

## **SPECIAL ISSUE**

*Kenya Gazette Supplement No. 224 (National Assembly Bills No. 59)*



REPUBLIC OF KENYA

# **KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2021**

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**NAIROBI, 3rd December, 2021**

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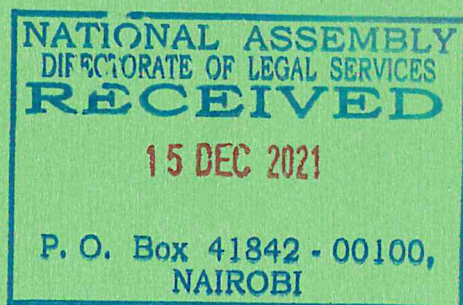
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KEY A WHITE APPENDIX

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**THE PUBLIC AUDIT (AMENDMENT) BILL, 2021**

**A Bill for**

**AN ACT of Parliament to amend the Public Audit Act**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the Public Audit (Amendment) Act, 2021.

Short title.

2. Section 11 of the Public Audit Act, 2015 is amended by inserting the following new subsection immediately after subsection (1)—

Amendment of  
section 11 of  
No.38 of 2015.

(1A) Despite subsection (1), the President shall initiate the process of filling a vacancy in the office of the Auditor-General at least six months before the expiry of the term of the Auditor-General under Article 229 (3) of the Constitution.



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

The principal objective of the Bill is to amend the Public Audit Act, 2015 to provide for the process of recruitment of Auditor-General six months prior to the expiration of the term of the serving Auditor-General.

**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 does concerns county governments**

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Standing Orders.

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

The Bill is not a money Bill for the purposes of Article 114 of the Constitution as the enactment of this Bill will occasion additional expenditure of public funds.

Dated the 22nd November, 2021.

MOHAMMED MOHAMUD SHEIKH (PROF),  
*Member of Parliament.*



*Section 11 of the Public Audit Act, No. 34 of 2015, which is proposed to be amended—*

**11. Vacancy in office**

(1) The office of the Auditor-General shall become vacant, if the Auditor-General—

- (a) dies;
- (b) by a notice in writing addressed to the President, resigns from office; or
- (c) is removed from office under any of the circumstances specified in Article 251 or Chapter Six of the Constitution.

(2) Where a vacancy occurs under subsection (1), the President shall within seven days, by notice in the Gazette, in at least two newspapers of national circulation and in at least two national radio and television stations, declare vacancies in the office of the Auditor-General and invite applications.

(3) An application under subsection (2) shall be forwarded to the Public Service Commission within fourteen days of the notice and may be made by any—

- (a) qualified person;
- (b) person, organisation or group of persons proposing the nomination of any qualified person.

(4) The names of all applicants under subsection (2) shall be published in the Gazette.

(5) The President shall, within fourteen days of the expiry of the period prescribed under subsection (3), constitute a selection panel comprising a chairperson and one representative from—

- (a) the Ministry for the time being responsible for matters relating to finance;
- (b) the Office of the Attorney-General;
- (c) the Ministry for the time being responsible for matters relating to the public service;
- (d) the Institute of Certified Public Accountants of Kenya;
- (e) the Association of Professional Societies of East Africa; and
- (f) the Law Society of Kenya,



for the purpose of considering the applicants and selecting at least three persons qualified for appointment as Auditor-General:

Provided that for the purpose of selection and shortlisting of the said three persons, the selection panel shall hold its proceedings in public and submit to Parliament a report of the interview proceedings, which should include inter alia the scores of each candidate interviewed by individual members of the interviewing panel together with the criteria used in selecting the names forwarded.

(6) The selection panel shall within seven days of the selection of candidates under subsection (5), forward the names of the selected candidates to the President for nomination.

(7) The President shall, within seven days of the receipt of the names of the selected candidates under subsection (6), nominate one candidate for appointment as the Auditor-General and forward the name to the National Assembly.

(8) The National Assembly shall consider the nomination and may approve or reject the nomination.

(9) Where the National Assembly—

(a) approves the nominee, the Speaker shall, within three days of the approval, forward the name of the approved nominee to the President for appointment;

(b) rejects the nomination, the speaker shall, within three days of the rejection, communicate the decision to the President, who shall submit a fresh nominee from amongst the candidates forwarded by the selection panel under subsection (6).

(10) If the National Assembly rejects all or any subsequent nominee submitted by the President for approval under subsection (9), the provisions of subsections (1) to (7) shall, with the necessary modifications, apply.

(11) The President shall, within seven days of the receipt of the approved nominee from the National Assembly, by notice in the Gazette, appoint the Auditor-General approved by the National Assembly.

(12) For the avoidance of doubt, the Public Service Commission shall only provide secretariat services for the selection panel convened under subsection (5).

(13) Despite the foregoing provisions of this section, the President may, by notice in the Gazette, extend the period specified in respect of any matter under this section by a period not exceeding twenty-one days.