



REPUBLIC OF KENYA

SENATE

SENATE BILLS

(Bill No. 1 of 2023)



THE TEA (AMENDMENT) BILL, 2023

(A Bill published in the Kenya *Gazette* Supplement No. 1 of 6th January, 2023 and passed by the Senate, with amendments, on Tuesday, 8th October, 2024)

THE TEA (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the Tea Act to provide for direct sales of tea, the payment of tea proceeds, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Tea (Amendment) Act, 2023.

Short title.

2. Section 2 of the Tea Act, in this Act referred to as “the principal Act”, is amended—

Amendment of section 2 of Cap 343

(a) by deleting the definition of the word “export” and substituting therefor the following new definition—

“export” means to take tea or cause tea to be taken out of Kenya into a foreign country, a Special Economic Zone or an Export Processing Zone;

(b) by deleting the definition of the word “import” and substituting therefor the following new definition—

“import” means to bring tea or cause tea to be brought into Kenya from a foreign country, a Special Economic Zone or an Export Processing Zone;

(c) in the definition of the word “tea” by deleting the word “tea” appearing immediately after the words “whether green” and substituting therefor the word “leaf”;

(d) in the definition of the word “value addition” by inserting the words “into a packet or a container holding not more than ten kilograms” appearing immediately after the word “branding”;

(e) by inserting the following new definitions in the proper alphabetical sequence—

“direct sales” means a contractual arrangement between a factory or its management agent and an overseas buyer or local buyer for the sale of made tea based on mutually accepted terms and conditions enforceable in law;

“direct settlement system” means a banking facility provided by a commercial bank regulated by the Central Bank of Kenya for the clearing and settlement of tea sales proceeds;

“green leaf” means leaf detached from tea plants but not dried or processed in any way and includes purple leaf”;
and

“tea factory limited company” means a tea factory collectively owned through shares by small scale tea growers or medium scale tea growers.

3. Section 5 of the principal Act is amended in paragraph (e) by deleting the words “commercial green leaf transporters,” appearing immediately after the words “commercial tea nurseries”.

Amendment of section
5 of no 23 of 2020

4. The principal Act is amended in section 7 by –

Amendment of section 7
of Cap 343

- (a) (i) deleting subsection 1(d);
- (ii) inserting the following new subsection immediately after subsection (1h)—
 - (ha) one person elected by the Independent Producers Association of Kenya.

(b) deleting subsection (2) and substituting therefor the following new subsection —

(2) The Cabinet Secretary shall appoint the members under subsection (1)(e), (f), (g), (h) and (ha) by notice in the *Gazette*.

(c) deleting subsection (3) and substituting therefor the following new subsection —

(3) The appointment of the chairperson or members of the Board under subsection (1)(a), (e), (f), (g), (h) and (ha) and shall take into account the gender, regional and other diversities of the people of Kenya.

5. The principal Act is amended in section 8 by —

Amendment of section 8
of Cap 343

(a) deleting subsection (1) and substituting therefor the following new subsection —

(1) The persons appointed under section 7(1)(a), (e), (f), (g), and (h), shall serve for a term of three years' renewable once on account of good performance.

(b) deleting subsection (2) and substituting therefor the following new subsection —

(2) The persons appointed under section 7(1)(a), (e), (f), (g), and (h) shall be appointed at different times so that their respective expiry of terms of office shall fall at different times but not more than six months shall lapse between one appointment and another.

6. Section 22 of the principal Act is amended in subsection (4) by inserting the word “factory” immediately after the words “their duties the”.

Amendment of section
22 of Cap 343

7. Section 23 of the principal Act is amended—

Amendment of section
23 of Cap 343

- (a) by inserting the following new subsection immediately after subsection (1) —

(1A) A large scale tea grower shall notify the Board of any intended sale or transfer of ownership of its holding six months before the transaction is effected.

- (b) in subsection (2) by inserting the words “procedure for transfer of large scale tea holdings” immediately after the words “providing for the”.

8. Section 31 of the principal Act is amended by inserting the following new subsection immediately after subsection (1) —

Amendment of Section
31 of Cap 343

(1A) All tea brought into a Special Economic Zone or an Export Processing Zone shall be declared to the Board in the prescribed form.

9. Section 34 of the principal Act is amended in subsection (4) by deleting the words “one point five per centum” appearing immediately after the words “shall not exceed” and substituting therefor the word “two per centum”

Amendment of Section
34 of Cap 343

10. Section 34 of the principal Act is amended in -

Amendment of Section
34 of Cap 343

(a) subsection (2) by deleting the words “limited company” appearing immediately after the words “each tea factory”;

(b) subsection (7) by inserting the words “limited company” immediately after the words “A tea factory”,

(c) subsection (8) by inserting the words “limited company” immediately after the words “tea factory”;

(d) subsection (9) by inserting the words “limited company” immediately after the words “tea factory”; and

- (e) subsection (10) by inserting the words “limited company” immediately after the words “tea factory”.

11. The principal Act is amended by inserting the following new sections immediately after section 34—

Insertion of new section
34A in Cap 343

Tea sales. **34A.** (1) Kenyan tea shall be traded through —

(a) the auction; or

(b) direct sales.

