debt recoverable summarily by the Authority.

(4) A percentage of any levy imposed under the Act as shall be gazetted by the Cabinet Secretary and which shall not exceed ten percent of the levy shall be remitted to the Board.

- s.22(2) Delete paragraphs (g), (h) and (i).
- s.40(1) Delete the words “farmer organisation” and substitute therefor the words “stakeholders organisations”.
- s.42 Delete and substitute therefor the following new section-

Measurement of weight of 42. The unit of measurement of all ~~crop produce or products~~ subject to regulations made under this Act by the Authority shall be as prescribed for each crop produce or product by the Cabinet Secretary subject to any other law or regulations made under this Act and taking account of international standards.

| | | | |
|--------------------------------------|--------------------------|---|---|
| | s.43 | Delete and substitute therefor the following new section- | |
| | | Prohibition of export of some new produce | 43. A person shall not export raw cashewnuts, pyrethrum, bixa, macadamia or any other agricultural product as may be prescribed, except with the written authority of the Cabinet Secretary |
| | First Schedule Para 1 | Delete subparagraphs (ix) and (x). Delete subparagraph (vi) and substitute therefor the following new subparagraph- | |
| | | | (vi) The Pyrethrum Regulatory Authority; |
| The Crops Act, 2013 (No. 16 of 2013) | s.8(g) | Delete the word "biodiversity" appearing immediately after the words "the National" and substitute therefor the word "Biosafety". | |
| | s.9(3) | Delete the words "Authority with the approval of National Assembly" and substitute therefor the words "Cabinet Secretary". | |
| | First Schedule | Insert the following new item in Part 3- | |
| | | | <i>Miraa catha edulis</i> |
| The Kenya Agricultural and | s.5(1) | Delete the words "marine and fisheries" appearing in paragraph (a). | |

Livestock
Research Act,
2013 (No. 17 of
2013)

s.6(1) Delete paragraph (d), (e), and (h).

s.6(1) Delete paragraph (i) and substitute therefor the following new paragraph-

(i) five persons appointed by the Cabinet Secretary, of whom-

(i) one farmer shall represent the interests of livestock farmers;

(ii) one farmer shall represent the interests of crop farmers;

(iii) one shall be a representative of an institution of higher learning;

(iv) two persons co-opted by the Board, who may be non-citizen/scientists in the field of agriculture and who possess such knowledge and experience as may be necessary for the better carrying out of the functions of the Board; and

^(v) the Director-General appointed in accordance

with section 14.

s.7 Delete paragraph (a) and substitute therefor the following new paragraph-

(a) be appointed on such terms as the Cabinet Secretary may determine.

s.15 Delete paragraph (a) and substitute therefor the following new paragraph-

(a) holds a postgraduate degree or its equivalent in a relevant area;;

s.16 Insert the words "or crops" immediately after the word "livestock";

Insert the words "or crops" immediately after the word "animal" appearing in paragraph (b);

Delete paragraph (c) and substitute therefor the following new paragraph-

(c) a postgraduate degree or its equivalent from a recognised university;

Delete the word "ten" appearing in paragraph (d) and substitute therefor the word "five".

s.32(2) Delete the word "fisheries" appearing in paragraph (b).

Delete the word "fisheries" appearing

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in paragraph (c).

Second
Schedule

Delete paragraph (c), (q) and (r).

Third
Schedule

Delete paragraphs (e).

Fourth
Schedule

Delete paragraph (b)

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013

I certify that this printed impression is a true copy of the Bill as passed by the Senate on Tuesday, 17th February, 2015.

Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 149 of the Senate Standing Orders.

Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE

The Long title of Cap. 284 which it is proposed to amend-

An Act of Parliament to provide for the ascertainment and recording of rights and interests in Trust Land and for purposes connected therewith and purposes incidental thereto.

Section 2 of Cap. 284 which it is proposed to amend –

“Board” means an arbitration board or a special arbitration board appointed under section 7 of this Act;

Sections 3(1) of Cap 284 which it is proposed to amend-

Application (1) the Minister may by order apply this Act to any area of Trust land if-

(a) the county council in whom the land is vested so requests;

(b) the Minister considers it expedient that the rights and interests of persons in the land should be ascertained and registered; and

(c) the Land Consolidation Act (Cap. 283) does not apply to the area.

