

SPECIAL ISSUE

Kenya Gazette Supplement No. 135 (National Assembly Bills No. 38)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2025

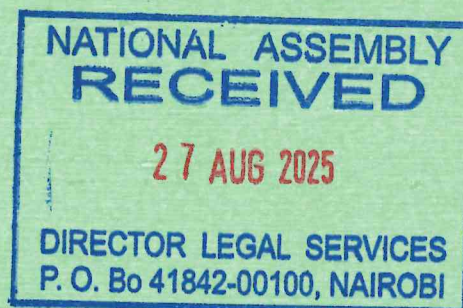
NAIROBI, 8th August, 2025

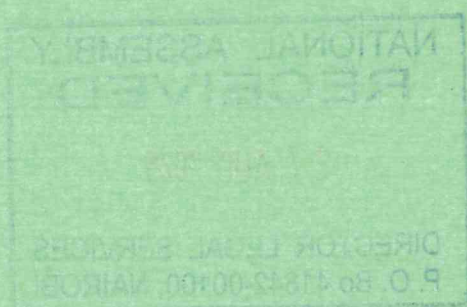
CONTENT

Bill for Introduction into the National Assembly —

PAGE

The Forest Conservation and Management (Amendment) Bill, 2025 849





THE FOREST CONSERVATION AND MANAGEMENT (AMENDMENT) BILL, 2025

A Bill for

AN ACT of Parliament to amend the Forest Conservation and Management Act and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Forest Conservation and Management (Amendment) Act, 2025.

Short title.

2. The Forest Conservation and Management Act, (in this Act referred to as “the principal Act”), is amended in section 2—

Amendment of section 2 of Cap. 385.

(a) in the definition of “indigenous forest” by inserting the words “and includes mangroves and native bamboo” immediately after the word “Kenya”;

(b) in the definition of “Institute” by deleting the words “the Science, Technology and Innovation Act” and substituting therefor the following “section 29F”;

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

“agro-silvopastoralism” means a production activity that combines pastoralism and agriculture in a partially wooded environment;

“allied natural resources” means natural resources associated with forestry including, water, soil, fauna and flora, air, minerals and non-wood forest products;

“biodiversity hotspot” means a unique habitat with rare and diverse animals, organisms and endangered species, which is under threat of extinction;

“forest carbon” means the amount of carbon absorbed and stored by trees and other plants in a forest;

“Director-General” means the Director General of the Institute appointed under section 29S;

“ecosystem services” shall include provisioning services, regulating services, cultural services, supporting

services fundamental ecosystem processes, carbon storage, water cycle regulation and habitat for biodiversity;

“forest certification” means a voluntary process where an independent third party assesses the quality of forest management and production against set standards;

“forest cover” means an area of land covering a minimum of zero point five hectares, with trees of at least two meters in height and a canopy density of at least fifteen percent;

“forest reference level” means the benchmark for emissions from deforestation and forest degradation and removals from sustainable management of forests and enhancement of forest carbon stocks;

“forestry technology” means the traditional and modern tools and techniques applied in the management of forests and forest resources;

“lead agency” means a national government entity, county government or any other entity in which any written law vests functions of control or management or any element of forest resources;

“natural capital accounting” means a process of calculating the total stocks and flows of natural resources and services in a given ecosystem or region;

“participatory forest management” means a forest management approach which deliberately involves the forest adjacent communities and other stakeholders in the management of forests within a framework that contributes to communities’ livelihoods;

“payment for ecosystem services” means incentives offered to owners or managers of ecosystem resources in exchange for managing their resources for the provision of ecological services by beneficiaries;

“tree canopy cover” means an area covered by canopy expressed in square feet or as a percentage of the area of a track of land;

“Reduced Emissions from Deforestation and Forest Degradation” has the meaning assigned to it under section 2 of the Climate Change Act;

“watershed” means an elevated area from which rivers flow into different basins;

“water tower” means an area that acts as a receptacle for rainwater and that stores water in the aquifers underneath it and gradually releases the water to the springs emanating from it.

