



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – THIRD SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, MARCH 04, 2015

1. The House assembled at thirty minutes past Nine O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the First Chairperson
4. **THE POLITICAL PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 5 OF 2015)**

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1).

5. **MOTION - COMPENSATION OF MAU MAU VICTIMS BY THE BRITISH GOVERNMENT**

Question put and agreed to.

6. **MOTION - ESTABLISHMENT OF A SELECT COMMITTEE TO INVESTIGATE AND INQUIRE INTO THE CAUSES OF DEATH OF CERTAIN PERSONALITIES**

Motion adjourned pursuant to Standing Order 96.

7. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Third Chairperson in the Chair

(i)The Children (Amendment) Bill (National Assembly Bill No. 18 of 2014)

Clause 3 – amendment proposed –

THAT, clause 3 of the Bill be deleted

(Mr. Stephen Mule)

Question of the amendment proposed –

Debate arising;

Question put and negatived;

Clause 3 - agreed to

Clause 4 - amendment proposed –

THAT, clause 4 of the Bill be deleted

(Mr. Stephen Mule)

Question of the amendment proposed –

Debate arising;

Question put and negatived;

Clause 4 - agreed to

Clause 5 - amendment proposed –

THAT, clause 5 of the Bill be deleted

(Mr. Stephen Mule)

Question of the amendment proposed –

Debate arising;

Question put and negatived;

Clause 5 - agreed to

New Clause 5A - amendment proposed –

THAT, the Bill be amended by inserting the following new clause immediately after clause 5—

Amendment of
section 81 of
No.8 of 2001

5A. The principal Act is amended in section 83(1) by—

(a) inserting the following new paragraph immediately after paragraph (j)—

“(j) the age of the child.”

(Chairperson, Departmental Committee on Labour and Social Welfare)

Motion made and Question proposed:-

THAT, the New Clause 5A be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 5A be part of the Bill

Question put and agreed to.

Clause 2 - amendment proposed -

THAT, clause 2 of the Bill be deleted

(Mr. Stephen Mule)

Question of the amendment proposed -

Debate arising;

Question put and negatived;

Clause 2 - agreed to.

Clause 1 - agreed to.

Title - agreed to.

Bill to be reported with amendments;

8. **HOUSE RESUMED** - the Fourth Chairperson in the Chair

The Children (Amendment) Bill (National Assembly Bill No. 18 of 2014)

Bill reported with amendments;

Motion made and Question proposed:-

THAT, the House do agree with the Committee of the whole House in the said report.

(Hon. Kaluma)

Debate arising;

Question put and agreed to.

Motion made and Question proposed -

THAT, the Children (Amendment) Bill (National Assembly Bill No. 18 of 2014) be now read a Third Time

(Hon. Kaluma)

Question of the Third Reading deferred.

(ii) The Climate Change Bill (National Assembly Bill No. 1 of 2014)

Clause 3 - amendment proposed -

THAT, the Bill be amended by deleting clause (3) and substituting therefor the following new clause—

3. (1) This Act shall be applied for the development, management, implementation and regulation of mechanisms to enhance climate change resilience and low carbon development for the sustainable development of Kenya.

(2) Without prejudice to the sub-clause (1), this Act shall be applied in all sectors of the economy by the national and county government to—

- (a) mainstream climate change responses into development planning, decision making and implementation;
- (b) build resilience and enhance adaptive capacity to the impacts of climate change;
- (c) formulate programmes and plans to enhance the resilience and adaptive capacity of human and ecological systems to the impacts of climate change;
- (d) mainstream and reinforce climate change disaster risk reduction into strategies and actions of public and private entities;
- (e) mainstream intergenerational gender equity in all aspects of climate change responses;
- (f) provide incentives and obligations for private sector contribution in achieving low carbon climate resilient development;
- (g) promote low carbon technologies, improve efficiency and reduce emissions intensity by facilitating approaches and uptake of technologies that support low carbon, and climate resilient development;
- (h) facilitate capacity development for public participation in climate change responses through awareness creation, consultation, representation and access to information;
- (i) mobilize and transparently manage public and other financial resources for climate change response;
- (j) provide mechanisms for, and facilitate climate change research and development, training and capacity building;
- (k) mainstream the principle of sustainable development into the planning for and decision making on climate change response; and
- (l) integrate climate change into the exercise of powers and functions of all levels of governance, and to enhance cooperative climate change governance between the national government and county governments;

(3) The rights and duties conferred under this Act are in addition to those conferred by any other law.