(2) All tea processed and manufactured in Kenya for the export market shall be registered with the Board prior to exportation.

12. Section 36 of the principal Act is amended —

Amendment of Section
36 of Cap 343

- (a) by deleting subsection (1) and substituting therefor the following new subsection —

(1) Tea processed and manufactured in Kenya for the export market may be offered for sale at the tea auction floor.

- (b) by deleting subsection (2) and substituting therefor the following new subsection —

(2) A tea factory that intends to participate in a tea auction shall —

(a) register with the Board and the auction organizer; and

(b) participate in the auction directly or through a management agent approved under section 34.

- (c) in subsection (5) by inserting the words “ and paid to the tea growers” immediately after the words “tea factory accounts”

- (d) by deleting subsection (6)

- (e) by inserting the following new subsection immediately after subsection (7) —

(8) The Cabinet Secretary shall, in consultation with the county governments prescribe regulations

for the procedure for auction sales of tea and for the establishment of auction centres in the tea growing counties.

13. The principal Act is amended by inserting the following new sections immediately after section 36 —

Insertion of new section
36A in Cap 343

Direct sales of tea.

36A. (1) A licensed factory or a management agent approved under section 34 may undertake direct sales.

(2) The prices offered at the direct sales shall be competitive and shall be sold at a price above the highest price recorded at the auction within the three months preceding the sale.

(3) The Cabinet Secretary shall, in consultation with county governments, prescribe regulations for the procedure of direct sales of tea.

14. Section 37 of the principal Act is amended—

Amendment of Section
37 of Cap 343

- (a) in subsection (1) by deleting the word “Board” appearing immediately after the words “register with the” and substituting therefor the words “respective county government”; and
- (b) by deleting subsection (3) and substituting therefore the following new subsection—

(3) A county Assembly shall enact county legislation to provide for the procedure for registration of commercial green leaf transporters and the appeal process in case of denial of registration.

15. Section 53 of the principal Act is amended by —

Amendment of Section
53 of Cap 343

- (a) inserting the following new subsection immediately after subsection (2)—

(2A) Specialty tea and value added tea packed into packets or containers holding not more than ten kilograms” shall be exempted from tea levy.

- (b) deleting subsection (5) and substituting therefor the following new subsection—

(5) The tea levy collected under subsection (2) shall be apportioned as follows —

(a) sixty per centum shall be applied by the Board in the furtherance or exercise of any function or power of the Board; and

(b) forty per centum shall be remitted directly to the Tea Research Foundation for execution of the function of the Foundation.

16. Section 74 of the principal Act is amended in subsection (1) by deleting the word “if” appearing immediately after the words “carrying out” and replacing with the word “of”.

Amendment of Section
74 of Cap 343

17. Section 76 of the principal Act is amended by –

Amendment of Section
76 of Cap 343

(a) numbering the existing provision as subsection (1); and


(b) inserting the following new subsection (2)—

(2) All assets of the former Tea Board of Kenya and the former Tea Research Foundation of Kenya which were vested in the Agriculture and Food Authority and Kenya Agricultural and Livestock Research Organization upon the commencement of the Crops Act and the Kenya Agricultural and Livestock Research Act shall by virtue of this paragraph vest in the Board and the Foundation respectively.”

Cap 318
Cap 319

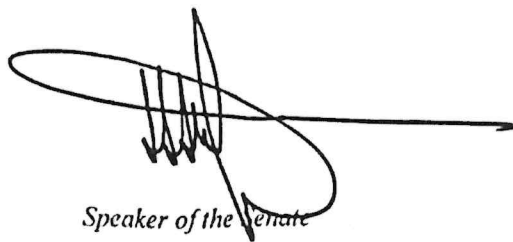
The Tea (Amendment) Bill, 2023

I certify that this printed impression is a true copy of the Bill as passed by the Senate on
Tuesday, 8th October, 2024.



Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of
standing order 161 of the Senate Standing Orders.



Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 17 of 2023)



**THE MATERNAL, NEWBORN AND CHILD HEALTH
BILL, 2023**

(A Bill published in the Kenya *Gazette* Supplement No. 63 of 5th May, 2023 and passed by the Senate, with amendments, on 8th October, 2024.)

THE MATERNAL, NEWBORN AND CHILD HEALTH BILL, 2023

ARRANGEMENT OF CLAUSES

PART 1— PRELIMINARY

Clause

- 1 — Short title.
- 2 — Interpretation.
- 3 — Objects.
- 4 — Principles for service delivery.

PART II — MATERNAL, NEWBORN AND CHILD HEALTH SERVICES

- 5 — Right to health services.
- 6 — Services for a non-pregnant woman.
- 7 — Services for pregnant woman.
- 8 — Services in the neonatal period and children up to twelve years.
- 9 — Services for women with special needs.
- 10 — Courteous treatment.
- 11 — Access to health services.

PART III— ROLE OF THE NATIONAL GOVERNMENT

- 12 — Role of the Cabinet Secretary.
- 13 — Report to Parliament.

PART IV—ROLE OF COUNTY GOVERNMENTS

- 14 — Functions of the county executive committee member.

