

SPECIAL ISSUE

Kenya Gazette Supplement No. 44 (Senate Bills No. 10)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2014

NAIROBI, 4th April, 2014

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**THE GOVERNMENT PROCEEDINGS
(AMENDMENT) BILL, 2014**

A Bill for

**AN ACT of Parliament to amend the Government
Proceedings Act**

ENACTED the Parliament of Kenya, as follows—

1. This Act may be cited as the Government Proceedings (Amendment) Act.

Short title.

2. Section 21 of the Government Proceedings Act is amended by inserting the following new sub-section immediately after sub-section (4)-

Amendment of
section 21 of Cap.
40.

(5) This section shall, with necessary modifications, apply to any civil proceedings by or against a county government, or in any proceedings in connection with any arbitration in which a county government is a party.

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

This Bill seeks to amend section 21 of the Government Proceedings Act, Cap 40, so as to extend its application to county governments. Section 21 of the Act makes specific provision on the manner in which court orders against the Government are to be satisfied, and in so doing, protects the interests of the Government. By this amendment to section 21 of the Act, the interests of the county governments will be similarly protected.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it affects the functions and powers of County Governments set out in the Fourth Schedule to the Constitution. The process by which court orders against county governments are to be satisfied has a direct bearing on the functions and powers of county governments.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution.

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 25th February, 2014.

MUTULA KILONZO JUNIOR,
Senator.

Section 21 of Cap 40 which it is proposed to amend—

21. Satisfaction of orders against the Government

(1) Where in any civil proceedings by or against the Government, or in proceedings in connection with any arbitration in which the Government is a party, any order (including an order for costs) is made by any court in favour of any person against the Government, or against a Government department, or against an officer of the Government as such, the proper officer of the court shall, on an application in that behalf made by or on behalf of that person at any time after the expiration of twenty-one days from the date of the order or, in case the order provides for the payment of costs and the costs require to be taxed, at any time after the costs have been taxed, whichever is the later, issue to that person a certificate in the prescribed form containing particulars of the order:

Provided that, if the court so directs, a separate certificate shall be issued with respect to the costs (if any) ordered to be paid to the applicant.

(2) A copy of any certificate issued under this section may be served by the person in whose favour the order is made upon the Attorney-General.

(3) If the order provides for the payment of any money by way of damages or otherwise, or of any costs, the certificate shall state the amount so payable, and the Accounting Officer for the Government department concerned shall, subject as hereinafter provided, pay to the person entitled or to his advocate the amount appearing by the certificate to be due to him together with interest, if any, lawfully due thereon:

Provided that the court by which any such order as aforesaid is made or any court to which an appeal against the order lies may direct that, pending an appeal or otherwise, payment of the whole of any amount so payable, or any part thereof, shall be suspended, and if the certificate has not been issued may order any such direction to be inserted therein.

(4) Save as aforesaid, no execution or attachment or process in the nature thereof shall be issued out of any such court for enforcing payment by the Government of any such money or costs as aforesaid, and no person shall be individually liable under any order for the payment by the Government, or any Government department, or any officer of the Government as such, of any money