PART II

THAT, the Bill be amended in the heading of Part II by deleting the words "ESTABLISHMENT, POWERS AND FUNCTIONS OF THE NATIONAL CLIMATE CHANGE COUNCIL" and substituting therefor the words " POLICY, COORDINATION AND OVERSIGHT"

(Chairperson, Departmental Committee on Environment and Natural Resources)

Debate arising;

Question of the amendment proposed, put and agreed to;

Clause 3 - as amended agreed to

Clause 4 - amendment proposed -

That Clause 4 be amended

(a) in sub-clause (1) by deleting the word "a" and substituting therefore the words " an unincorporated";

(b) by deleting sub-clauses (2) and (3) and substituting therefor the following new sub-clauses—

"(2) The Council shall be chaired by the President.

(3) The Cabinet Secretary for the time being responsible for Environment and Climate Change Affairs shall be the secretary to the Council.

(4) The Directorate established under this Act shall serve as the Secretariat to the Council."

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 4 - as amended agreed to

Clause 5 - amendment proposed -

That Clause 5 be amended by deleting clause 5 and substituting therefor the following new clause—

"(5) The Council shall provide an overarching national climate change coordination mechanism and shall—

(a) ensure the mainstreaming of the climate change function by the national and county governments;

(b) approve and oversee implementation of the National Climate Change Action Plan;

- (c) advise the national and county governments on legislative, policy and other measures necessary for climate change response and attaining low carbon climate resilient development;
- (d) approve a national gender and intergenerational responsive public education and awareness strategy and implementation programme;
- (e) provide policy direction on research and training on climate change including on the collation and dissemination of information relating to climate change to the national and county governments, the public and other stakeholders;
- (f) provide guidance on review, amendment and harmonization of sectoral laws and policies in order to achieve the objectives of this Act;
- (g) administer the Climate Change Fund established under this Act; and
- (h) set the targets for the regulation of Greenhouse gas emissions.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 5 - as amended agreed to

Clause 6 - amendment proposed -

THAT, Clause 6 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Debate arising;

Question of the amendment proposed, put and agreed to;

Clause 6 - deleted

Clause 7 - amendment proposed -

THAT, Clause 7 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 7 - deleted

Clause 8 - amendment proposed -

THAT, the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

“8. (1) The Council shall comprise not more than nine members who shall be appointed by the President.”

(2) The Council shall be constituted as follows—

- (a) the Cabinet Secretary responsible for Environment and Climate Change Affairs;
- (b) the Cabinet Secretary responsible for the National Treasury
- (c) the Cabinet Secretary responsible for economic Planning;
- (d) the Cabinet Secretary responsible for Energy;
- (e) the chairperson of the Council of Governors;
- (f) a representative of the private sector;
- (g) a representative of the civil society;
- (h) a representative of the marginalised community within the meaning on Article 260 of the Constitution; and
- (i) a representative of the academia nominated by the Commission for University Education.

(3) A person shall be appointed under subsection (2) (f) (g) and (h), if the person has expertise and experience in matters of climate change, economy, finance, law, environment and public administration.

(4) The names of persons nominated for appointment under subsection (2) (f), (g), (h) and (i) shall be submitted to the National Assembly for approval.

(5) Except for members appointed under clause (1) (a),(b), (c) ,(d) and (e) each person shall be qualified for appointment as member of the council if such person—

- (a) is a citizen of Kenya;
- (b) fulfils the requirements of Chapter 6 of the Constitution; and
- (c) has at least ten years' experience in the relevant field.

(6) The president shall in the appointment of members ensure compliance with the two thirds gender principle.

(7) The Council shall at its first sitting ballot to determine which of the members appointed under subsection (1) (f) to (i) shall serve for a two year term to ensure pro rata succession of membership.

(8) The Council may co-opt members with relevant expertise when needed to advice on specific matters.

(9) The Council may from time to time establish committees for the better carrying out of its functions.

(10) The members of the Council shall be paid such allowances as the Salaries and Remuneration Commission may determine.

(11) The Council shall meet at least four times in a year.

