

**THE ENVIRONMENTAL MANAGEMENT & CO-  
ORDINATION (AMENDMENT) BILL (NATIONAL  
ASSEMBLY BILL NO. 31 OF 2014)**

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**EXCERPT OF THE MEDIATED VERSION OF THE  
CONTENTIOUS CLAUSES**

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The Mediation Committee identified Clauses 10, 20, 23 and 25 as being contentious and agreed on the following version-

**Clause 10 – Mediated version**

Amendment  
to section 10 of  
No. 8 of 1999.

10. Section 10 of the principal Act is amended –

(a) in subsection (1) (c) by –

(i) inserting the words “,who shall be the Secretary to the Board” immediately after the word “Director-General”;

(ii) deleting the word “President” and substituting therefor the words “Cabinet Secretary from amongst three persons selected by the Board through a competitive recruitment process;” ;

(b) by deleting subsection (1) (d) and substituting therefor the following new subsection –

“(1) (d) the Principal Secretary in charge of finance or his representative;”;

(c) by deleting subsection (1) (e) and substituting therefor the following new subsection –

“(1) (e) six members, not being public officers, appointed by the Cabinet Secretary;”

(d) by deleting subsection (1) (f) and substituting therefor the following new subsection–

“(1) (f) the Attorney General or his representative.”;

(e) by inserting the following new subsection immediately after subsection (3) –

“(3A) Where the office of the Director -General falls vacant, the Board may, pending the



appointment of a Director General, appoint a person to act in that capacity provided that such appointment shall not exceed a period of six months"; and

(f) by deleting subsection (14) (c).

## **Clause 20 – Mediated version**

Repeal and replacement of section 31 of No. 8 of 1999. **20.** The principal Act is amended in subsection (1) of section 31–

(a) by deleting the words “Public Complaints Committee” wherever it appears and substituting therefor the words “National Environmental Complaints Committee”; and

(b) by deleting paragraph (d) and substituting therefor the following new paragraph–

“(d) one person who has demonstrated competence in environmental matters , nominated by the Council of County Governors and who shall be secretary to the Complaints Committee”.

## **Clause 23 – Mediated version**

Repeal and replacement of section 37 of No. 8 of 1999. **23.** The principal Act is amended by repealing section 37 and replacing it with the following new section –

National  
Environment  
Action Plan.

**37.**(1) The Authority shall, within two years of the commencement of this Act and every six years thereafter formulate the National Environmental Action Plan and shall ensure that it has undertaken public participation before the adoption of the Plan.

(2) The Authority shall submit the Plan referred to under subsection (1) to the Cabinet Secretary for approval.

(3) Upon the approval of the Plan by the Cabinet Secretary, the Cabinet Secretary shall submit it to the National Land Commission and the Ministry of Lands.

(4) The Cabinet Secretary shall publish the

National Environment Action Plan in the Gazette.

(5) The Authority shall review the National Action Plan every three years.

## **Clause 25 – Mediated version**

Repeal and replacement of section 40 of No. 8 of 1999.

**25.** The principal Act is amended by repealing section 40 and replacing it with the following new section –

County Environment action plan.

**40.** (1) Every County Environment Committee shall within one year of the commencement of this Act and every five years thereafter, prepare a county environment action plan in respect of the county for consideration and adoption by the County Assembly.

(2) Every County Environment Committee, in preparing a county environment plan shall undertake public participation and take into consideration every other county environment action plan already adopted with a view to achieving consistency among such plans.

(3) The respective County Executive Committee members of every county shall submit the county environment action plan referred to in subsection (1) to the Cabinet Secretary for incorporation into the national environment action plan referred to in section 37.

(4) The Authority shall consider every county environment action plan and either recommend incorporation of such plan into the national environment action plan or specify changes to be incorporated into a respective county environmental plan.

(5) The Cabinet Secretary shall, on the recommendation of the Authority, issue guidelines and prescribe measures for the preparation of environmental action plans.

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	<p>(b) estimates for the development expenditure for the coming fiscal year; and</p> <p>(c) any other matter considered relevant by the Auditor-General in the consideration of the budget and plans of the Office.</p>
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**(iv) Clause 24 – mediated version**

<p>Establishment and composition of the Audit Advisory Board.</p>	<p><b>24. (1)</b> There is established an unincorporated board to be known as the Audit Advisory Board which shall comprise of–</p> <ul style="list-style-type: none"> <li>(a) the Auditor-General or a person nominated by him or her;</li> <li>(b) the Attorney-General of Kenya or a person nominated by him or her;</li> <li>(c) a nominee of the Institute of Certified Public Accountants of Kenya;</li> <li>(d) a nominee of the Association of Professional Societies of East Africa;</li> <li>(e) a nominee of the Law Society of Kenya;</li> <li>(f) the Chairperson of the Public Service Commission or his or her nominee:</li> </ul> <p>Provided that the nominee under paragraph (d) shall not be a member of a professional body provided for under subsection 1(c) and (e).</p>
	<p>(2) A person shall be qualified to be nominated under subsection (1) (c) to (e) above if such person—</p> <ul style="list-style-type: none"> <li>(a) has a degree from a university recognised in Kenya;</li> <li>(b) has a minimum of fifteen years’ experience in matters relating to public finance, auditing, accounts, law, governance or public management ; and</li> <li>(c) meets the requirements of Chapter Six of the Constitution</li> </ul>
	<p>(3) The Auditor-General may co-opt two other members with the necessary expertise.</p>
	<p>(4) The members of the Audit Advisory Board shall elect a chairperson from among themselves, who shall not be the Auditor General.</p>
	<p>(5) The nomination and appointment of members under this section shall take cognisance of regional, ethnic, and gender balance and people with disabilities and marginalised groups.</p>
	<p>(6) The Auditor-General shall, within fourteen days of receipt of names of qualified persons pursuant to subsection (1), by notice in the Gazette, appoint members of the Board.</p>
	<p>(7) The members of the Audit Advisory Board shall hold office for a term not exceeding three years from the date of appointment and may be eligible for reappointment for a further one term of three years.</p>

**(v) Clause 32 – mediated version**

Use of work of internal auditor.	<b>32.</b> (1) The final report by an internal auditor which has been deliberated on and adopted by an audit committee of a State Organ or public entity, may be copied to the Auditor-General.
	(2) The Auditor-General shall have unhindered access to all internal audit reports of a State Organ or any public entity, under subsection (1) above, which is subject to audit by the Auditor-General as provided for under Article 229 (4) of the Constitution.

**(vi) Clause 39 – mediated version**

Auditing of national security organs	<b>39.</b> (1) In auditing national security organs, the Auditor General and his or her representatives shall hold an inception meeting ,at the highest level, pursuant to section 30(1) (b), to agree on areas which may touch on national security and determine the appropriate audit approach that shall ensure confidentiality of information.  (2) The audit reports on national security organs may be redacted to shield identities of persons as well as assets and liabilities as the case may be.  (3) All staff of the Auditor-General carrying out audit under this section shall be vetted by the authorised Government vetting agency.
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