Provided that this Act may be applied to an area to which the Land Consolidation Act (Cap. 283) applies where a record of existing rights has not been completed and certified under section 16 of that Act, and in such case, where anything has been done in the course of or for the purpose of adjudication under that Act, the Minister, if he is satisfied that those things have been done substantially in accordance with the principles of this Act, may, by order, order that those things shall be deemed to have been done under the corresponding provisions of this Act.

Section 6(1) of Cap. 284 which it is proposed to amend-

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013

Appointment of adjudication committee 6(1) In respect of each adjudication section, the adjudication officer, after consultation with the District Commissioner of the district within which the adjudication section lies, shall appoint not less than ten persons resident within the adjudication section to be the adjudication committee for that adjudication section.

Section 23(2) and (3) of Cap. 284 which it is proposed to amend-

23.(2) (d) land is entirely free from private rights, or all private rights in or over the land have been relinquished in favour of the county council, shall determine the county council to be the owner of the land;

23.(3) (b) a record of-

(i) where the land is recorded under subsection (2) (d) of this section as being in the ownership of the county council, the fact that the land remains Trust land.

Section 26(1) of Cap. 284 which it is proposed to amend-

Objection to adjudication register 26(1) Any person named in or affected by the adjudication register who considers it to be incorrect or incomplete in any respect may, within sixty days of the date upon which the notice of completion of the adjudication register is published, object to the adjudication officer in writing, saying in what respect he considers the adjudication register to be incorrect or incomplete

Section 29(1) of Cap. 284 which it is proposed to amend-

Appeal 29(1) Any person who is aggrieved by the determination of an objection under section 26 of this Act may, within sixty days after the date of the determination, appeal against the determination to the Minister by-

Section 5, 9 of Act No. 13 of 2011 which it proposed to amend –

5(1) Subject to subsection (3), an urban area may be classified as a city under this Act if the urban area satisfies the following criteria –

- (a) has a population of at least five hundred thousand residents according to the final gazette results of the last population census carried out by an institution authorized under any written law, preceding the application for grant of city status.
- (b) has an integrated urban area or city development plan in accordance with this Act;
- (c) has demonstrable capacity to generate sufficient revenue to sustain its operation;
- (d) has demonstrable good system and records of prudent management;
- (e) has the capacity to effectively and efficiently deliver essential services to its residents as provided in the First Schedule;
- (f) has institutionalized active participation by its residents in the management of its affairs;
- (g) has infrastructural facilities, including but not limited to roads, street lighting, markets and fire stations, and an adequate capacity for disaster management; and
- (h) has a capacity for functional and effective waste disposal.

(2) Nothing in this section may preclude an area from being conferred with status of special purpose city under this Act if it has significant cultural, economical or political importance.

Section 9(3) of No. 13 of 2011 which it is proposed to amend -

(3) A town is eligible for the conferment for the conferment of municipal status under this Act if the town satisfies the following criteria –

- (a) has a population of at least two hundred and fifty thousand residents according to the final gazette results of the last population census carried out by an institution authorized under any written law, preceding the grant;

Section 10(2) of No. 13 of 2011 which it is proposed to amend -

10.(2) a population of at least ten thousand residents according to the final gazette results of the latest population census carried out by an institution authorized under any written law, preceding the grant;

Section 24(1) of Act No. 1 of 2012 which it is proposed to amend

—

24.(1)(b) whether a framework for service delivery has been put into place to implement the function;

- (a) whether, where applicable, the county government has identifies or established administrative units related to the function;
- (b) whether the county government has undertaken a capacity assessment in relation to the function;
- (c) the arrangements for and the extent and the extent of further decentralization of the function and provision of related services by the county government;
- (d) whether there is the required infrastructure and systems to deliver the function;
- (e) whether the county government has the necessary financial management systems in place;
- (i) any other variable as may be prescribed after consultations between the Authority county governments and the Commission for the Implementation of the Constitution and the Commission on Revenue Allocation.

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Section 37(1) of No. 1 of 2012 which it is proposed to delete –

37.(1) The Authority shall stand dissolved three years after the first general elections under the Constitution or upon the full transition to county governments, whichever is the earlier.

Section 4(2) of No. 17 of 2012 which it is proposed to amend –

4.(2) The County Executive shall develop the symbols of the county through a consultative process for approval by the county assembly by legislation.

Section 5(2) of No. 17 of 2012 which it is proposed to amend –

5(2) Without prejudice to the generality of subsection (1), a county government shall be responsible for –

Section 26(2) of No. 17 of 2012 which it is proposed to amend –

(2) For purposes of the first general elections under the constitution, the Independent, Electoral and boundaries commission shall ensure that each county comprises at least fifteen wards.