(12) Except as provided in sub-clause (7) the membership of the Council shall be for a term of three years and renewable once.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 8 - as amended agreed to

Clause 9 - amendment proposed -

THAT, Clause 9 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 9 - deleted

Clause 10 - amendment proposed -

That Clause 10 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 10 - deleted

Clause 11 - amendment proposed -

That Clause 11 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Debate arising;

Question of the amendment proposed, put and agreed to;

Clause 11 - deleted

Clause 12 - amendment proposed -

THAT, Clause 12 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 12 - deleted

Clause 13 - amendment proposed -

THAT, Clause 13 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 13 - deleted

Clause 14 - amendment proposed

THAT, Clause 14 be amended by deleting clause (14) and substituting therefor the following new clause—

Climate
Change
Directorate.

14 (1) There is established the Climate Change Directorate, as a Directorate in the State Department for the time being responsible for Climate Change.

(2) The Directorate shall be the lead agency of the government on national climate change plans and actions to deliver operational coordination and shall report to the Cabinet Secretary.

(3) The Directorate shall be headed by a Director of Climate Change who shall be recruited competitively and appointed by the Public Service Commission.

(4) A person shall qualified for appointment as a Director of Climate Change if the person—

- (a) is a citizen of Kenya;
- (b) has a post graduate degree, knowledge and experience in any of the following fields—
 - (i) environmental studies;
 - (ii) engineering;
 - (iii) meteorology;
 - (iv) climatology;
 - (v) law;
 - (vi) economics; or
 - (vii) such other relevant field as may be determined by the Cabinet Secretary in consultation with the Public Service Commission.
- (c) has at least ten years' experience at senior management level in the relevant field; and
- (d) meets the requirements of Chapter 6 of the Constitution.

(5) The Director appointed under clause (4) shall be responsible for the performance of specific duties and functions of the Directorate as set out in this Act.

(6) The Directorate shall advise the Cabinet Secretary on matters relating to legislation, policy, coordination, regulation and monitoring of climate change governance.

(7) The Directorate shall, on behalf of the Council, perform functions as may be specifically set out in this Act and in regulations.

(8) Without prejudice to the generality of the foregoing subsection, the Directorate shall perform the following duties and functions—

- (a) provide analytical support on climate change to the various sector ministries, agencies and county governments;
- (b) establish and manage a national registry for appropriate mitigation actions by public and private entities;
- (c) serve as the national knowledge and information management centre for collating, verifying, refining and disseminating knowledge and information on climate change;
- (d) in collaboration with other agencies at the national and county government levels—
- (j) identify low carbon development strategies and coordinate related measurement, reporting and verification;

- (ii) develop strategies and coordinate actions for building resilience to climate change and enhancing adaptive capacity;
- (iii) optimize the county's opportunities to mobilize climate finance;
- (e) coordinate adherence to the country's international obligations including associated reporting requirements;
- (f) coordinate implementation of the gender and intergenerational climate change education, consultation and learning at the national and county governments levels;
- (g) provide on instruction of the Cabinet Secretary, technical assistance based on needs identified by County governments.

(9) The Cabinet Secretary shall, in consultation with the Public Service Commission, determine the staff establishment required for the Directorate to effectively perform its functions under this Act, including mechanisms to transition staff from the Climate change Secretariat to the Directorate, based on performance evaluation.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 14 - as amended agreed to

Clause 15 - amendment proposed -

THAT, Clause 15 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 15 - deleted

Clause 16 - amendment proposed -

That Clause 16 be amended by

(a) deleting the words "chief executive officer" wherever it appears and substituting therefor the words " Director of Climate Change";

(b) deleting the word, "Board" and substituting therefor the words "Council" in sub-clause (1).

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to

Clause 17 - amendment proposed-

THAT, Clause 17 be amended by deleting the word "Board" wherever it appears and substituting therefor the word "Council".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 17 - as amended agreed to

Clause 18 - amendment proposed –

THAT, Clause 18 be amended by deleting the word "Board" wherever it appears and substituting therefor the word "Council".

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to

Clause 19 - amendment proposed -

THAT, the Bill be amended by deleting clause 19 and substituting therefor the following new clause—

Cabinet Secretary to coordinate the preparation of climate change action plans, strategies and policies.

19. (1) The Cabinet Secretary shall, in accordance with Article 10 of the Constitution and section 3 of this Act, and through public consultation formulate a National Climate Change Action Plan.

(2) The National Climate Change Action plan shall be presented for approval by the Council.