- 15 — County government collaboration.
- 16 — Awareness and public participation.
- 17 — Publication of information on maternal, newborn and child health.
- 18 — Financing of maternal, newborn and child health services.
- 19 — Annual reporting by the county executive committee member.

PART V - MONITORING AND EVALUATION

- 20 — Identification and interventions for vulnerable groups.
- 21 — Monitoring and evaluation.
- 22 — Quality assurance.

PART VI — GENERAL PROVISIONS

- 23 — Maintenance of register.
- 24 — Procedures, standards, ethics and guidelines.
- 25 — Regulations.
- 26 — Amendment to section 226 of Cap. 63.
- 27 — Amendment to section 2 of Cap. 258A.
- 28 — Amendment to section 17 of Cap. 258A.

THE MATERNAL, NEWBORN AND CHILD HEALTH BILL, 2023

A Bill for

AN Act of Parliament to provide for a coordinated system for the provision of quality maternal, newborn and child health services; to provide for response to maternal and child morbidity and mortality in the country; to provide for a health care system that facilitates the attainment of health rights for mother and child; and for connected purposes.

ENACTED by Parliament of Kenya, as follows—

PART 1—PRELIMINARY

Short title.

1. This Act may be cited as the Maternal, Newborn and Child Health Act, 2023.

Interpretation.

2. In this Act —

“adolescent” means a person aged between ten and nineteen years;

“at risk persons” means a person susceptible to mistreatment or neglect because of their inability to obtain services necessary for their own health, safety or welfare due to age or disability;

“Cabinet Secretary” means the Cabinet Secretary responsible for health;

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“community health promoter” has the meaning assigned to it under section 2 of the Primary Health Care Act;

“consent” means the voluntary agreement by a patient to undergo a specific medical procedure or treatment after being fully informed of the risks, benefits, alternatives and potential outcomes;

“county executive committee member” means the county executive committee member responsible for health in the respective county;

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“child” has the meaning assigned to it under section 2 of the Children

Act;

Cap. 241. “health care provider” has the meaning assigned to it under section 2 of the Health Act;

“intersex child” means a child with a congenital condition in which the biological sex characteristics cannot be exclusively categorised in the common binary of female or male due to inherent and mixed anatomical patterns which could be apparent prior to, at birth or in childhood;

“intra partum care” means the correct diagnosis of child birth, appropriate examinations, screening for and management of childbirth and the complications during the period from the start of the childbirth to expulsion of the placenta;

“marginalised community” has the meaning assigned to it under Article 260 of the Constitution;

“maternal” means relating to, belonging to, or characteristic of the health of a woman during her pregnancy, childbirth and the period ending forty two days after childbirth;

Cap. 258A. “National Social Assistance Authority” means the National Social Assistance Authority established under section 3 of the Social Assistance Act;

“neonate” refers to a child from birth until twenty eight days of life;

“person with special needs” means an individual with additional health needs and who requires assistance above the regular health needs of the general population occasioned by physical, medical, mental, psychological or financial challenges and includes a person from a marginalised area, registered refugee and internally displaced person; and

“postpartum care” means the care and services offered to a mother immediately after childbirth and ending forty two days after delivery with a focus to promoting recuperation and ensuring restoration of health of the mother while preventing ill-health and includes the screening for and management of complications.

Objects.

3. The objects of this Act are to —

- (a) provide a framework for the delivery of comprehensive quality health services to meet the health needs of mothers, newborns and children;
- (b) establish a coordinated and structured system for the provision of quality maternal, newborn and child health care services;
- (c) provide a framework that is responsive to causes of maternal, newborn and child morbidity and mortality;
- (d) ensure that maternal, newborn and child health care interventions, services and supplies are available and accessible to the public;
- (e) establish programs to expand and improve availability and accessibility of maternal, newborn and child health services;
- (f) promote linkages among existing programs to expand and improve the availability of, and access to, comprehensive community maternal, newborn and child health services;
- (g) promote the provision of proper care and assistance to mothers, newborn children and children with special needs to become productive independent contributors to family and community life;
- (h) promote the utilisation of maternal, newborn and child health services; and
- (i) promote innovative, comprehensive and integrated approaches to the delivery of maternal, newborn and child health services.

Principles for
service delivery.

4. A person shall, in the performance of their functions under this Act, be guided by the following principles —

- (a) universal access and equity in the delivery of health services and the recognition of persons with special needs;
- (b) availability and access to services and timely and reliable

information necessary to make an informed decision regarding one's health and treatment;

- (c) coordinated public participation and collaboration between the National Government, county governments and the relevant stakeholders;
- (d) equity and inclusivity in the delivery of health services under this Act;
- (e) recognition of, and sensitivity towards, the cultures of various communities to ensure that interventions are adaptable and acceptable to the recipients;
- (f) transparency in the implementation of programmes and activities in the delivery of maternal, newborn and child health services;
- (g) targeted empowerment and capacity building initiatives for both at risk persons and persons with special needs through the implementation of State sponsored programmes;
- (h) access to safe and affordable family planning services for women and men including access to adequate information to enable them to make informed choices on family planning;
- (i) ensure that interventions are based on objective information and methods, and monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management and social audit and that the needs of the population are taken into account; and
- (j) continuous improvement and the monitoring and evaluation of policies, strategies and plans related to the provision of maternal, neonatal and child health services under this Act.