Section 32(1) of No. 17 of 2012 which it is proposed to amend –

32.(1) The deputy governor shall take and subscribe to the oath or affirmation as set out in the Schedule to this Act before assuming office.

Section of 38 No. 17 of 2012 which it is proposed to amend –

38. A person appointed as a member of the county executive committee under Article 179 of the Constitution shall take the prescribed oath or affirmation of office provided in the Schedule to this Act before assuming office.

Section 45(4) of No. 17 of 2012 which it is proposed to amend –

45.(4) The county chief officer shall be the authorized officer in respect of exercise of delegated power.

Section 46(2) of No. 17 of 2012 which it is proposed to amend –

(2) when establishing and organizing the county, the county executive committee shall take into account, and to guide by, the need to-

Section 54(2),(3) and (4) of No. 17 of 2012 which it is proposed to delete and substitute –

54.(2) There is established for every county a forum to be known as the county intergovernmental forum which shall be chaired by the governor or in his absence, the deputy governor, or in the absence of both, a member of the county executive committee designated by the governor.

(3) The county intergovernmental forum shall comprise –

(a) the heads of all departments of the national government rendering services in the county; and

(b) the county executive committee members or their nominees appointed by them in writing.

(4) The Intergovernmental forum shall, pursuant to the Fourth Schedule (Articles 185(2), 186(1) and 187(2) of the Constitution, be responsible for –

(a) harmonization of services rendered in the county;

(b) coordination of development activities in the county;

(c) coordination of intergovernmental functions; and

(d) such other functions as may be provided for by or under any law.

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013

Section 59(2) of No. 17 of 2012 which it is proposed to amend –

59.(2) In appointing a person as a secretary to a board of a city or an urban area under subsection (1)(a), the County Public Service Board shall ensure that such person is a certified public Service Board shall ensure that such person is a certified Public Secretary of good professional standing.

Section 81(3) of No. 17 of 2012 which it is proposed to amend –

81. (3) (c) forward all the documents referred to in the subsection to the County Public Service Board.

Section 88(3) of No. 17 of 2012 which it is proposed to amend –

88.(3) County legislation shall give further effect to section 88(1).

Section 121(2) of No. 17 of 2012 which it is proposed to amend –

121. (2) (a) on its own initiative or on request by a county government or group of persons, assess the performance of a county government with a view to determine its support requirements;

(b) make a report on the assessment made under paragraph (a) and the capacity needs of the county governments;

Sections (1), 2, 3(1), 4(a), (b), (c),(d), (e), (f), 5(1), 5(4), 10(2), 11(2), 16; 22(2), 40(1), 42, 43, First Schedule paragraph of Act No.13 of 2013;

Section 1 of No.13 of 2013 which it is proposed to amend-

1.This Act may be cited as the Agriculture, Fisheries and Food Authority Act, 2013 and shall come into operation on such a date as the Cabinet Secretary may, by notice in the Gazette, appoint not being more than six months after its publication and different dates may be appointed for different provisions

Definition of “agriculture “ which it is proposed to amend-

"agriculture" means cultivation of land and the use of land (whether. or not covered by water) for any purpose of husbandry, aquaculture and food production and includes—

- (a) cultivation of crops and horticultural practice within the meaning of the Crops Act;
- (b) breeding of aquatic animals and plants in the Kenya fishery waters and sea ranching and fish farming in the sea as provided for in the Fisheries Act;
- (c) the use of land, meadow land, market gardens or nursery grounds:
- (d) fish harvesting within the meaning of the Fisheries Act; and
- (e) the use of land for agroforestry, when that use is ancillary to the use of land for other agricultural purposes;
- (f) transgenic and microbial formulations for use and application in agricultural systems; and-agricultural" shall be construed accordingly;

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- (c) the use of land, meadow land, market gardens or nursery grounds:
- (d) fish harvesting within the meaning of the Fisheries

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Act; and

(e) the use of land for agroforestry, when that use is ancillary to the use of land for other agricultural purposes;

(f) transgenic and microbial formulations for use and application in agricultural systems; and "agricultural" shall be construed accordingly;

Section 3(1) and (3) of No. 13 of 2013 which it is proposed to amend-

3. (1) There is established an authority to be known as the Agriculture, Fisheries and Food Authority.

(3) The Authority shall be the successor to the institutions established by the Acts repealed under section 41 existing immediately before the commencement of this Act, the Crops Act, the Livestock Act and Fisheries Act respectively.