(3) The National Climate Change Action Plan shall prescribe measure and mechanisms—

- (a) to guide the country toward the achievement of low carbon climate resilient sustainable development;
- (b) to set out actions for mainstreaming climate change responses into sector functions;
- (c) for adaptation to climate change;
- (d) for mitigation against climate change;
- (e) to specifically identify all actions required as enablers to climate change response;
- (f) to mainstream climate change disaster risk reduction actions in development programmes;
- (g) to set out a structure for public awareness and engagement in climate change response and disaster reduction;
- (h) to identify strategic areas of national infrastructure requiring climate proofing;
- (i) to review and determine mechanisms for climate change knowledge management and access to information;
- (j) to enhance energy conservation, efficiency and use of renewable energy in industrial, commercial, transport, domestic and other uses;
- (k) to strengthen approaches to climate change research and development, training and technology transfer.
- (l) to review and recommend duties of public and private bodies on climate change;
- (m) to review levels and trends of Greenhouse Gas Emissions; and
- (n) to identify outputs, overall budget estimates and timeframes to realize expected results.

(4) Without prejudice to the foregoing, the National Climate Change Action Plan shall address all sectors of the economy, and provide mechanisms for mainstreaming into those sectors.

(5) In formulating the National Climate Change Action Plan, the Cabinet Secretary shall be informed by—

- (a) scientific knowledge about climate change;
- (b) technology and technological innovations relevant to climate change;

(c) economic circumstances, in particular the likely impact of the action plan on the following—

- (i) the economy;
 - (ii) the competitiveness of particular sectors of the economy;
 - (iii) small and medium-size enterprises;
 - (iv) employment opportunities; and
 - (v) the socio-economic well-being of any segment or part of the population;
- (d) fiscal circumstances, in particular, the likely impact of the action plans, strategies and policies on the marginalised and disadvantaged communities;
- (e) social circumstances in particular, the likely impact of the actions plans, strategies and policies on biodiversity and ecosystem services;
- (h) international law and policy relating to climate change; and
- (i) indigenous knowledge related to climate change adaptation and mitigation

(6) A notice shall be published in the Kenya Gazette and national newspapers to notify the public on approval of the National Climate Change Action Plan by the Council.

(7) The Directorate shall undertake a biennial review of the implementation of the National Climate Change Action Plan and report to the council.

(8) The Cabinet Secretary shall, in every five year period, review and update the National Climate Change Action Plan.

(9) The Cabinet Secretary, all public bodies and any person or entity engaged in climate change governance and administration, shall when exercising any power or discharging any statutory duty or function, be bound by the contents of the National Climate Change Action Plan.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

- Clause 19 - as amended agreed to
- Clause 20 - agreed to
- Clause 21 - amendment proposed -

THAT, the Bill be amended by deleting clause 21 and substituting therefor the following new clause —

Climate
Change duties
of public
sector.

21. (1) The Council may, on recommendation of the Cabinet Secretary and in consultation with relevant Cabinet Secretaries and County Government, impose duties relating to climate change on any public entity at all levels of government.

(2) Any public entity on which a climate change duty has been imposed shall, in exercising functions under this Act or any other law, act in a manner best suited to achieve the successful implementation of this Act, and the Climate Change Action Plan.

(3) The duties shall be imposed and may be varied or revoked through regulations made by the Council

(4) The impositions of climate change duties shall be preceded by public awareness and consultations.

(5) Each state Department and national government public entity shall have the following duties—

- (a) integrate the climate change action plan into sectoral strategies, action plans and other implementation projections for the assigned legislative and policy functions;
- (b) report on sectoral Green House Gas Emissions for the national inventory;
- (c) designate a unit with adequate staff and financial resources and appoint a senior officer as head of the unit to coordinate the mainstreaming of the climate change action plan and other climate change statutory functions and mandates into sectoral strategies or implementation;
- (d) regularly monitor and review the performance of the integrated climate change functions through sectoral mandates;
- (e) put in place and implement mechanisms for sustainability in performance of sectoral mandates; and
- (f) report, annually to the Council on the status and progress of performance and implementation of all assigned climate change duties and functions.

(6) Where an evaluation report from a statutory public body discloses unsatisfactory performance, the State Department shall undertake investigations and report the findings to the Council.

(7) An investigation under this section shall be undertaken by the Head of the unit and be processed within thirty days after receipt by the State Department.

(8) Upon receiving the reports from the State Department, the Council shall undertake an evaluation on performance of climate change duties and functions.