3. Section 4 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (d)—

Amendment of section 4 of Cap. 385.

“(da) promotion of efficient water harvesting and management technologies for tree growing in dryland areas.”

4. Section 7 of the principal Act is amended by inserting the following new subsections immediately after subsection (1) —

Amendment of section 7 of Cap. 385.

(1A) The headquarters of the Service shall be in Nairobi.

(1B) The Service may establish such other offices in Kenya to ensure reasonable access of its services.

5. Section 8 of the principal Act is amended by inserting the following new paragraphs immediately after paragraph (n)—

Amendment of section 8 of Cap. 385.

(na) collect revenue and charges due to national government in regard to forest resources and services in accordance with the Public Finance Management Act;

(nb) provide security for public and provisional forests;

(nc) provide technical assistance to the county governments and individual owners of private land in the development of agroforestry and commercial forestry in private land and community land, respectively.

6. Section 16 of the principal Act is amended by—

Amendment of section 16 of Cap. 385.

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

(1) The Cabinet Secretary may, on the advice of the Service, designate a specific cadre of the staff of the Service to be uniformed and disciplined officers of such ranks as shall be determined by the Service with the approval of the Cabinet Secretary.

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

(4) The staff designated under subsection (1) shall undergo law enforcement and security training in an institution recognized by the Board.

(5) A person designated under subsection (1) shall take and subscribe to the Oath of Allegiance as set out in the Fourth Schedule.

7. The principal Act is amended by inserting the following new section immediately after section 17—

Insertion of a new section into Cap. 385.

Establishment of the Kenya Forest Academy.

17A. (1) There is established an academy to be known as the Kenya Forest Academy, which shall be an institution within the Service.

(2) The Kenya Forest Academy shall provide training for officers of the Service.

(3) The Board shall formulate policies for the administration and management of the Academy.

8. Section 21 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (d)—

Amendment of section 21 of Cap. 385.

(da) shall implement national policies on forest management and conservation.

9. Section 22 of the principal Act is amended in subsection (1) by deleting the words “as established under the Science, Technology and Innovation Act (Cap.511),”.

Amendment of section 22 of Cap. 385.

10. The principal Act is amended by inserting the following new Parts immediately after section 29—

Insertion of new Parts into Cap. 385.

PART IIIA— DIRECTOR OF FOREST REGULATION

Director of Forest Regulation.

29A. (1) There is established the Office of the Director of Forest Regulation which shall be an office in the public service.

(2) The Director shall be competitively recruited and appointed by the Public Service Commission.

Functions of the
Director.

29B. The Director shall perform the following functions—

- (a) in consultation with the lead agencies, advise the Ministry on national standards, procedures and guidelines for participatory forest management, and use of forests, commercial forestry, forest products and services and traceability of forest products and services;
- (b) inspect, monitor and advise the Ministry on the management and use of forest resources and the enforcement of and compliance with this Act, regulations, standards, procedures, and guidelines made under this Act;
- (c) receive complaints and concerns arising in the forestry sector and advise the Ministry on recommendations to the concerned organs for corrective action;
- (d) develop and advise the Ministry on certification standards for tree nurseries, forests and forest products in consultation with the lead agencies;
- (e) develop and advise the Ministry on a framework for stakeholder coordination for sustainable management of forests;
- (f) establish and maintain a national forestry registry which shall be linked to the Reduced Emissions from Deforestation and Forest Degradation Carbon registry

established under section 23G of the Climate Change Act and advise the Ministry on guidelines for data sharing in accordance with the Act and any other written law;