Section 4 of No. 13 of 2013 which it is proposed to amend-

4. The Authority shall, in consultation with the county governments, perform the following functions-

(a) administer the Crops Act, and the Fisheries Act in accordance with the provisions of these Acts;

(b) promote best practices in, and regulate, the production, processing, marketing, grading, storage, collection, transportation and warehousing of agricultural and aquatic products excluding livestock products as may be provided for under the Crops Act, and the Fisheries Act.

(c) collect and collate data, maintain a database on agricultural and aquatic products excluding livestock products, documents and monitor agriculture through registration of players as provided for in the Crops Act and the Fisheries Act;

(d) be responsible for determining the research priorities in agriculture and aquaculture and to advise generally on research thereof;

(e) advise the national government and the county governments on agricultural and aquatic levies for purposes of planning, enhancing harmony and equity in the sector.

(f) carry out such other functions as may be assigned to it by this Act, the Crops Act, the Fisheries Act and any written law while respecting the roles of the two levels of governments

Section 5 of No. 13 of 2013 which it is proposed to amend-

Board of the
Authority.

5.(1) The management of the Authority shall vest in a Board which shall consist of—

- (a) a chairperson appointed by the President with the approval of the National Assembly;
- (b) the Principal Secretary in the Ministry responsible for agriculture;
- (c) the Principal Secretary in the Ministry responsible for finance;
- (d) the Principal Secretary in the Ministry responsible for matters relating to county governments;
- (e) the Principal Secretary in the Ministry responsible for lands;
- (f) the Principal Secretary in the Ministry responsible for environment;
- (g) the Principal Secretary in the Ministry responsible for co-operatives;
- (h) a representative of the National Land Commission;
- (i) eight persons, being farmers' representatives, elected by the farmers to represent the major crop subsectors in Kenya;

(j) the Director General who shall be the secretary to the Board and chief executive officer of the Authority; and

(k) the Chairperson of the Transition Authority or his representative.

(2) The Cabinet Secretary shall make rules for election of the members of the Board under subsection (1)(i).

(3) The rules made under subsection (2) shall provide for mechanism to ensure that not more than two thirds of the members so elected are of the same gender.

(4) A person appointed as a member of the Board under subsection (1)(a) and (i) shall –

(a) be persons who have the relevant expertise qualification and experience in the agricultural sector;

(b) be appointed through a competitive recruitment process;

(c) serve for a term of five years and shall be eligible for re-appointment once for a further term of five years.

may at any time resign from office by notice in writing to the Cabinet Secretary;

Section 10 of No. 13 of 2013 which it is proposed to amend-

10. The appointment of the Director-General of the Authority under subsection (1) shall be done in consultation with Cabinet Secretary and with the approval of the National Assembly.

Section 11 of No. 13 of 2013 which it is proposed to amend-

11. (2) The directorates to be established under sub-section (1) shall include a directorate on fisheries and a separate directorate on food.

Section 16 of No. 13 of 2013 which it is proposed to amend-

16. (2) All moneys received in respect of the levy shall be paid to the Authority and if not paid on or before the date prescribed by the order, the amount due shall be a civil debt recoverable summarily by the Authority.

Section 22 of No. 13 of 2013 which it is proposed to amend-

22.(2)(g) provides for ex situ fish breeding to supplement in situ fish breeding and thereby outlaw seasonal bans on fishing.

(f) provide for efficient and effective fishing methods that are sensitive to the social-economic status of local communities; and

(g) provide for technical and other assistance to fishing communities to enhance their socio-economic development, especially that of vulnerable groups, including women.

Section 40 of No. 13 of 2013 which it is proposed to amend-

Participation of farmers.

40.(1) For purposes of ensuring effective participation of farmers in the governance of the agricultural sector in Kenya, there shall be close consultation with all registered farmers' organisations in the development of policies or regulations and before the making of any major decision that has effect on the agricultural sector.

(2) The Cabinet Secretary shall make rules-

(a) to ensure that any agreements, including any agreement with regard

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013

to contributions by farmers to their organizations, entered into between the farmers and the farmers' organizations to which such farmers belong shall be respected by any third parties; and

- (b) to provide the procedures for internal democracy in the farmers' organizations.

Section 42 of No. 13 of 2013 which it is proposed to amend-

Measurement of weight.

42. The unit of measurement of the weight of all produce subject to regulation by the Authority shall be the kilogramme and each single package shall not exceed a weight of 50kilogrammes.