(9) The Council shall within three months after the end of every financial year, publish publicly and submit the evaluation report on performance of climate change duties by public entities to the National Assembly for review, discussion and debate.

(10) The National Assembly shall, within six months of receiving the evaluation report, provide recommendations and proposed actions to the Council, the Cabinet Secretary, The Directorate, A state Department or Statutory Public Entity.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 21 - as amended agreed to

Clause 22 - amendment proposed -

THAT, Clause 22 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 22 - deleted

Clause 23 - amendment proposed -

THAT, Clause 23 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Debate arising;

Question of the amendment proposed, put and agreed to;

Clause 23 - deleted

Clause 24 - amendment proposed –

THAT, the Bill be amended by deleting clause 24 and substituting therefor the following new clause 24 –

- (24) (1) The National Environmental Management Authority shall on behalf of the Council—
- (a) monitor, investigate and report on whether public and private entities are in compliance with the assigned climate change duties;
 - (b) ascertain that private entities are in conformity with instructions give under clauses 21 and 21A of this Bill; and
 - (c) regulate, enforce and monitor compliance on levels of Green House Emissions as set by the Council under this Act.
- (2) In performance of this function, the Authority shall—
- (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and
 - (b) may at a reasonable hour, for the purposes of monitoring and investigation, enter any private land or premises to make an inspection or other task related to this function.
- (3) A person commits an offence if the person—
- (a) fails to give or refuses to give access to the Authority or its authorised staff who has requested access to any land;
 - (b) hinders the execution, by the Authority of the duties under this Act or any other law;
 - (c) fails or refuses to give information that the person may lawfully be required to give to the Authority; or
 - (d) gives false or misleading information to the Authority.
- (4) A person who commits an offence under sub-clause (3) is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a period not exceeding five years, or to both.
- (5) The authority shall annually report to the Council on performance of the functions under this Act, and such report shall form part of the Report by the Council to the National Assembly.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 24 - as amended agreed to

Clause 25 - agreed to

Clause 26 - amendment proposed –

THAT, Clause 26 be amended by deleting clause 26 and substituting therefor the following new clause—.

“(26) (1) There is hereby established the Climate Change Fund, which shall be a financing mechanism for priority climate change actions and interventions approved by the Council.

(2) The Fund shall be vested in the National Treasury.

(3) There shall be paid into the fund—

(a) monies appropriated from the Consolidated Fund by an Act of Parliament;

(b) monies received by the Fund in the form of donations, endowments, grants and gifts; and

(c) monies under an act payable to the fund.

(4) The Fund shall be administered by the Council and managed by the Principal Secretary for the time being responsible for Climate Change Affairs.

(5) In administering the Fund, the Council shall—

(a) determine the composition of the Fund;

(b) set strategic directions for applications of the fund;

(c) define eligibility criteria for the fund to finance climate change actions and enhance achievement of low carbon climate resilient development;

(d) set out procedures for disbursement, recovery and repayment of loans, including interest;

(e) set out procedures to ensure gender and intergenerational equity in access to monies from the Fund;

(f) set out procedures, criteria and eligibility for funding research institutions, private, public, civil society research, development and investment ventures that enhance low carbon climate resilient development; and

- (g) set out other procedures and requirements for effective and transparent administration of the Fund, including tracking and accounting for climate finance and monitoring and evaluation procedures through regulations which shall be subjected to public participation and approved by the National assembly.
- (6) The Council shall approve requests for funding and make funding allocation decisions.
- (7) The Principal Secretary in managing the Fund shall—
 - (a) provide mechanisms for daily operations of the fund;
 - (b) process financing applications from eligible applicants for approval by the council;
 - (c) ensure quality assurance in execution of the mandate of the Fund;
 - (d) undertake resource mobilization for various sources;
 - (e) provide technical assistance to the private sector, civil society and public entities.
- (8) The fund shall be applied to—
 - (a) provide grants for climate change research and innovation, in the following fields—
 - (i) industrial research;
 - (ii) technological research;
 - (iii) policy formulation;
 - (iv) scientific research; and
 - (v) academic research.
 - (b) provide grants and loans to business, industry, civil society , academia and other stakeholders for development of innovative actions that benefit climate change responses in Kenya;
 - (c) finance, through grants and loans the implementation of climate change adaptation and mitigation actions; and
 - (d) provide technical assistance to county Governments.
- (9) The Cabinet Secretary for the National Treasury shall, within one year of the Act coming into force, develop a strategy and make Regulations setting out procedures and powers to identify sources of climate finance to monitor uses by various state, non-state and private sector actors, to enhance integrity and to eliminate corrupt practices.
- (10) The functions of the Directorate shall be financed through a vote in the estimates of revenue and expenditure of the relevant State department, taking into account the functions vested in the Directorate in this Act
- (11) The functions of the Council shall be financed through a vote in the estimates or revenue and expenditure of the relevant State Department.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 26 - as amended agreed to