PART II — MATERNAL, NEWBORN AND CHILD HEALTH

SERVICES

Right to health services.

5. (1) Every person has the right to the highest attainable standard of maternal, newborn and child health services including the right to —

- (a) timely and appropriate health care;
- (b) reasonable and affordable fee, if any, for health services and which does not impede access to health care;
- (c) treatment with dignity, respect and privacy;
- (d) treatment with respect and the provision of information necessary to make informed decisions;
- (e) be free from non-consensual medical treatment and experimentation;
- (f) emergency treatment and essential medicines; and
- (g) the best attainable state of physical and mental health.

(2) The right to health shall include the progressive access to promotive, preventive, rehabilitative and curative care.

(3) For the enjoyment of the right to maternal, newborn and child health, the National and county governments shall —

- (a) respect, protect and fulfil the right to maternal, newborn and child health and guarantee mechanisms for its enforcement;
- (b) put in place mechanisms that ensure the availability of the infrastructure and facilities necessary to ensure the effective delivery of health services at the National and county levels of government;
- (c) put in place measures to facilitate access to maternal and child health services including access to health facilities, mobile health services and e-health services;
- (d) formulate and implement the family support programme

and other appropriate programmes targeting —

- (i) marginalised communities and those who are unable to access hospital facilities within the county; and
- (ii) at risk persons and persons with special needs requiring health services under this Act;
- (e) put in place strategies and the necessary facilities to ensure the continued effective delivery of maternal, newborn and child health services including in remote areas and during a pandemic or disaster;
- (f) ensure provision of specialized services and facilities for persons with special needs;
- (g) ensure the availability and adaptability of health care interventions to ensure that they are child friendly and sensitive to the cultural settings of the various communities;
- (h) train traditional birth attendants and integrate them in the delivery of prenatal, postpartum and neonatal health care;
- (i) monitor and evaluate strategies and programmes for the realisation of the right to be free from hunger and the right to adequate food; and
- (j) put in place the necessary structures to enable members of the public and the existing community health workforce to develop the understanding, skills and capacity necessary for achieving equitable and effective participation in the formulation, implementation and monitoring of any policies, strategies or programme interventions aimed at realizing the right to maternal, newborn and child health.

Services for a non-pregnant woman.

6. (1) A woman who is not pregnant is entitled to the following services that relate to the occurrence and course of future pregnancy—

- (a) family health education;

- (b) preconception care services, including hormonal profiling and the provision of prenatal vitamins, as may be prescribed from time to time;
- (c) appropriate counselling services as may be prescribed by the Cabinet Secretary;
- (d) health information and education; and
- (e) referral to adoption services that comply with Part XIV of the Children Act.

(2) The Cabinet Secretary may prescribe standards for the effective delivery of services regarding the safe occurrence of future pregnancy.

Services for pregnant woman.

7. (1) The Cabinet Secretary shall put in place measures to ensure access, by every pregnant woman, to health services aimed at ensuring optimal health conditions for the woman and every foetus throughout the pregnancy and after the birth of the child.

(2) The health services under subsection (1) shall include—

- (a) early detection of pregnancy;
- (b) free prenatal care as may be prescribed by the Cabinet Secretary;
- (c) referral to childbirth preparation classes as desired;
- (d) referral to adoption services at an adoption society registered under section 208 of the Children Act;
- (e) health care services in the intrapartum period;
- (f) health care services during the postpartum or postnatal period;
- (g) mental health care services from prenatal to twelve months after birth;
- (h) training in the feeding and care of infants including breastfeeding support practices; and

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- (i) any other services relating to prenatal, intrapartum and postpartum period that may be prescribed.

(3) The Cabinet Secretary may, for purposes of subsection (1), prescribe standards and guidelines for the provision of maternity health care services to pregnant women.

Services in the neonatal period and children up to twelve years.

8. (1) Every health care provider shall provide to a child from the time of birth to the age of twelve years —

- (a) comprehensive newborn care including postnatal follow up as may be prescribed;
- (b) health services that ensure child survival, growth and development including optimal child nutrition, childhood vaccination, growth promotion and monitoring, developmental promotion and monitoring and child protection services;
- (c) comprehensive assessment, diagnosis, treatment, rehabilitation or referral and follow-up as may be prescribed;
- (d) immunizations in accordance with the prescribed standards and guidelines;
- (e) assessment, counselling and anticipatory guidance with referrals and follow-up as needed regarding child development, behaviour counselling and support services that may be required by children with chronic illnesses or disability; and
- (f) any other essential health service that the Cabinet Secretary may prescribe.

(2) Where the child under subsection (1) is severely malformed at the time of birth, the health care provider may refer the child to a relevant medical practitioner for comprehensive assessment, diagnosis and treatment.

(3) Where the child under subsection (1) has special needs, the health care provider shall ensure that the child receives—

- (a) health care services, as may be prescribed, that are responsive to the needs of a child with the relevant special needs; and
- (b) respectful and dignified care.

(4) A health care provider shall not provide health care services to the child under subsection (1) unless the health care provider has obtained consent from the parent or guardian of the child.