Section 43 of No. 13 of 2013 which it is proposed to amend-

Prohibition of export of some raw produce.

43. A person shall not export raw cashew nuts, raw pyrethrum, raw bixa or raw macadamia except with written authority of the Cabinet Secretary issued with the approval of the National Assembly.

The First Schedule of No. 13 of 2013 which it is proposed to amend-

FIRST SCHEDULE - TRANSITIONAL PROVISION

ASCU to act as interim secretariat.

9. The secretariat of the unit known as the Agricultural Sector Coordinating Unit existing at the commencement of this Act, shall for a period of not less than two years but not more than three years from the date of the commencement of this Act, act as the secretariat of the Authority.

Section 8(1),8(4) of No. 16 of 2013 which it is proposed to amend—

8(1)(d) a representative of the Attorney-General appointed in

writing;

- (d) a representative of the Cabinet Secretary appointed in writing; and
- (e) a representative of the Cabinet Secretary appointed in writings.

(4) The members of the Commission referred to in subsection (1) (c) and (d), shall be officers from the Office of the Attorney-General and the respective State Department.

Section 9(2) of No. 16 of 2013 which it is proposed to amend-

(1) The Fund shall consist of-

- (a) monies paid as license fees, commission, export or import agency fees and fees that may accrue to or vest in the Authority in the course of exercise of its functions under the Act;
- (b) funds from any other lawful source approved by the Trustees; and
- (c) funds appropriated by Parliament for this purpose.

Section 5(1) (a) of No.17 of 2013 which it is proposed to amend-

5. (1) The object and function for which the Organisation is established is to-

- (a) promote, streamline, co-ordinate and regulate research in crops, livestock, marine and fisheries, genetic resources and biotechnology in Kenya;

Section 6 (1) (d), (e) and (h) of No.17 of 2013 which it is proposed to delete-

6. (1) The management of the Organisation shall vest in a Board which shall consist of-

The Statute Law (Miscellaneous Amendments) Bill, (No. 2) 2013

(d) the Principal Secretary in the Ministry for the time being responsible for co-operatives;

(e) the Principal Secretary in the Ministry for the time being responsible for environment;

(h) one person with experience in agricultural research nominated by the Kenya Private Sector Alliance and appointed by the Cabinet Secretary;

Paragraph 6(1) (i) of No.17 of 2013 which it is proposed to amend-

(i) four persons appointed by the Cabinet Secretary, of whom-

(i) one shall represent the interests of farmers;

(ii) one shall be a vice-chancellor in a university that conducts agricultural research; and

(iii) two persons co-opted by the Board who may be non-citizen scientists in the field of agriculture and possess such knowledge and experience as may be necessary for the better carrying out of the functions of the Board; and

(iv) the Director General appointed in accordance³)
The Secretariat of the Board shall comprise of -

Subsection 6(3) of No. 17 Of 2013 which it is proposed to amend-

(3)(a) the Director General;

(b) the Deputy Director-General of livestock;

(c) the Deputy Director- General of crops; and

(d) any other staff.

Section 7 of No. 17 of 2013 which it is proposed to amend-

7. The Chairperson and members appointed under section 6 (1)(h) shall-

- (a) be competitively recruited and appointed on such terms and conditions as the Cabinet Secretary shall consider fit;
- (b) have qualification of a minimum of Masters Degree; and
- (c) hold office for a term of four years renewable for one further term.

Section 14(1) of No. 17 of 2013 which it is proposed to amend-

14. (1) There shall be a Director-General, Deputy Director-General of livestock and Deputy-Director General of crops of the Organisation who shall be competitively recruited by the Board and appointed by the Cabinet Secretary.

Section 16 of No.17 of 2013 which it is proposed to delete-

16. A person shall be qualified for appointment as the Deputy Director-General of livestock, if the person -

- (a) is a citizen of Kenya;
- (b) holds an undergraduate degree in animal science;
- (c) holds a doctor of philosophy degree from a university recognised in Kenya;
- (d) has at least ten years experience in leadership or at senior management level in research; and
- (e) meets the requirements of chapter six of the Constitution

Section 32(2)(b) and (c) of No.17 of 2013 which it is proposed to amend-

(2) For the purpose of carrying out its functions under

subsection (1), the research institutes shall—

(b) identify production, policy, market, processing and utilisation constraints in the fields of agriculture, water, livestock, fisheries, forestry and environment, and prepare short and long-term research programmes within the framework of the national agricultural research system;

(c) identify and disseminate, in collaboration with other relevant agencies, appropriate systems of mechanisation and technology, options to improve agricultural production and provide answers to foreseeable problems facing crop, livestock, forestry and fisheries production;

Paragraphs (c) (q) and (r) of the Second Schedule to No. 17 of 2013 which it is proposed to delete-

c) Fisheries and Marine Research Institute.