Clause 27 - amendment proposed –

THAT, the Bill be amended in clause 27 by deleting the words “the Board of” appearing immediately after the words “financial year”.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 27 - as amended agreed to

Clause 28 - agreed to

Clause 29 - amendment proposed –

THAT, the Bill be amended in clause 29—

(a) by deleting the words “ Board of the ”appearing in sub-clause (1) ;

(b) by deleting subsection (2) and substituting therefore the following new sub-section—

“(2) The Council may apply to the Cabinet Secretary responsible for Finance for exemption from payment of duty payable under the Stamp Duty Act in respect of an instrument executed by or on behalf, or in favour of the Council which, but for this section, he Council would be liable to pay.”

(c) in sub clause (3) by deleting the words “Board” wherever it appears and substituting therefor the word “Council”;

(d) in sub clause (4) by deleting the words “Board of the”; and

(e) in sub clause (5) by deleting the words “Board of the”.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 29 - as amended agreed to

Clause 30 - amendment proposed

THAT, Clause 30 be deleted

(Chairperson, Departmental Committee on Environment and Natural Resources)

Debate arising;

Question of the amendment proposed, put and agreed to;

Clause 30 - deleted

Clause 31 - agreed to

Clause 32 - amendment proposed –

THAT, the Bill be amended in clause 32 by deleting the word “Board” wherever they appear and substituting therefor the word “Council”.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 32 - as amended agreed to

Clause 33 - amendment proposed –

THAT, the Bill be amended in clause 33 by deleting the word “Board” and substituting therefor the words “Council”

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 33 - as amended agreed to

Clause 34 - amendment proposed –

THAT, the Bill be amended in clause 34 by deleting the word “Board” wherever it appears and substituting therefor the word, “Council”.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Debate arising;

Question of the amendment proposed, put and agreed to;

Clause 34 - as amended agreed to

Clause 35 - agreed to

Clause 36 - amendment proposed –

THAT, the Bill be amended in clause 36 by—

(a) deleting the word "Board" wherever it appears and substituting therefor the word "Council"; and

(b) deleting paragraphs (c), (d) and (e) of sub-clause (2)

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 36 - as amended agreed to

NEW CLAUSES

Clause 3A - amendment proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 3—

Guiding
principles
and
values.

3.A (1) The guiding values and principles of low carbon climate resilient development in this section shall bind all level of government and all persons when—

- (a) enacting, applying or interpreting any provisions of this Act; and
- (b) making or implementing public policy decisions on climate change

(2) In discharging their functions and duties under this Act the Council, the Cabinet Secretary, County government, any state officer, state organ shall be guided by the following—

- (a) national values and principles of governance in Article 10 of the Constitution and the values and principles of public service in Article 232 of the Constitution;
- (b) be guided by the provisions of Article 42 and 69 of the Constitution;
- (c) ensure promotion of sustainable development under changing climatic conditions;
- (d) ensure equity and social inclusion in allocation of effort, costs and benefits to cater for special needs, vulnerabilities, capabilities, disparities and responsibilities;
- (e) ensure integrity and transparency;
- (f) ensure participation and consultation with stakeholders in accordance with the First Schedule.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Motion made and Question proposed:-

THAT, the New Clause 3A be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 3A be part of the Bill

Question put and agreed to.

Clause 13A - amendment proposed

The Bill be amended by inserting the following new clause immediately after clause 13—

Powers and duties
of the Cabinet
Secretary.

13.A (1) Subject to the provisions of this Act, the Cabinet Secretary shall exercise control and provide guidance over climate change governance and implementation of this Act.

