

SPECIAL ISSUE

Kenya Gazette Supplement No. 190 (National Assembly Bills No. 43)



REPUBLIC OF KENYA

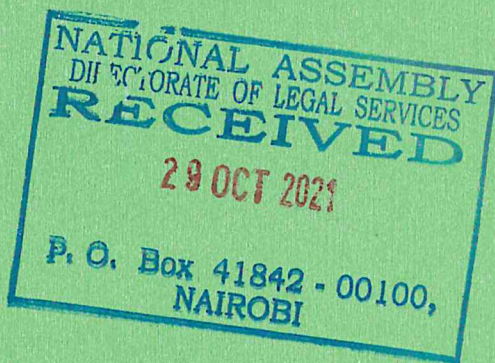
KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

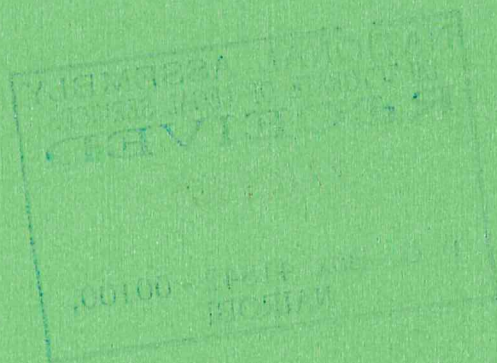
NAIROBI, 21st October, 2021

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THE ADVOCATES (AMENDMENT) BILL, 2021**A Bill for****AN ACT of Parliament to amend the Advocates Act**

ENACTED by the Parliament of Kenya, as follows—

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

Short title.

2. The Advocates Act (hereinafter referred to as the “principal Act”) is amended in section 12 (a) by inserting the words “Rwanda, Burundi” immediately after the word Kenya.

Amendment of section 12 of Cap. 16.

3. Section 13 (1) of the principal Act is amended by inserting the words “the High Court of Rwanda, the High Court of Burundi” immediately after the word “Uganda” appearing in paragraph (d).

Amendment of section 13 of Cap. 16.

MEMORANDUM OF OBJECTS AND REASONS

The Court of Appeal, vide *Appeal No. 96 of 2014 - Law Society of Kenya vs The Attorney General & 2 Others* on 27th September, 2019 struck down some sections of the Statute Law (Miscellaneous Amendments) Act, 2012 citing lack of public participation and the ongoing reform process. The sections that were struck down included amendments to sections 12 and 13 of the Advocates Act, Cap. 16 that allowed citizens of Rwanda and Burundi to be eligible for admission as advocates in Kenya. The objective of this Bill is, therefore, to amend the Advocates Act, Cap. 16 to allow the citizens of Burundi and Rwanda to be eligible for admission as an advocate in Kenya subject to them having the relevant professional and academic qualifications. This is in light of the fact that these countries are members of the East African Community and should be accorded equal treatment treatment as Uganda and Tanzania.

Clause 1 of the Bill provides for the short title.

Clause 2 of the Bill proposes to amend section 12 of the Advocates Act, Cap. 16 to include citizens of Rwanda and Burundi as being eligible for admission as an advocate in Kenya subject to them having the requisite professional and academic qualifications.

Clause 3 of the Bill proposes to include an advocate of the High Court of Rwanda and an advocate of the High Court of Burundi as being eligible for admission as an advocate in Kenya.

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

The Bill does not limit fundamental rights and freedoms.

Statement that the Bill 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 that 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 19th October, 2021.

MUTURI C. KIGANO,
*Chairperson, Departmental Committee
on Justice and Legal Affairs.*

Section 12 of the Advocates Act, Cap. 16 which it is proposed to amend-
Qualification for admission as advocate

Subject to this Act, no person shall be admitted as an advocate unless—

- (a) he is a citizen of Kenya, Rwanda, Burundi, Uganda or Tanzania¹; and
- (b) he is duly qualified in accordance with section 13.

Section 13 of the Advocates Act, Cap. 16 which it is proposed to amend-
Professional and academic qualifications

- (1) A person shall be duly qualified if—
 - (a) having passed the relevant examinations of any recognized university in Kenya he holds, or has become eligible for the conferment of, a degree in law of that university; or
 - (b) having passed the relevant examinations of such university, university college or other institution as the Council of Legal Education may from time to time approve, he holds, or has become eligible for conferment of, a degree in law in the grant of that university, university college or institution which the Council may in each particular case approve;
and thereafter both—
 - (i) he has attended as a pupil and received from an advocate of such class as may be prescribed, instruction in the proper business, practice and employment of an advocate, and has attended such course or tuition as may be prescribed for a period which in the aggregate including such instruction, does not exceed eighteen months; and
 - (ii) he has passed such examinations as the Council of Legal Education may prescribe; or
 - (c) he possesses any other qualifications which are acceptable to and recognized by the Council of Legal Education;

¹ The Court of Appeal, vide *Appeal No. 96 of 2014 (Law Society of Kenya vs The Attorney General & 2 Others)* on 27th September, 2019 *struck down* some sections of the Statute Law (Miscellaneous Amendments) Act, 2012 citing lack of public participation and the ongoing reform process. This included amendments to sections 12 and 13 of the Advocates Act, Cap. 16 that allowed citizens of Rwanda and Burundi to be eligible for admission as advocates in Kenya.

- (d) he is an Advocate for the time being of the High Court of Uganda, the High Court of Rwanda, the High Court of Burundi or the High Court of Tanzania²;
- (e) he is for the time being admitted as an advocate of the superior court of a country within the Commonwealth and—
 - (i) has practised as such in that country for a period of not less than five years; and
 - (ii) is a member in good standing of the relevant professional body in that country:

Provided that the Council may, in addition, require that a person to whom this paragraph applies undergo such training, for a period not exceeding three months, as the Council may prescribe for the purpose of adapting to the practice of law in Kenya.

(2) The Council of Legal Education may exempt any person from any or all of the requirements prescribed for the purposes of paragraph (i) or paragraph (ii) of subsection (1) upon such conditions, if any, as the Council may impose.

² Ibid.