- (g) receive and analyse annual reports on licenses, permits, leases and concessions to forest resources issued in relation to—
 - (i) building of dams;
 - (ii) infrastructural projects including water pans, roads, pipelines, ports, electricity sub-stations or lines, base transceiver stations or masts;
 - (iii) concessions on forests;
 - (iv) large tourism projects with a value exceeding twenty million shillings;
 - (v) development of public institutions including showgrounds, schools, hospitals, police stations and other institutions including churches; and
 - (vi) forest carbon projects;
- (h) monitor the implementation of national forest resource valuations and assessments in consultation with other lead agencies advise the Ministry accordingly;
- (i) develop and advise the ministry on strategies for the achievement and maintenance of at least ten per centum of tree and forest cover over the land area of Kenya;
- (j) monitor implementation of the payment for ecosystem services,

benefit sharing mechanisms and incentives within the forest sector and advise the Ministry accordingly;

- (k) undertake the registration and licensing of forest certification experts and timber graders;
- (l) establish and maintain the National Safeguards Information System;
- (m) prepare annual reports on compliance within the forestry sector by sector players with the regulatory requirements; and
- (n) perform such other functions incidental or consequential to the Director's functions under this Act or any other written law or as assigned by the Cabinet Secretary.

Establishment and maintenance of registers.

29C. (1) The Director shall maintain a register that shall contain details of—

- (a) any standards, procedures and guidelines developed under this Act;
- (b) information on licences, permits and concessions; and
- (c) registered and licenced professionals in the forestry sector.

(2) A register maintained under this section shall be open for inspection by the members of the public at the office of the Director.

Certification.

29D. (1) A forest certification required under this Act shall be undertaken by experts registered and licensed by the Director.

(2) Any person undertaking certification contrary to the provisions of this Act commits an offence and shall upon

conviction be liable to a fine not exceeding one million shilling or imprisonment of one year, or both such a fine and imprisonment.

Registration, etc of
timber graders.

29E. (1) A person shall not undertake timber grading unless the person is registered and licenced by the Director to undertake timber grading.

(2) Any person undertaking timber grading contrary to the provisions of this Act commits an offence and shall upon conviction be liable to a fine not exceeding one million shilling or imprisonment of one year, or both such a fine and imprisonment.

PART IIIB—KENYA FORESTRY RESEARCH INSTITUTE

Establishment of the
Kenya Forestry
Research Institute.
Cap. 511.

29F. There is established an institute to be known as the Kenya Forestry Research Institute, which shall be a successor of the Kenya Forestry Research Institute specified under paragraph 2 of the Fourth Schedule to the Science Technology and Innovation Act.

Headquarters of the
Institute.

29G. (1) The headquarters of the Institute shall be in Kiambu County.

(2) The Institute may establish research centres, innovation and incubation hubs within the counties and agro-ecological zones in Kenya.

(3) The Institute shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and

Functions of the
Institute.

- (e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

29H. (1) The Institute shall be the lead government agency in forestry research and development and shall, in relation to forestry and allied natural resources —

- (a) develop research and development programmes and technologies for the sustainable development of forestry and allied natural resources;
- (b) conduct national and regional expert training courses in forestry and allied natural resources;
- (c) disseminate research findings to support forestry development in the country; and
- (d) establish partnerships and cooperate with other research organisations and institutions of higher learning in joint research and training.

(2) Without prejudice to the generality of subsection (1), the Institute shall —

- (a) participate in the development and monitoring of national forest standards;
- (b) develop technologies for improved germplasm, tissue culture, biotechnology and provide quality tree seeds and seedlings;
- (c) develop forestry technologies and products for sustainable development;
- (d) develop and promote technologies for upscaling commercial forestry and agroforestry;

- (e) maintain a database for scientific and forestry research information;
- (f) develop standards on matters related to forestry research and development;
- (g) assess, map, control and develop procedures for the control of invasive species;
- (h) develop technologies and procedures for monitoring of forest health and biodiversity status;
- (i) conduct research, develop models and procedures for forest carbon estimation and quantification in collaboration with relevant stakeholders;
- (j) develop certification standards for tree seeds in collaboration with the Kenya Plant Health Inspectorate Service;
- (k) undertake tree seed production;
- (l) undertake policy research in forestry and allied natural resources;
- (m) develop guidelines on forest and tree valuation;
- (n) provide advisory services on commercial forestry and agroforestry investment to enhance adoption and upscaling;
- (o) undertake forest forensic research and development;
- (p) develop protocols and procedures for development of forest-based food and medicinal products;
- (q) transfer of scientific knowledge and appropriate forest-based technologies for the improvement

of their livelihoods of communities;