(5) The consent under subsection (4) shall not be required where—

- (a) there is a documented report of child abuse by the parent or guardian who is required to provide consent;
- (b) the parent or guardian required to provide consent practises religious or cultural practices that risk the health of the child; or
- (c) the parent or guardian required to provide consent has been diagnosed with mental incapacity.

(6) The Cabinet Secretary shall—

- (a) prescribe standards for the delivery of the neonatal and child care services to the various categories of children up to the age of twelve years; and
- (b) prescribe guidelines and standards for the provision of the highest available standards of health services that are responsive to the needs of children with special needs.

(7) The Cabinet Secretary shall, in prescribing the standards under subsection (6), take into account the requirement for parental supervision and consent prior to provision of neonatal and child services.

(8) For purposes of this Act, a child with special needs includes a child with disability, a child with mental illness and a child in a marginalized area.

Services for women
with special needs.

9. (1) The Cabinet Secretary shall put in place mechanisms to ensure that women who are pregnant and who have special needs receive

- (a) appropriate pregnancy related services as may be prescribed;
- (b) maternal health services that are responsive to the needs of pregnant women with special needs;
- (c) diagnosis and treatment or referral and follow-up of mental health problems, both acute and chronic, including emotional and learning disorders, behavioural disorders, alcohol and drug related problems, and problems with family and peer group relationships;
- (d) in the case of pregnant adolescents—
 - (i) adolescent friendly health services; and
 - (ii) counselling and anticipatory guidance with referrals and follow-up of the adolescent woman or guardian as may be appropriate;
- (e) in the case of women with disability, disability friendly health services; and
- (f) respectful and dignified care.

(2) The Cabinet Secretary shall, for purposes of subsection (1), put in place strategies and plans to —

- (a) establish a referral network of community-based workers to provide support services to women who are pregnant and have special needs; and
- (b) facilitate capacity building of health care providers who serve women who are pregnant and who are at risk; and
- (c) ensure that persons with special needs have access to specialized facilities that accommodate their needs.

(3) The Cabinet Secretary shall put in place mechanisms to ensure that adolescents undergoing postpartum care receive counselling services to encourage them to maintain and care for their children.

(4) The Cabinet Secretary may prescribe guidelines and standards for the provision of the highest available standards of health services that are responsive to the needs of women with special needs.

Courteous treatment.

10. A person seeking maternal, newborn, and child health services in any health care facility is entitled to be treated with courtesy and respect irrespective of their race, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.

Access to health services.

11. The National Government and county governments shall, in respect of maternal, neonatal and child physical and mental health care, put in place measures to facilitate the provision of—

- (a) reasonable maternal, neonatal, and child health care services;
- (b) prenatal, intrapartum and postpartum health services;
- (c) emergency or ambulance services;
- (d) counselling services for pregnant women who intend or are considering not carrying their pregnancies to term;
- (e) post abortion health care services;
- (f) counselling services for adolescents undergoing postpartum care to encourage them to maintain and care for their children;
- (g) human resource for maternal, newborn, and child health services;
- (h) essential supplies, commodities and equipment for maternal, newborn, and child health services;
- (i) facilities that promote the safety of newborn children in

- health institutions;
- (j) lifesaving commodities for maternal, neonatal and child health services; and
- (k) the infrastructure necessary to support the delivery of basic and comprehensive emergency obstetric and neonatal care services.

PART III—ROLE OF THE NATIONAL GOVERNMENT

Role of the Cabinet.
Secretary.

12. The Cabinet Secretary shall, for the effective performance of the functions of the National Government under section 11 —

- (a) develop a comprehensive national policy, strategies and plan of action on maternal, newborn and child health care to promote the realisation of the right to health;
- (b) develop standards and guidelines for the effective delivery of specialised maternal, newborn and child health services to persons with special needs;
- (c) develop standards and guidelines for the effective delivery of maternal, newborn and child health care services in the country;
- (d) facilitate the coordination of various public institutions and stakeholders dealing with maternal, newborn and child health issues in the country in ensuring that adequate measures are put in place to ensure access to and the effective delivery of maternal, newborn and child health care services;
- (e) put in place the necessary infrastructure and collaborate with county governments in establishing and implementing an effective system of referral from one level of government to another;
- (f) ensure that all national referral health facilities that offer maternal health care designate resources within the respective facility for provision of physical and mental health care to women who have lost children

through stillbirth or during delivery;

- (g) facilitate the provision of mental health care to maternal women in national referral health facilities;
- (h) monitor and evaluate access to, and the implementation of, policies, plans and strategies on the effective delivery of maternal, newborn and child health care services at the National and county levels of government;
- (i) foster a multi-sectoral approach between the health and non-health sectors in ensuring access to maternal, newborn and child health care services and addressing factors that hinder the access to health services;
- (j) collaborate with county governments in establishing a database and e-health platform to facilitate the delivery of, and access to, health services by all persons requiring maternal, newborn and child health care services;
- (k) mobilize resources for the effective and efficient delivery of maternal, newborn and child health services;
- (l) ensure continuous public sensitisation and capacity building for efficient and effective delivery of maternal, newborn and child health services at the National and county levels;
- (m) in collaboration with county governments, facilitate the implementation of policies and strategies aimed at reducing maternal, newborn and child morbidity and mortality in the country including—
 - (i) public education campaigns on healthy pregnancies;
 - (ii) education programs for health care providers;
 - (iii) promotion of community support services for pregnant women; and

- (iv) promotion of physical, mental and behavioral health during and after pregnancy, including treatment for mental health disorders and substance use disorder;
- (n) undertake and facilitate research and health surveillance, and implement programmes for the continuous advancement and effective delivery of maternal, newborn and child health services;
- (o) periodically review standards, practices and guidelines in the delivery of maternal, newborn and child care services; and
- (p) perform any other functions that are necessary for the achievement of the objectives of this Act.

