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CONTENT

Bill for Introduction into the Senate—

PAGE

The Micro and Small Enterprises (Amendment) Bill, 2015193

**THE MICRO AND SMALL ENTERPRISES
(AMENDMENT) BILL, 2015**

A BILL for

**AN ACT of Parliament to amend the Micro and Small
Enterprises Act**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Micro and Small Enterprises (Amendment) Act, 2015.

Short title.

2. The Micro and Small Enterprises Act, in this Act referred to as the “principal Act”, is amended in section 2, in the interpretation of the word “micro enterprise”, by inserting the following new paragraph immediately after paragraph (c) (ii)—

Amendment of section 2 of No. 55 of 2012.

(iii) the informal sector, where the enterprise does not operate from a designated location, including vendors, hawkers, market traders, livestock traders, fishmongers, artisans, handcraft traders, sand harvesters, cyclists and public transport operators.

3. Section 31 of the “principal Act” is amended by—

Amendment of section 31 of No. 55 of 2012.

(a) renumbering the existing section as subsection (1);

(b) inserting the following new subsection, immediately after the new subsection (1).

(2) The Authority shall, in carrying out its functions under subsection (1), liaise with the county governments.

4. Section 47 of the “principal Act” is amended by deleting the words “Government Ministries” appearing immediately after the words “the relevant” and substituting therefor the words “National Government Ministries, County government departments”.

Amendment of section 47 of No. 55 of 2012.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the objects and reasons of the Bill

This Bill seeks to amend the Micro and Small Enterprises Act No. 55 of 2012. The Act provides for the promotion, development and regulation of micro and small enterprises and provides for the establishment of the Micro and Small Enterprises Authority.

The main object of this Bill is to amend the definition of the term “micro enterprise” to include the informal sector, specifically where the enterprise does not operate from a designated location. Traders such as vendors, hawkers, market traders, livestock traders, fishmongers, artisans, handcraft traders, sand harvesters, cyclists and public transport operators would then be brought under the ambit of the Micro and Small Enterprises Act, thus enabling them to access the benefits available under the Act, which include resources availed by the Government or other agencies for micro and small enterprises, capacity building and technology development programs for micro and small enterprises and access to markets.

The Bill at clause 4, mandates the Micro and Small Enterprises Authority to enhance the development of infrastructure necessary to support the micro and small enterprises within the counties.

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

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

Statement on how the Bill concerns county governments

The Bill concerns county governments in terms of Article 110(a) of the Constitution.

Paragraph 7 of Part 2 of the Fourth Schedule to the Constitution provides for trade development and regulation. The amendment at Clause 3 of the Bill falls within the ambit of trade and development, as the amendment seeks to extend the definition of “micro finance” to traders in the informal sector.

Statement as to whether the Bill is 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 8th June, 2015.

WAMATANGI KIMANI PAUL,
Senator.

Section 2 of No. 55 of 2012 which it is intended to amend—

2. Interpretation

In this Act, unless the context otherwise requires—

“association” means a group of not less than thirty five micro and small enterprises registered under this Act for the purpose of accessing common services and mobilizing resources for the development of the aforementioned enterprises;

“Authority” means the Micro and Small Enterprises Authority established under section, 29;

“Cabinet Secretary” means the Cabinet Secretary of the Ministry for the time being responsible for matters relating to micro and small enterprises;

“enterprise” means an undertaking or a business concern whether formal or informal engaged in production of goods or provision of services;

“factoring” means buying of invoices at a discount and taking the responsibility of collecting the payment due on them;

“farm enterprise” includes micro and small scale agricultural, livestock and fishing enterprises;

“Fund” means the Micro and Small Enterprises Development Fund established under section 51;

“manufacturing sector” means enterprises that add value to basic raw material to produce an enhanced product;

“micro enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover does not exceed five hundred thousand shillings;
- (b) which employs less than ten people; and
- (c) whose total assets and financial investment shall be as determined by the Cabinet Secretary from time to time, and includes—
 - (i) the manufacturing sector, where the investment in plant and machinery or the registered capital of the enterprise does not exceed ten million shillings;
 - (ii) the service sector and farming enterprises where the investment in equipment or registered capital of the enterprise does not exceed five million shillings;

“Registrar” means the Registrar of micro and small enterprises designated as such under section 4;

“small enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover ranges between five hundred and five million shillings; and
- (b) which employs between ten and fifty people; and
- (c) (whose total assets and financial investment shall be as determined by the Cabinet Secretary from time to time, and includes—
 - (i) the manufacturing sector, where the investment in plant and machinery as well as the registered capital of the enterprise is between ten million and fifty million shillings; and
 - (ii) service and farming enterprises, where the equipment investment as well as registered capital of the enterprise is between five million and twenty million shillings;

“Tribunal” means the Micro and Small Enterprises Tribunal established under section 54; and

“umbrella organization” means an organization of micro and small enterprise associations.

Section 31 of Act, No. 55 of 2012 which it is proposed to amend—

31. Functions of the Authority

The functions of the Authority shall be to—

- (a) formulate and review policies and programs for micro and small enterprises;
- (b) monitor and evaluate the implementation of existing policies and programmes related to, or affecting, micro and small enterprises and advise the Government on appropriate policies and course of action to be taken;
- (c) coordinate, harmonize and facilitate the integration of various public and private sector activities, programmes and development plans relating to micro and small enterprises;
- (d) promote and facilitate research, product development and patenting in the micro and small enterprises sector;
- (e) promote the mainstreaming of youth, gender and persons with disabilities in all micro and small enterprises activities and programs;

- (f) mobilize resources for the development of micro and small enterprise sector;
- (g) promote access to markets by micro and small enterprises;
- (h) promote innovation and development of products by micro and small enterprises;
- (i) formulate capacity building programmes for micro and small enterprises;
- (j) facilitate technology development, acquisition and transfer by micro and small enterprises;
- (k) develop mechanisms, tools and programs for collection of comprehensive data disaggregated by sex, region and age among others, in collaboration with key stakeholders, to enable proper planning for the, micro and small enterprises sector.

Section 47 of No. 55 of 2012 which it is intended to amend—

47. Development of infrastructure

The Authority shall advise and facilitate the relevant Government Ministries and other agencies in developing worksite management policy, provide suitable infrastructure, including worksites, social amenities, business information centres, model centres of excellence, common usage facilities and other facilities necessary for development of micro and small enterprises.