(q) Wildlife Research Institute.

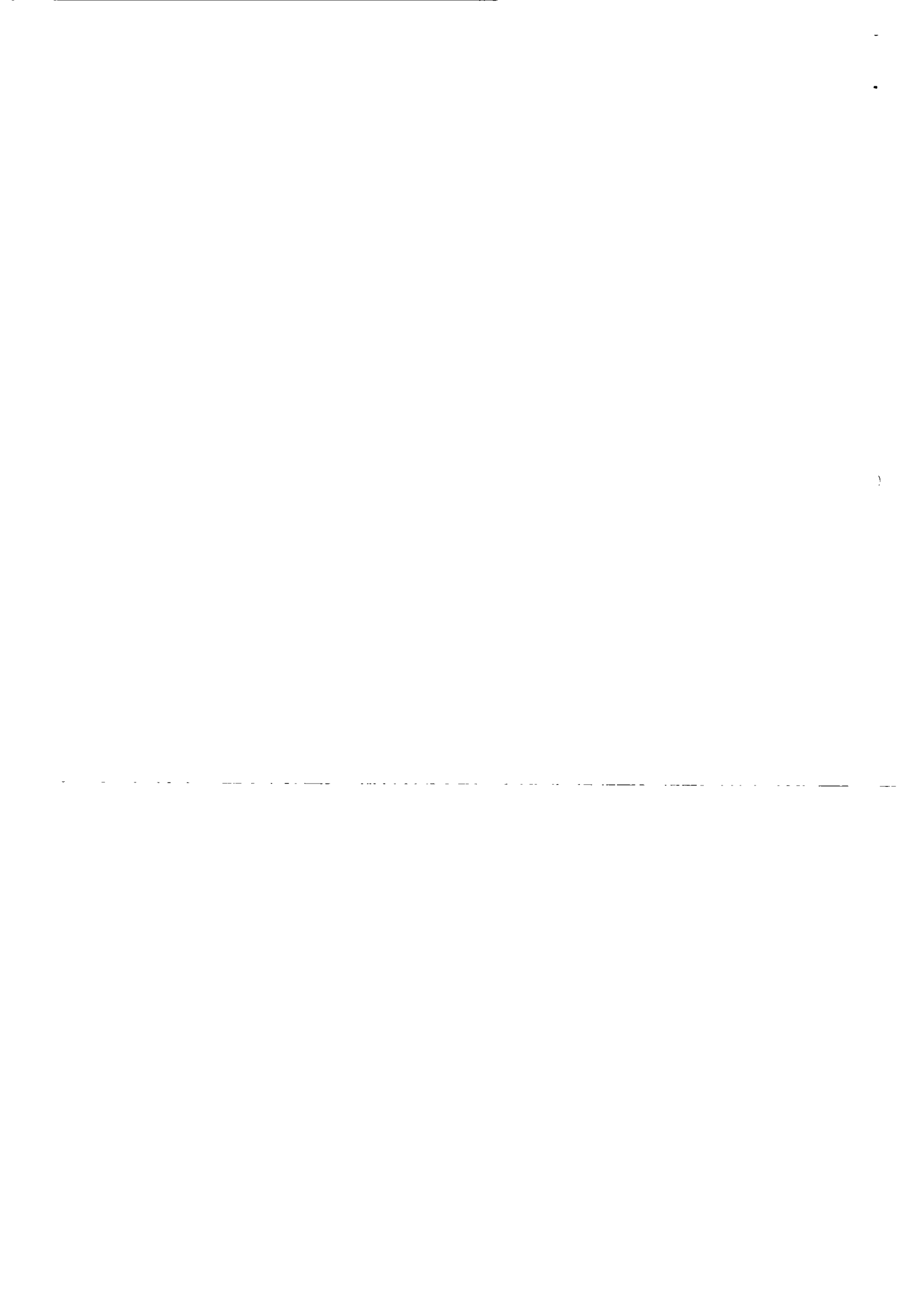
(r) Marine and Fisheries Research Institute

Paragraph (e) of the Third Schedule to No. 17 of 2013 which it is proposed to delete-