Report to Parliament.

13. (1) Within three months after the end of each financial year, the Cabinet Secretary shall prepare and submit to the National Assembly and the Senate an annual report on the status of maternal, newborn and child health services in Kenya.

(2) A report under subsection (1) shall include —

- (a) a description of the activities and interventions undertaken by the Ministry in respect of maternal, newborn and child health services;
- (b) recommendations on legal and administrative measures required to address specific concerns identified by the Ministry;
- (c) maternal and neonatal deaths recorded in each county with an analysis of root causes and recommended interventions to address the causes; and
- (d) such other information relating to its functions that the Ministry considers relevant.

(3) Where any recommendation contained in any previous report has not been implemented, the Cabinet Secretary shall report to Parliament on the reason for non-implementation and action to be taken to implement the recommendation.

(4) The Cabinet Secretary shall publish the report in the *Gazette* and in at least one newspaper with national circulation.

(5) The National Assembly or the Senate may at any time require the Cabinet Secretary to submit a report on a maternal, newborn and child health issue.

PART IV — ROLE OF COUNTY GOVERNMENTS

Functions of the
county executive
committee member.

14. Each county executive committee member shall—

- (a) coordinate the implementation of policy on maternal, newborn and child health care services in the county;
- (b) facilitate community engagement and accountability in the promotion and utilisation of maternal, newborn and child health services;
- (c) implement the policies and standards on maternal, newborn and child health in the county;
- (d) establish, in collaboration with the Cabinet Secretary, an e-health platform in the respective county for the effective delivery of maternal, newborn and child health care services in the county;
- (e) liaise with the National Social Assistance Authority established under the Social Assistance Act and such other entities as may be necessary for the identification of, and implementation of maternal, newborn and child health programs amongst, marginalised and vulnerable groups in the county;
- (f) formulate programmes and implement strategies aimed at reducing infant mortality rates and maternal mortality ratio in the county;
- (g) implement programmes for the acceleration of infant immunization;
- (h) develop and implement training programmes for skilled

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- and traditional birth attendants in the county;
- (i) develop and implement training programmes for the care of women with special needs for skilled and traditional birth attendants;
 - (j) put in place measures to facilitate training of health care providers in the provision of physical and mental health care services;
 - (k) ensure equitable access to maternal, newborn and child health services in the county and improve responsiveness to the needs of the mother and the child;
 - (l) ensure that all county health facilities that offer maternal health care designate resources within the respective facilities for the provision of physical and mental health care to women who have lost children through stillbirth or during delivery;
 - (m) put in place measure to facilitate the provision of mental health care to maternal women in county health facilities;
 - (n) ensure that there are sufficient ambulances to provide emergency prenatal, postpartum and neonatal evacuation services within the county;
 - (o) ensure that respective health facilities are accessible and can provide specialised care to persons with special needs;
 - (p) facilitate community engagement in the promotion and delivery of maternal, newborn and child health services in the county;
 - (q) avail and put in place measures to improve the quality of integrated maternal, newborn and child health services;
 - (r) promote best nutritional practices for mothers, newborns and children within the county and for this purpose, conduct sensitization programs on food and nutrition among pregnant and lactating mothers;
 - (s) facilitate the training of skilled health care providers in the

county in the provision physical and mental health care services; and

(t) perform such other functions that are necessary for the achievement of the objectives of this Act.

County government
collaboration.

15. The county executive committee member shall, for the effective delivery of maternal, newborn and child health services in the respective county, collaborate with the Cabinet Secretary and the relevant stakeholders including —

- (a) health care providers;
- (b) academic institutions;
- (c) community health promoters;
- (d) community based organisations; and
- (e) religious organisations.

Awareness and public
participation.

16. (1) The county executive committee member shall promote public awareness and community participation in the formulation and implementation of policies, strategies, plans and community programs on the provision of maternal, newborn and child health services.

(2) The county executive committee member shall, for purposes of subsection (1), —

- (a) develop the human resources in the field of maternal, newborn and child health services through education and training activities;
- (b) facilitate the participation of county and community health force in the provision of human resources development activities and improving the capability of the local community health workers in the provision of maternal, newborn and child health care services;
- (c) develop and implement public awareness and community participation campaigns targeting persons with special needs and informing them of their rights under the Act;
- (d) promote awareness of the rights under this Act and the bodies responsible for effecting and protecting the rights;

- (e) stimulate and direct the participation of professional associations and organizations in the field of maternal, newborn and child health care services;
- (f) promote the cooperation of health workers, community social workers and community health workers in the provision of maternal, newborn and child health care services;
- (g) monitor and evaluate the implementation and effectiveness of policies, strategies, programs and plans under this Act; and
- (h) ensure diversification in the conduct of maternal, newborn and child health care services and sensitization programmes to ensure the widest reach to women in the whole county.