(2) The Cabinet Secretary shall—

- (c) formulate and periodically review Climate Change Policy, Strategy and the National Climate Change Action Plan and submit to the Council for approval;
- (d) coordinate negotiations on climate change related issues in consultation with the Cabinet Secretary responsible for Foreign Affairs;
- (e) formulate a national gender and intergenerational responsive public education and awareness strategy on climate change and implementation programme;
- (f) provide through the Directorate, technical assistance on climate change actions and responses to County governments, based on mutual agreement and needs cited by the County government; and
- (g) report biannually to Parliament on the status of implementation of international and national obligations to respond to climate change, and progress towards attainment of low carbon climate resilient development.

(3) The cabinet Secretary in discharge of the duties and functions under this Act shall be assisted by the Climate Change Directorate established under this Act.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Motion made and Question proposed:-

THAT, the New Clause 13A be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 13A be part of the Bill

Question put and agreed to.

New Clause 21A proposed -

THAT, the Bill be amended by inserting the following new clauses immediately after clause 21—

Climate Change duties
of Private Entities.
No. 18 of 2013.

21A (1) The Council, may in consultation with the Cabinet Secretary and relevant State Departments, impose climate change obligations on private entities, including entities constituted under the Public Organizations Benefits Act 2013.

(2) The Council shall make regulations governing the nature and procedure for reporting on performance by the private entities, including the authority to monitor and evaluate the compliance.

(3) Notwithstanding other provisions in this Act, the Council may—

(a) by notice in the Gazette, require a private entity that is subject to climate change obligations to at any time, prepare reports on the status of its performance of the climate change duties and prescribe the period for reporting; and

(b) require any private entity that fails to comply with its climate change obligations to prepare a report, within a specified time, on the actions it has taken, is taking or intends to take to secure future performance with those duties.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Motion made and Question proposed:-

THAT, the New Clause 21A be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 21A be part of the Bill

Question put and agreed to.

New Clause 24 proposed -

THAT, the Bill be amended by inserting the following new clauses immediately after clause 24—

Mainstreaming
climate change
actions into
strategic
areas.

24A (1) The Council, on the recommendation of the Cabinet Secretary shall each year identify priority strategies and actions of disaster risk reduction related to climate change and;

(a) advise the President to require incorporation of this priority strategies and actions into functions and budgets of each State Department, state corporation and other national government entities;

(b) advice a county government on priority strategies and actions that should be integrated into functions and budgets of departments and entities of the County Governments; and

(c) develop a specific public safety component for disaster risk reduction for incorporation by all levels of government to prevent climate change induced disasters, and manage emergency responses.

Mainstreaming climate change actions into County Government functions.

24B.(1) A County Government shall, in performance of its functions, integrate and mainstream climate change actions, interventions and duties set out in this Act, and the Action Plan into various sectors.

(2) A county Government shall in development, updating and approval of the County Integrated Development Plan, and the County Sectoral plans mainstream the implementation of the National Climate Change Action Plan, taking into account national and county priorities.

(3) The Governor of a County shall designate a County Executive Committee member to coordinate climate change affairs.

(4) Subject to this act and the Constitution, a county Government may enact legislation that further defines implementation of its obligations under this Act, or other climate change functions relevant to County or such other related purposes.

(5) A county government shall at the end of every financial year, through the designated County Executive Committee Member, submit a report on progress of implementation of climate change actions to the County Assembly for review and debate. A copy of this report shall be forwarded to the Directorate for information purposes.

Integration of Climate change risk.

24C The Authority shall integrate climate risk and vulnerability assessment into all forms of assessment, and for that purpose liaise with relevant lead agencies for their technical advice.

Integration of climate change into curricular.

24D (1) The Kenya Institute of Curriculum Development shall, on advice of the Council integrate climate change into various disciplines and subjects of the national education curricula at all levels.

(2) The Council shall advise the public agencies responsible for regulating universities and tertiary institutions curricular on integration of climate change into curricular.

Reporting on climate change actions.

24E The Cabinet Secretary shall make regulations to guide the reporting and verification of climate change actions.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Motion made and Question proposed:-

THAT, the New Clause 24A, 24B, 24C, 24D, and 24E be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 24A, 24B, 24C, 24D, and 24E be part of the Bill

Question put and agreed to.

Clause 25A - amendment proposed

NEW PART:

THAT the Bill be amended by inserting the following new Part immediately after part IV—

**PART IVA —PUBLIC PARTICIPATION AND ACCESS TO
INFORMATION**

Public
Participation.

25A (1) Public entities at each level of government shall, at all times when developing strategies, laws and policies relating to climate change, undertake public awareness and conduct public consultations.

