

SPECIAL ISSUE

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SENATE BILLS, 2023

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**THE WILDLIFE CONSERVATION AND
MANAGEMENT (AMENDMENT) BILL, 2023**

A Bill for

**AN ACT of Parliament to amend the Wildlife
Conservation and Management Act; and for
connected purposes**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Wildlife Conservation and Management (Amendment) Act, 2023.

Short title.

2. The Wildlife Conservation and Management Act in this Act referred to as “the principal Act” is amended by deleting section 32 and substituting thereof the following new section —

Amendment of section 32 of No. 47 of 2013.

Declaration of national parks.

32. (1) The Cabinet Secretary may upon the recommendation of the Service and after consultation with the National Land Commission and following public consultation, by notice in the *Gazette*, declare—

- (a) any un-alienated public land; or
- (b) any land purchased or otherwise acquired by the Government to be a national park.

(2) The declaration in subsection (1) shall be submitted to the National Assembly and the Senate for approval before publication in the *Gazette*.

(3) All national parks shall be managed by the National Government in collaboration with the respective county government in accordance with the provisions of this Act.

(4) The National Government and the relevant county government shall enter into an intergovernmental agreement to facilitate—

- (a) effective management and administration of the national park;

(b) any other matter that will ensure effective management and administration of the national park.

(5) The intergovernmental agreement under subsection (4) shall be submitted to the National Assembly and the Senate for approval.

(6) The Cabinet Secretary shall, upon approval by Parliament publish the agreement in the *Gazette*.

3. Section 76 of the principal Act is amended by deleting subsection (1) and substituting thereof the following new subsection –

Amendment of section 76 of No. 47 of 2013.

(1) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation and the relevant county government formulate guidelines regarding incentives and benefit sharing and the nature and manner in which the same shall be distributed.

4. Section 119 of the principal Act is amended by inserting the following new subsection immediately after subsection (b) –

Amendment of section 119 of No. 47 of 2013.

(ba) any agreements regarding management and administration of national parks deemed to have been entered into shall remain in force until revoked in accordance with any terms set out in the agreements.

5. The Eleventh Schedule to the principal Act is amended –

Amendment of the eleventh schedule of No. 47 of 2013.

(a) in the table titled “National Parks (N.P.) by deleting item 6; and

(b) in the table titled “National Reserves (N.R.) by inserting the following new item immediately after item 28 –

28A. Amboseli N.R. 392

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

This Bill seeks to amend the Wildlife Conservation and Management Act, No. 47 of 2013 in order to enable the joint management and revenue-sharing of national parks between county governments hosting these parks and the National Government.

According to Article 186(1) of the Constitution and as per the provisions of the Fourth Schedule to the Constitution, county governments have a range of responsibilities, including overseeing cultural activities, public entertainment, and public amenities, such as county parks and recreation facilities. Paragraph 7 of the Fourth Schedule specifically mentions regulating local tourism as one of these functions. National parks due to their diverse wildlife species have consistently drawn both local and international tourists.

However, despite these parks being situated within counties, their management and operations currently fall under the jurisdiction of the National government. This arrangement contradicts the spirit of the Constitution and as a result, the host counties do not receive revenue generated from these national parks.

The proposed amendment seeks to remedy this situation by ensuring that host counties can share in the financial benefits and enjoy a more robust economic impact from these parks.

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 contains provisions that affect the functions and powers of the County Governments. The Fourth Schedule to the Constitution designates county parks and local tourism as devolved functions.

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 19th September, 2023.

LENKU OLE KANAR SEKI,
Senator.

Section 32 of No. 47 of 2013 which it is proposed to amend –

32. Declaration of a national park

(1) The Cabinet Secretary may, upon the recommendation of the Service, after consultation with the National Land Commission, and following proper public consultation, and with the approval of the National Assembly, by notice in the Gazette declare—

- (c) any un-alienated public land; or
- (d) any land purchased or otherwise acquired by the Government, to be a national park.

(2) Notwithstanding the provisions of subsection (2), a marine protected area shall adopt a system of zoning that caters for multiple use of marine resources for any or all of the following—

- (a) extraction or no extraction zones in respect of marine resources;
- (b) protection of nesting, breeding and foraging areas;
- (c) no take areas in respect of fisheries; and
- (d) areas that may be used by local vessels for passage;
- (e) any other purposes with respect to specified human activities within the zone.

(3) The Cabinet Secretary shall, on the recommendation of the Service, by notice in the Gazette, issue appropriate rules and regulations for the effective management of marine protected areas.

Section 76 of No. 47 of 2013 which it is proposed to amend –

76. Guidelines on incentives and benefit-sharing

(1) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation, formulate guidelines regarding incentives and benefit sharing, and the nature and manner in which the same shall be distributed.

(2) The Cabinet Secretary shall publish in the Gazette within twenty-one days of the formulation rules and regulations to govern the regime on incentives and benefits.

(3) The guidelines under this section shall be subjected to public scrutiny at every stage of their formulation within the framework of the laws on devolution and land management.

(4) The guidelines on benefit sharing shall comply with the minimum conditions that a minimum of five per cent of the benefits from national parks shall be allocated to local communities neighbouring a park.

(5) Subject to Article 66 of the Constitution, private investments in conservancies shall benefit local communities and investors shall provide such benefits by applying various options including infrastructure, education and social amenities.