Publication of
information on
maternal, newborn and
child health.

17. (1) The county executive committee member shall design civic education programmes and, using the most appropriate means, publish information regarding maternal, newborn and child health.

(2) The civic education programmes and information under subsection (1) shall include —

- (a) health complications occurring in new-borns and mothers and during pregnancy, labour, childbirth and the postnatal period;
- (b) causes of maternal, newborn and child morbidity and mortality and the danger signs;
- (c) emergency preparedness and complication readiness;
- (d) the unique health issues affecting infants born prematurely;
- (e) needs and proper care for premature babies including methods, vaccines and other preventative measures for protecting premature newborns from infectious diseases;
- (f) information on successful breastfeeding, weaning of infants

and nutritional needs of mothers, infants and children; and

- (g) the management of emotional, financial and other challenges experienced by parents and family members of premature infants and those with palliative care needs and information about community resources available for their support.

(3) The information under subsection (1) shall-

- (a) be easily accessible and published in an accessible format;
- (b) written in clear language to educate the public of maternal, newborn and child health issues across all residents of the county regardless of their socio-economic status;
- (c) contain disaggregated data distinguishing between minors from adults; and
- (d) where necessary, be translated to the respective local languages and disseminated to media outlets and in outreach programmes that cater to illiterate people within the county.

(4) In determining the information that is most beneficial to the public, the county executive committee member may consult with maternal, newborn and child health service health care providers, community organizations and other relevant experts.

(5) The county executive committee member shall ensure that the information is accessible to children's health providers, maternal care providers, hospitals, public health departments and medical organizations within the county.

Financing of maternal, newborn and child health services.

18. Every county government shall, in its annual budget, allocate sufficient funds for the provision of maternal, newborn and child health services in the county.

Annual reporting by the county executive committee member.

19. (1) Within three months of the close of every financial year, the county executive committee member shall submit to the county

assembly, a report on the status of maternal, newborn and child health services in county.

(2) The report shall contain —

- (a) a report on funding of maternal, newborn and child health services in the county;
- (b) the availability and state of health facilities, medications and supplements relating to maternal, newborn and child health services in the county;
- (c) the number of health care providers in respective health facilities within the county and measures taken to enhance their number;
- (d) maternal and neonatal deaths recorded in each county facility with an analysis of root causes and recommended interventions to address the causes;
- (e) recommendations on specific actions to be taken in enhancing access to quality maternal, newborn and child health services in the county; and
- (f) any other information relating to maternal, newborn and child health services.

(3) Where any recommendations contained in any previous report submitted under subsection (1) have not been implemented, the county executive committee member shall report to the county assembly the reasons for non-implementation and action to be taken to implement those recommendations.

(4) The county executive committee shall publish the report in the county *Gazette* and in such other media necessary for the widest dissemination of the report within the county.

(5) The county assembly may at any time require the county executive committee member to submit a report on a particular issue.

(6) The county executive member shall submit the report under subsection (1) to the Cabinet Secretary within three months of the close of every financial year.

PART V - MONITORING AND EVALUATION

Identification and interventions for vulnerable groups.

20. (1) Each county executive committee member shall identify vulnerable and marginalised communities in the respective county to —

- (a) identify the unique needs of the identified persons;
- (b) determine the gaps that exist in the provision of health services to the marginalised and vulnerable persons in the county;
- (c) formulate the most appropriate interventions necessary to address the needs identified under paragraph (a);
- (d) establish a mechanism to ensure continuous service delivery of maternal, newborn and child health services during a pandemic to the identified persons; and
- (e) generate the information necessary to develop and strengthen the capacity of health workers in the county to respond and address the health needs of vulnerable and marginalised persons under this Act.

(2) In performing the functions under subsection (1), the county executive committee member shall —

- (a) collaborate with the Cabinet Secretary and the Cabinet Secretary responsible for social development;
- (b) systematically undertake disaggregated analysis on the existing gaps in the delivery of maternal, newborn and child health services, the levels of need and vulnerability of different groups in the county, with particular attention to assessing any form of discrimination that may manifest itself in lack of access to or marginalization in the delivery of health services among specific population groups;
- (c) develop and identify corrective measures for the purpose of addressing and preventing causes of poor health amongst pregnant women, newborns, lactating women and children

under this Act;

- (d) establish systems to ensure the feedback of information in such formats as it may consider appropriate on the delivery of health services under this Act to priority groups at the national, county and community level through the appropriate media;
- (e) establish risk management and vulnerability mapping systems;
- (f) establish and coordinate sector specific roles and mandates related to vulnerability and emergency response; and
- (g) undertake a baseline and impact assessment at all levels of governance to guide vulnerability and emergency response.

Monitoring and
evaluation.

21. (1) The Cabinet Secretary shall undertake annual monitoring and evaluation —

- (a) of the services rendered in the maternal, newborn and child health services in the country; and
- (b) the implementation of and adherence to the standards and guidelines issued under this Act.