(e) fisheries development

Paragraph (b) of the Fourth Schedule to No. 17 of 2013 which it is proposed to delete

(b) Kenya Marine and Fisheries Research Institute



**MINUTES OF THE FIRST SITTING OF THE MEDIATION COMMITTEE ON THE
POLITICAL PARTIES (AMENDMENT) BILL, 2014 AND THE STATUTE LAW
(MISC.AMENDMENTS), BILL, 2013 HELD ON WEDNESDAY 16TH MARCH, 2016 IN
COMMITTEE ROOM 7, MAIN PARLIAMENT BUILDING, AT 10:00 A. M.**

PRESENT

1. Sen. Amos Wako M.P.
2. Hon. Samuel Chepkong'a, M.P.
3. Sen. Bonny Khalwale, M.P.
4. Hon.. Daniel Maanzo, M.P.
5. Sen.Kipchumba Murkomen, M.P.
6. Hon. Timothy Bosire, M.P.
7. Sen. Stephen Sang, M.P.

ABSENT WITH APOLOGY

Hon.Njoroge Baiya, M.P

IN ATTENDANCE

THE NATIONAL ASSEMBLY AND SENATE

- | | |
|-----------------------|--|
| 1. Mr. Njenga Njuguna | Director, Committee Services, Senate |
| 2. Mr. Abenayo Wasike | First Clerk Assistant, National Assembly |
| 3. Mr. Ibrahim Leruk | Clerk Assistant, Senate |
| 4. Mr. Peter Muchira | Clerk Assistant, Senate |
| 5. Mr. Abisai | Principal Legal Counsel, National Assembly |
| 6. Ms. Claire Kidombo | Legal Counsel |
| 7. Ms. Judy Wahito | Legal Counsel |

MIN. NO. 001/2016:

PRELIMINARIES

The meeting was called to order at 10:20 a.m by the Director of Committee Services. This was followed by a word of prayer. The Director informed members on the purpose of the Committee

pursuant to provisions of Articles 112 and 113 of the Constitution and Standing Orders of the two Houses.

MIN. NO. 003/2016:

ADOPTION OF AGENDA

The agenda of the meeting was adopted after it was proposed by Sen. Stephen Sang, M.P. and seconded by Hon. Daniel Maanzo, M.P.

MIN. NO. 003/2016:

ELECTION OF THE CHAIRPERSON

The Director of Committee Services invited nominations for the election of Chairperson.

Hon. Samuel Chepkong'a proposed Sen. Amos Wako for Chairperson and seconded by Hon. Daniel Maanzo, MP. There being no any other proposal, the Director of Committee Services declared Sen. Amos Wako as duly elected Chairperson.

MIN. NO. 004/2016:

ELECTION OF THE VICE-CHAIRPERSON

Hon. Timothy Bosire, MP proposed Hon. Samuel Chepkong'a for Vice-Chairperson and Seconded by Hon. Daniel Maanzo. There being no any other proposal, the Director of Committee Services declared Hon. Samuel Chepkong'a as duly elected Vice- Chairperson

MIN.NO.005/2016

**REMARKS BY THE CHAIRPERSON, VICE-CHAIRPERSON
AND MEMBERS**

The Chairperson and Vice-Chairperson thanked Members for electing them to lead the committee and undertook to help the committee realise consensus on the two Bills.

Members congratulated the elected leadership of the Committee and promised to improve the Bills for consideration and passage by the two Houses.

MIN. NO. 006/2016:

CONSIDERATION OF THE MEDIATION PROCESS

The Chairperson informed members that the Committee has two Bills to consider.

The Statute Law (Miscellaneous Amendments)(No.2) Bill (N.A Bill No.33 of 2013)

The Vice Chairperson briefed the Committee on the contentious provision which sought to enhance powers of the Transitional Authority. He however noted that the provision had been overtaken by events as the transitional Authority term had since lapsed. The Transition to Devolved Government Act which is the subject of the amendment is not in force.

Members of the Committee observed that the intention of the proposed amendment was noble and that they should explore possibilities of amending the Intergovernmental Relations Act, 2012 to achieve intended purpose.

The Secretariat was tasked to file the Intergovernmental Relations Act and explore if the suggestion was legally feasible and report back to the Committee in the next sitting.

The Political Parties (Amendment) Senate Bill No.3 of 2014

The Bill proposed amendments that would alter the threshold required by Political Parties to benefit from the Political Parties Fund. The Bill was lost in the National Assembly at second reading.