- (r) develop technologies to upscale sustainable utilization of non-wood forest products as nature-based solutions in drylands;
- (s) develop forest carbon trading models under agroforestry and commercial forestry systems;
- (t) develop models and methodologies of forest carbon quantification, financing and marketing;
- (u) report biennially to the Cabinet Secretary on matters related to forestry research and development ; and
- (v) perform such other functions as may be conferred to it by this Act or any other written law.

(3) The Institute, in consultation with the ministry responsible for matters related to education, may establish a forestry research graduate school, to facilitate research components of masters and doctorate levels academic programmes on forestry and allied natural resources.

Board of the Institute.

291. The management of the Institute shall vest in a Board of the Institute which shall consist of—

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary responsible for matters relating to forestry research or a representative appointed in writing;
- (c) the Principal Secretary responsible for matters relating to finance or a representative appointed in writing;
- (d) the Attorney-General or a representative appointed in writing;

- (e) the Chief Conservator of Forests of the Kenya Forest Service or a representative appointed in writing;
- (f) the Director-General of the National Commission for Science, Technology and Innovation or a representative appointed in writing;
- (g) four other persons, not being public officers, with skills relevant to the Institute's functions, appointed by the Cabinet Secretary; and
- (h) the Director-General, who shall be an ex-officio member of the Board with no right to vote.

Qualifications for
appointment as a
member of the Board

29J. (1) A person is qualified for appointment under subsection 29I (a) and (g) if that person—

- (a) has a degree in a relevant field from a university recognised in Kenya;
- (b) has proven management or other relevant professional experience;
- (c) has served in a senior management position for at least six years; and
- (d) meets the requirements of Chapter Six of the Constitution.

(2) The appointment of the Chairperson and members of the Board of the Institute shall be by name and by notice in the *Gazette*.

Tenure of office.

29K. (1) The chairperson and member of the Board appointed under section 29I (g) shall hold office for a term of three years and shall be eligible for reappointment for one other term of three years.

(2) The members of the Board shall be appointed at different times so that their terms of office expire at different intervals.

Remuneration of
members of the
Board.

29L. A member of the Board of the Institute shall be paid such allowances or

other remuneration as the Cabinet Secretary may, on the advice of the Salaries and Remuneration Commission, determine.

Vacancy.

29M. (1) The office of the chairperson or member of the Board of the Institute shall become vacant if the holder—

- (a) dies;
- (b) is absent from three consecutive meetings of the Board of the Institute without reasonable cause;
- (c) resigns from office by notice in writing addressed to the appointing authority;
- (d) is unable to perform the functions of the office arising out of physical or mental infirmity;
- (e) is negligent or incompetent in the performance of his or her functions;
- (f) is adjudged or otherwise declared bankrupt by a competent court;
- (g) violates Chapter Six of the Constitution; or
- (h) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months.

(2) Where a vacancy occurs in the membership of the Board of the Institute under subsection (1), the appointing authority shall appoint a new member in accordance with the provisions of this Act.

Functions of the
Board of the Institute.

29N. The Board of the Institute shall—

- (a) review, approve and oversee the implementation of research programs, strategies, policies and plans of the Institute;
- (b) consider and approve the budget of the Institute;

- (c) facilitate the mobilisation of resources for the Institute.
- (d) approve the organisational structure and other human resources management policies, guidelines, procedures and manuals of the Institute;
- (e) monitor and evaluate the performance and ensure the sustainability of the Institute;
- (f) formulate policies for the administration and management of the graduate school;
- (g) enhance the corporate image of the Institute and ensure effective communication with stakeholders; and
- (h) carry out any other function for the purposes of promoting and facilitating the objects of the Institute.