(2) In addition to the monitoring and evaluation under subsection (1), the Cabinet Secretary shall, in collaboration with the Kenya National Bureau of Statistics, undertake —

- (a) a quarterly inquiry into maternal, neonatal and child deaths;
- (b) quarterly national maternal mortality data collection and surveillance to identify and address pregnancy-associated deaths and pregnancy-related deaths that occur during, or within one year following, pregnancy;
- (c) in each quarter, the collection and analysis of data on neonatal and child mortality, identify and put in place measures to address the causes for neonatal and child deaths;

(d) studies to identify the determinants of disparities in maternal care, neonatal and child health care, health risks and health outcomes; and

(e) the identification of groups of women with disproportionately high rates of maternal morbidity and mortality due to lack of access to maternal health care services and develop strategies for the reduction of maternal morbidity and mortality in such groups.

(3) The Cabinet Secretary shall ensure that the data collected under subsection (2) is disaggregated to clearly distinguish between minors and adults.

(4) The Cabinet Secretary shall prescribe the procedure and requirements for undertaking the monitoring and evaluation process.

Quality assurance.

22. (1) The Cabinet Secretary shall ensure the implementation and adherence to standards and guidelines on quality in maternal, newborn and child health services in hospitals, institutions or at any facility offering maternal, newborn and child health services both at the national and county level in accordance with the national standards and guidelines.

(2) The Cabinet Secretary shall undertake continuous review of the standards and guidelines under subsection (1).

PART VI— GENERAL PROVISIONS

Maintenance of register.

23. (1) Every hospital or approved health facility shall maintain a register, in a prescribed form, for recording the details of the maternal, newborn and childcare cases reported and dealt with in the hospital or facility.

(2) The Cabinet Secretary shall make regulations on the form of the register to be kept and maintained under subsection (1).

Procedures, standards, ethics and guidelines.

24. (1) Any person, hospital, institution or health facility offering maternal, newborn and child health care services shall adhere to procedures, standards, code of ethics and guidelines as may be prescribed under this Act or any other written law.

(2) A person offering maternal, newborn and child health care

services who knowingly contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding two years or to both.

(3) The county executive committee member, the Kenya Medical Practitioners and Dentists Council, the Clinical Officers Council, the Nursing Council of Kenya and the Kenya Health Professions Oversight Authority shall, where they suspect a person to have committed an offence under subsection (2), refer the matter to the Directorate of Criminal Investigations for investigation.

(4) A hospital, institution or health facility offering maternal, newborn and child health care services which knowingly contravenes subsection (1) commits an offence and the members of its governing body are jointly and severally liable, on conviction, to a fine not exceeding one million shillings or to a term of imprisonment not exceeding two years or to both.

Regulations.

25. (1) The Cabinet Secretary, in consultation with the Council of County Governors and other relevant stakeholders, may make regulations for the better carrying out of this Act.

(2) Without prejudice to the generality of subsection (1), the cabinet secretary may, by regulations, prescribe minimum standards for —

- (a) the establishment of maternal, newborn and child health care premises and facilities;
- (b) notification, response and reporting of maternal and neonatal deaths;
- (c) the delivery of programmes of maternal, newborn and child health services;
- (d) staffing in maternal, newborn and child health care facilities;
- (e) maternal, newborn and child health care, health and safety;
- (f) prenatal health services;
- (g) prenatal, postpartum and neonatal counselling health services;

- (h) prenatal, postpartum and neonatal check-ups and follow-ups;
- (i) referral of persons in prenatal, postpartum and neonatal care to referral health facilities; and
- (j) the records to be kept by hospitals and other facilities offering maternal, newborn and child health services.

(3) For the purposes of Article 94(6) of the Constitution —

- (a) the authority of the Cabinet Secretary to make regulations is limited to bringing into effect the provisions of this Act and the fulfilment of the objects specified under section 3 of this Act; and
- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, in relation to subsidiary legislation shall apply to regulations made under this Act.

Cap. 2.
Cap. 2A.

Amendment to section
226 of Cap. 63.

26. Section 226 of the Penal Code is amended by renumbering the existing provision as subsection (1) and inserting the following new subsection after the renumbered subsection (1)—

(2) Subsection (1) shall not apply to a woman undergoing postpartum care under the Maternal, Newborn and Child Health Act.

Amendment to section
2 of Cap. 258A.

27. Section 2 of the Social Assistance Act is amended in the definition of the term “social assistance” by inserting the following new paragraph immediately after paragraph (d)—

(da) care and welfare of children;


Amendment to section
17 of Cap. 258A.

28. Section 17 of the Social Assistance Act is amended in subsection (3) by inserting the following new paragraph immediately after paragraph (b)—

(ba) poor women caring for their children;

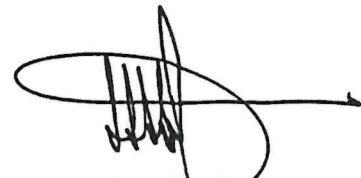
The Maternal, Newborn and Child Health Bill, 2023

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 8th October, 2024.



Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 161 of the Senate Standing Orders.



Speaker of the Senate

PRINTED BY THE CLERK OF THE SENATE