Members observed that the main Contention was in the threshold of determining allocation of funds to political parties.

The Committee noted that the National assembly is currently considering a Bill sponsored by Hon. Chris Wamalwa, MP. This may be targeting to amend clauses under deliberations by the Mediation Committee.

The Committee resolved as follows:

1. That the secretariat study the provision of the National Assembly Bill and flag out similarities and/or informative provisions with an aim of adding value to the Mediation process;

2. That the Secretariat prepare a simulation of possible scenarios under the current act, Under the Bill before the Committee and Under the National Assembly Bill for discussion by the Committee; and,
3. To provide copies of the National Assembly Bill for reference by the Committee.

MIN. NO. 007/2016:

ANY OTHER BUSINESS

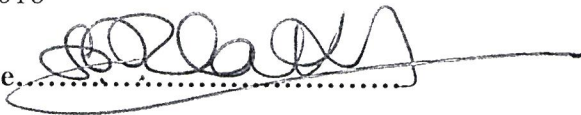
1. The Committee was informed that a request will be presented in the next meeting to consider amending Section 16 (4) of the ALFFA Act as contained in the Statute Law Miscellaneous Bill, 2013;
2. The Committee resolved to invite Hon. Chris Wamalwa, MP in its next sitting on the Political Parties Bill.

MIN. NO. 008/2016:

ADJOURNMENT AND DATE OF NEXT MEETING

The meeting was adjourned at 11.30 and the date of the next meeting set for Wednesday 23rd March, 2016

Signature.....



Sen. Amos Wako M.P)

(Chairperson)

Date.....

24/03/16

MINUTES OF THE SECOND SITTING OF THE MEDIATION COMMITTEE ON THE POLITICAL PARTIES (AMENDMENT) BILL, 2014 AND THE STATUTE LAW (MISC.AMENDMENTS), BILL, 2013 HELD ON WEDNESDAY 23RD MARCH, 2016 IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDING, AT 4:30 P. M.

PRESENT

1. Sen. Amos Wako M.P. - Chairperson
2. Hon. Samuel Chepkong'a, M.P. - Vice-Chairperson
3. Hon. Njoroge Baiya, M.P.
4. Hon. Daniel Maanzo, M.P.
5. Sen. Kipchumba Murkomen, M.P.
6. Hon. Timothy Bosire, M.P.

ABSENT WITH APOLOGYIES

Sen. Bonny Khalwale, M.P.

Sen. Stephen Sang, M.P.

IN ATTENDANCE

1. Mr. Abenayo Wasike
2. Mr. Abisai
3. Mohamed Hassan
4. Ms. Judy Wahito

THE NATIONAL ASSEMBLY AND SENATE

- First Clerk Assistant, National Assembly
Principal Legal Counsel, National Assembly
Clerk Assistant, Senate
Legal Counsel, Senate

MIN. NO. 009/2016:

PRELIMINARIES

The meeting was called to order at 4:50 a.m by the Chairperson and was followed by a word of prayer. The Chair informed members on the Agenda as filed.

MIN. NO. 010/2016:

ADOPTION OF AGENDA

20 MCA
5 MPs - 12 MPs 40
3 Gov 20
3 Senators
20/03

The agenda of the meeting was adopted after it was proposed by the Chairperson and seconded by the Vice-chairperson.

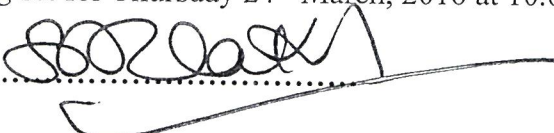
**MIN. NO. 011/2016: CONSIDERATION OF THE STATUTE LAW
(MISC.AMENDMENT) BILL, 2013**

The Secretariat presented a draft version of the mediated Bill for consideration by the Committee. Members were unanimous that the amendment to the Transition to Devolved Government Act has been overtaken by events as the term of the Transition Authority had lapsed. The amendment shall be deleted from the mediated version of the Bill.

The Committee also agreed to review Statute law amendment Act on the provisions of the Agriculture, Fisheries and Food Authority Act as reflected in the mediated Bill.

MIN. NO. 012/2016: ADJOURNMENT AND DATE OF NEXT MEETING

There being no any other business, the meeting was adjourned at 5.30 pm and the date of the next meeting set for Thursday 24th March, 2016 at 10.00 am.

Signature.....

Sen. Amos Wako M.P)

(Chairperson)

Date..... 23/03/16