Powers of the Board
of the Institute.

290. The Board of the Institute shall have all the powers necessary for the proper performance of the functions of the Institute and, in particular, the Board shall have the powers to—

- (a) acquire immovable and movable property and funds of the Institute in a manner and for the purposes which shall promote the interests of the Institute;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Institute;
- (c) receive on behalf of the Institute, fees, donations, endowments, gifts, grants or other moneys and make disbursements therefrom in accordance with the law;

(d) invest any moneys of the Institute not immediately required in furtherance of its objects; and

(e) do any other thing which is necessary or convenient to be done in connection with or incidental to its functions.

Procedure of the
Board of the Institute.

29P. (1) The business and affairs of the Board of the Institute shall be conducted in accordance with the First Schedule.

(2) Notwithstanding subsection (1), the Board may regulate its own procedure.

Delegation by the
Board of the Institute.

29Q. The Board of the Institute may, by resolution, either generally or in any particular case, delegate to any committee of the Board of the Institute or to any member, officer, or employee of the Institute, exercise of any of its powers or the performance of any of its functions.

Committees of the
Board of the Institute.

29R. (1) The Board of the Institute may, establish committees for the effective discharge of its functions.

(2) The Board of the Institute may, by resolution, either generally or in any particular case, delegate to a committee of the Board the exercise of any of the powers or the performance of any of the functions or duties of the Board of the Institute.

(3) The Board of the Institute may co-opt into the membership of a committee established under subsection (1), any person whose knowledge and skills are considered necessary for the effective discharge of the functions of the Institute for a specified period of time.

(4) Subject to any specific or general direction of the Board, any committee established under subsection (1) may regulate its own procedure.

(5) Any person co-opted into a committee under subsection (3) may attend the meetings of the committee and participate in its deliberations, but shall not vote at such meeting.

Director-General.

29S. (1) There shall be a Director-General of the Institute who shall be competitively recruited and appointed by the Board of the Institute.

(2) A person qualifies for appointment as the Director-General, if that person—

- (a) possesses a Doctorate degree in a relevant field from a university recognized in Kenya;
- (b) has at least ten years' professional experience in matters related to forestry sector, five of which shall be at a senior management level;
- (c) is a member of a relevant professional body in good standing; and
- (d) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be responsible to the Board for—

- (a) implementation of the decisions of the Board;
- (b) the day-to-day management of the Institute;
- (c) overall responsibility for the objectives, policy direction, administration and programs of the Institute;
- (d) preparation of the strategic plan, annual plan, budget and audited accounts of the Institute for the approval of the Board; and
- (e) perform such other duties as may be assigned by the Board.

(4) The Director-General shall hold office for a term of three years, and shall be eligible for re-appointment for one further term of three years.

(5) The Director-General may be removed from office for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) incompetence or negligence of duty; or
- (d) any other ground that would justify the removal from office under the terms and conditions of service and under any written law.

(6) Where the question of the removal of the Director-General under subsection (5) arises, the Board of the Institute shall—

- (a) inform the Director General in writing of the reasons for the intended removal; and
- (b) give the Director-General the opportunity to be heard in accordance with the principles of fair administrative action prescribed under Article 47 of the Constitution and the Fair Administrative Action Act.

Cap. 7L.

Corporation
Secretary.

29T. (1) There shall be a Corporation Secretary who shall be appointed by the Board of the Institute on such terms as the Board may, on the advice of the Salaries and Remuneration Commission, determine.

(2) A person qualifies for appointment as the Corporation Secretary if that person—

- (a) holds a degree in law from a university recognized in Kenya;

(b) has at least five years' experience as a corporation secretary or a similar governance role;

(c) is a member in good standing of the Institute of Certified Public Secretaries of Kenya; and

(d) meets the requirements of Chapter Six of the Constitution.