(2) Public consultations shall be undertaken in a manner that ensures the public contribution makes an impact on the threshold of decision making.

(3) The Council shall, or recommendation of the Cabinet Secretary, publish Regulations on design and procedure to ensure efficacy of public consultations to ensure that they make an impact on the threshold of decision making on climate change at all levels of government.

(4) The Council and Directorate shall publish and publicize all important information within their mandate.

(5) Any person may request for information from the Council and the Directorate, and such request for information—

(a) shall be addressed to the Secretary of the Council or the Director or such other designated person;

(b) may be subject to the payment of the prescribed fee in instances where the Council or Directorate incurs an expense in providing information; and

(c) may be subject to confidentiality requirements of the Council or Directorate.

(6) Subject to Article 35 of the Constitution, the Council or the Directorate may decline to give information to an applicant where—

(a) the request is considered unreasonable in the circumstances;

(b) the information requested is at a deliberative stage within the Council or Directorate;

(c) the prescribed fee is not paid; or

(d) the applicant fails to satisfy any confidentiality requirements of the Council or Directorate.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Motion made and Question proposed:-

THAT, the New Clause 25A be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 25A be part of the Bill

Question put and agreed to.

New Clause 35A proposed -

THAT, the Bill be amended by inserting the following new clause immediately after clause 35 —

Transitional
Provision.

35A. The members of the Council shall be appointed within three months of the coming into force of this Act.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Motion made and Question proposed:-

THAT, the New Clause 35A be now read a Second Time;

Question put and agreed to.

Motion made and Question proposed;

THAT, the New Clause 35A be part of the Bill

Question put and agreed to.

SCHEDULES

First schedule - agreed to

Second schedule - amendment proposed

THAT, the Bill be amended by deleting the second schedule.

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Second Schedule - deleted.

Clause 2 - amendment proposed

THAT, clause 2 of the Bill be mended—

(a) by inserting the following new definitions in the proper alphabetical sequence—

“all levels of government” means all departments and agencies of the national and county governments”;

“authority” means the National Environmental Management Authority established by the Environmental Management and Coordination Act, 1999 or its successor legislation;

“climate change duties” means the statutory obligations conferred on public and private entities to implement climate change actions consistent with the national goal of low carbon climate resilient development;

“climate change resilience” means the capability to maintain competent function and return to some normal range of function even when faced with adverse impact of climate change;

“climate change secretariat”, means the secretariat established by the Public Service Commission to coordinate climate change mitigation and adaptation actions and interventions;

“climate finance” means monies available for, or mobilized by government or non-government entities to finance climate change mitigation and adaptation actions and interventions;

“county executive committee member” means the County Executive for the time being responsible for matters relating to climate change;

“intergenerational” means with reference to equity among present and future generations and equity in the present generation;

“mainstreaming: means the integration of climate change actions into decision making and implementation of functions by the sector ministries, state corporations and county governments;

(b) in the definition of the words “private entity” by inserting the following words “ and includes bodies registered under the Public Benefits Organization Act, 2013” immediately after the words “ private nature”;

(c) by deleting the definitions of the following terms—

"board"
"coordinating Ministry"
"energy efficiency"

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Clause 2 - as amended agreed to

Clause 1 - agreed to

Long Title - amendment proposed

THAT, the Bill be amended by deleting the long title and substituting therefor the following new long title—

AN ACT of Parliament to provide for a regulatory framework for enhanced response to climate change; to provide for mechanism and measures to achieve low carbon climate development, and for connected purpose;

(Chairperson, Departmental Committee on Environment and Natural Resources)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Long Title - as amended agreed to

Title - agreed to

Bill to be reported with amendments;

9. **HOUSE RESUMED** – the Fourth Chairperson in the Chair

The Climate Change Bill (National Assembly Bill No.1 of 2014)

Bill reported with amendments;

Motion made and Question proposed:-

THAT, the House do agree with the Committee of the whole House in the said Report.

(Hon. Wilbur Ottichilo)

Debate arising;

Question put and agreed to.

Motion made and Question proposed –

THAT, the Climate Change Bill (National Assembly Bill No.1 of 2014) be now read a Third Time

(Hon. Wilbur Ottichilo)

Debate arising;

Question of the Third Reading deferred;

And the time being One O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

10. HOUSE ROSE - at One O'clock

M E M O R A N D U M

The Speaker will take the Chair today,
Wednesday, March 04, 2015 at 2.30 p.m.

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