

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

NAIROBI, 19th November, 2021

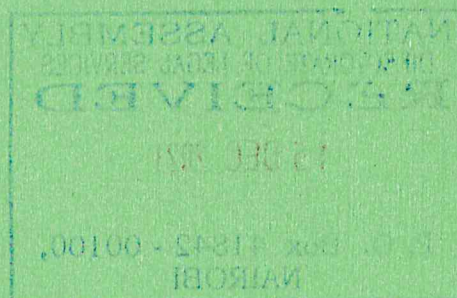
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**THE FOREST CONSERVATION AND
MANAGEMENT (AMENDMENT) BILL, 2021**

A Bill for

**AN ACT of Parliament to amend the Forest
Conservation and Management Act, 2016**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Forest Conservation and Management (Amendment) Act, 2021.

Short title.

2. Section 34 of the Forest Conservation and Management Act, 2016, in this Act referred to as the “principal Act”, is amended by—

Amendment of
section 34 of No.
34 of 2016.

(a) deleting subsection (2A);

(b) inserting the following new subsections immediately after subsection (3)—

“(3A) The Clerk of the National Assembly or a committee of the House—

(a) shall review the petition to ascertain whether the petition meets the requirements of this Act, the Petition to Parliament (Procedure) Act, 2012 and the Standing Orders of the National Assembly; and

(b) may request any relevant additional information from the petitioner.

(3B) Where the Clerk or the committee considers that petition does not comply with this Act, the Petitions to Parliament (Procedure) Act, 2012 and the Standing Orders of the National Assembly, the Clerk or the committee may give such directions as are necessary to ensure that the petition is amended.

No. 22 of 2012

(3C) The Clerk or the committee may reject a petition where the petitioner fails to comply with the directions given under subsection (3B).”

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

The principal object of this Bill is to streamline the procedure for petitioning Parliament under the Forest Conservation and Management Act, 2016. The Bill proposes amendments to section 34 of the Act to subject petitions seeking the variation of boundaries or revocation of public forests to the existing requirements under the Petition to Parliament (Procedure) Act, 2012 and the Standing Orders of the National Assembly. The amendments also empower the Clerk of the National Assembly or a committee of the House to reject any petition that does not meet the requirements of the Acts and the Standing Orders or which is not revised to accord with the directions issued by the Clerk. Additionally, the amendments propose the deletion of section 34(2) of the Act to remove the requirement for a petition under the Act to be recommended for submission to Parliament by the Kenya Forest Service. The provision unnecessarily limits the right of any person to petition Parliament as provided for under Article 119 of the Constitution.

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

This Bill does not delegate legislative powers and does not limit fundamental rights and freedoms.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 12th October, 2021.

MOSES CHEBOI,
For: Chairperson, Procedure and Rules Committee.

Section 34 of No. 24 of 2011 which it is proposed to amend—

Variation of boundaries or revocation of public forests

34. (1) Any person may petition the National Assembly for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest.

(2) A petition under subsection (1) shall demonstrate that the variation of boundaries or revocation of the registration of a public forest or a portion of a public forest does not—

- (a) endanger any rare, threatened or endangered species; or
- (b) adversely affect its value as a water catchment area; and prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes.

(2A) A petition under subsection (1) shall only be forwarded to the National Assembly on the recommendation of the Service.

(3) A petition made under subsection (1) shall be considered in accordance with the provisions of the Petitions to Parliament (Procedure) Act and the Standing Orders of the National Assembly.

(4) The Cabinet Secretary shall, within thirty days of the petition being committed to the relevant Committee, submit a recommendation on whether the petition should be approved subject to—

- (a) the petition being subjected to an independent Environmental Impact Assessment; and
- (b) public consultation being undertaken in accordance with the Second Schedule.

(5) If the relevant Committee, reports that it finds that the petition—

- (a) does not disclose a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, no further proceedings shall be taken; or
- (b) discloses a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, the National Assembly shall vote on whether to approve the recommendation.

(6) If the resolution under subsection (5)(b) is supported by a majority of the members of the National Assembly present and voting, the Cabinet Secretary shall publish a notice in the Gazette.