(3) The Corporation Secretary shall, subject to the direction of the Board —

(a) assist the members of the Board in their duties and responsibilities;

(b) ensure the timely preparation and circulation of documents and minutes of the Board;

(c) be the custodian of the seal of the Institute and account to the Board for its use;

(d) ensure that members of the Board are aware of all relevant laws affecting the Institute;

(e) except in exceptional circumstances, ensure that Board papers are circulated in advance of any meeting; and

(f) perform any other function that may be assigned by the Board.

Officers and staff of the Institute.

29U. The Board of the Institute may appoint such officers and other staff of the Institute as are necessary for the proper and effective performance of the functions of the Institute, upon such terms and conditions of service as the Board of the Institute, on the recommendation of the Salaries and Remuneration Commission, may determine.

Protection from personal liability.

29V. Nothing done by a member of the Board of the Institute or by any person working under the instructions of the Board

shall, if done in good faith for the purpose of executing the powers, functions or duties of the Institute under the Constitution or this Act, render such member or officer personally liable for any action, claim or demand.

Funds of the Institute.

29W. The funds of the Institute shall include—

- (a) such sums as may be appropriated by Parliament for the purposes of the Institute;
- (b) such monies as may accrue or vest in the Institute in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
- (c) gifts, grants or donations made to the Institute; and
- (d) such amounts from any public funds that may be created by law for the purposes of the promotion of any and all of the objects and functions of the Institute.

Annual estimates for the Institute.

29X. (1) At least two months before the end of each financial year, the Board of the Institute shall cause to be prepared estimates of the revenue and expenditure of the Institute for that financial year.

(2) The annual estimates shall make provision for all estimated expenditure of the Institute in the financial year for the fulfilment of its functions.

(3) The annual estimates for the Institute shall be submitted to the Cabinet Secretary for approval.

(4) No expenditure shall be incurred for the purposes of the Institute except in accordance with the annual estimates submitted under subsection (3), or in

pursuance of an authorization of the Board of the Institute.

Investment of the surplus funds.

29Y. (1) The Board of the Institute may invest any surplus funds of the Institute which are not immediately required for its purposes in such securities as the National Treasury may, from time to time, approve.

(2) The Board of the Institute may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the Institute.

Award to inventor or innovator.

29Z. (1) Where the rights to any invention or innovation have been vested to the Institute, the Board of the Institute may award to the inventor or innovator such bonus as it may deem fit, or make provision for financial participation by the inventor or innovator in the profits derived from the invention or innovation.

Cap. 130.
Cap. 509.

(2) The Institute may apply for a patent in respect of any invention or innovation contemplated in subsection (1) and shall for purposes of the Copyright Act, and the Industrial Property Act, be regarded as the assignee of the inventor or innovator of the invention or innovation.

11. Section 42 of the principal Act is amended by inserting the following new subsection immediately after subsection (3)—

Amendment of section 42 of Cap. 385.

(4) A forest owner shall identify and designate specific areas of forest as buffer zones to reduce negative edge effects and enhance ecosystem services.

12. The principal Act is amended by inserting the following new section immediately after section 43—

Amendment of First Schedule to Cap. 476.

Management of forests including dryland.

43A. (1) All forests, including dryland forests, shall be managed on a sustainable basis to promote integrated management of

dryland forests through traditional and conventional management systems.

(2) The Service and the Institute, in collaboration with county governments and private owners, shall upscale commercial and non-commercial, agro-silvo-pastoralism, fruit and fodder trees in dryland areas.

(3) The Service and the Institute shall promote sustainable harvesting and value addition of non-wood forest products derived from trees and forests.

(4) The Institute shall in collaboration with county governments and other relevant stakeholders establish technologies for tree improvement, non-timber value addition and introduction of high value species programme for the drylands.

(5) The Cabinet Secretary, in consultation with the Directorate, shall prescribe guidelines, standards and procedures for the management and utilisation of dryland forests.

13. The principal Act is amended by inserting the following new section immediately after section 53—

Insertion of new section to Cap. 383.

Framework for the Payment for Ecosystem Services Schemes

53A. (1) The Institute shall, in consultation with relevant stakeholders, establish a framework for the Payment for Ecosystem Services Schemes in public, community and private forests.

(2) The Service and the Institute shall every five years jointly undertake total economic valuation of forest ecosystem goods and services and submit the report to the Cabinet Secretary.

(3) The Service shall coordinate the implementation of the Payment for Ecosystem Services Schemes including the terms and conditions in standardized contracts, agreements and operational manuals.

(4) The Institute shall develop operational guidelines to determine incentives for the ecosystem services.

(5) The Cabinet Secretary in consultation with the National Treasury shall mainstream incentive mechanisms for Payment for Ecosystem Services Schemes.

14. Section 55 of the principal Act is amended by deleting the words “week and International Day of Forests” and substituting therefor the following words “initiatives and other international forest events”.

Amendment of
section 55 of Cap.
385.

15. Section 56 of the principal Act is amended—

Amendment of
section 56 of Cap.
385.

(a) in subsection (1), by inserting the words “public or” immediately after the words “invite the”; and

(b) in subsection (2), by inserting the following new paragraphs immediately after paragraph (d)—

“(da) easement for public roads and other public installations;”

“(db) wayleaves for public utilities.”

16. Section 58 of the principal Act is amended—

Amendment of
section 58 of Cap.
385.

(a) in subsection (1), by deleting the word “Service” and substituting therefor the words “Cabinet Secretary”;

(b) adding the following new subsection immediately after subsection (3)—

(4) A person who contravenes the provisions of this section commits an offence and shall be liable, upon conviction, to a fine not exceeding five hundred thousand or imprisonment of a term not exceeding one year or to both.

17. Section 61 of the principal Act is amended—

Amendment of
section 61 of Cap.
385.

(a) by renumbering the existing provision as subsection (1); and

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

(2) A person who exports or imports a forest product prohibited for export or import under subsection (1) commits an offence and is liable on conviction to a fine not exceeding five million or to imprisonment for a term not exceeding three years or, to both.

18. Section 64 of the principal Act is amended —

Amendment of
section 64 of Cap.
385.

- (a) in subsection (1)(a), by deleting the words “or remove any forest produce” and substituting therefor the following words “transport or remove any forest produce without authority from the forest owner”;
- (b) in subsection (2), by deleting the words “one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment” and substituting therefor the following words “one million shillings or to imprisonment for a term not exceeding twelve months, or to both.

19. Section 67 of the principal Act is amended —

Amendment of
section 67 of Cap.
385.

- (a) in subsection (1)(e), by deleting the words “national and county forests or” and substituting therefor the word “public”;
- (b) in subsection (2), by deleting the words “one hundred thousand” and substituting therefor the words “two million or a jail term to not exceeding three years, or to both”;
- (c) by adding the following new subsection immediately after subsection (8) —

“(9) In addition to the penalty prescribed under subsection (8), the court shall order the person to remove the exotic genetic material or invasive plants, solid, toxic or any other wastes from the forest, at that person’s cost.”

20. Section 71 of the principal Act is amended in subsection (1) by —

Amendment of
section 71 of Cap.
385.

- (a) inserting the words “of the Institute” immediately after the word “Board”;
- (b) inserting the following new paragraph immediately after paragraph (t) —

“(u) management forest carbon, including the Reduced Emissions from Deforestation and Forest Degradation nesting.”

21. Section 75 of the principal Act is amended by inserting the following new sections immediately after sections 75—

Insertion of new section into Cap. 385.

Discoveries, inventions, etc. to vest in the Institute.

75A. (1) All rights in any discoveries, inventions, innovation, improvements and intellectual property rights in respect of processes, products, apparatus and machines made for or on behalf of the Institute shall vest in the Institute.

(2) Without prejudice to the generality of subsection (1), the Institute and any other entity shall jointly own any discoveries, inventions, innovation, improvements and intellectual property rights pursuant to a funding agreement between the Institute and any other entity.

Fees and other charges for services or facilities offered by the Institute.

75B. The Cabinet Secretary shall, in consultation with the Board of the Institute, prescribe the fees and other charges payable for any service or facility offered by the Institute.

22. The First Schedule to the principal Act is amended—

Amendment to the First Schedule to Cap. 385.

(a) in the heading by inserting the words “and the Board of the Institute” immediately after the word “Board”;

(b) by adding the following paragraph immediately after paragraph 4—

“5. For purposes of this Schedule the word “Board” includes the Board of the Institute.”

23. The principal Act is amended by adding the following new schedule immediately after the Third Schedule—

Insertion of new Schedule to Cap. 385.

FOURTH SCHEDULE

(s.16)

OATH OF ALLEGIANCE

I.....do hereby swear that, I shall be faithful and bear true allegiance, to the President and to the Republic of Kenya, that I shall at all times, as required and authorized by law, do my utmost, to preserve the peace, and prevent offences against the same, and that I shall, to the best of my skills and knowledge, discharge all the duties of a forest officer, faithfully according to the law, and that during my tenure, in the Kenya Forest Service, I shall observe all such lawful orders as may be given to me, and I shall observe all Acts, regulations and orders, relating to the Kenya Forest Service, which may from time to time, be in force.

So, help me God

24. The Fourth Schedule to the Science, Technology and Innovation Act is amended by deleting paragraph 2.

Amendment of the First Schedule to Cap. 511.

25. (1) Upon commencement of this Act, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former Institute shall vest in the Institute.

Saving and transition.

(2) All rights, obligations, powers and duties whether arising under any written law or otherwise which immediately before such day were vested in or imposed on the former Institute shall, be deemed to be vested in or imposed on the Institute.

(3) All actions, suits or legal proceedings by or against the former Institute shall be carried on or prosecuted by or against the Institute and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of this Act.

(4) All directions, orders and authorizations given, or licenses or permits issued or registrations made by the former Institute and subsisting or valid immediately before the commencement day, shall be deemed to have been given, issued, or made by the Institute under this Act.

(5) The administrative directions made by the former Institute or by the Cabinet Secretary which were in force immediately before the coming into operation of this Act shall, on and after such day, have force as if they were

directions made by the Board of the Institute or the Cabinet Secretary under this Act.

(6) A contract subsisting between former Institute and another person or entity before the commencement of this Act shall subsist between the Institute, and that person or entity.

(7) Any reference in any written law or in any document or instrument to the former Institute shall on and after the commencement of this Act, be construed to be a reference to the Institute.

(8) The Chairperson and members of the Board of the former Institute, shall, at the commencement of this Act, be deemed to be the Chairperson and members of the Board of the Institute, respectively, for the unexpired period of their term.

(9) In this section “former Institute” means the Kenya Forestry Research Institute established under the Science, Technology and Innovation Act.

(10) The Director of the former Institute shall at the commencement of this Act, assume the duties of the Director General of the Institute for the remainder of the existing term of contract.

(12) A person who, immediately before the commencement of this Act, was a member of staff of the former Institute shall be deemed to be a member of staff of the Institute subject to such terms of service as the Board of the Institute may, on the advice of the Salaries and Remuneration Commission, determine:

Provided that a member of staff of the Institute may exercise the option not to continue in the service of the Institute.

(13) Notwithstanding subsection (12) where at the commencement of this Act, any penalty, other than dismissal, has been imposed on any employee of the former Institute pursuant to disciplinary proceedings against the employee, and the penalty has not been or remains to be served by such employee, such employee shall, on their transfer to the Institute serve or continue to serve such penalty to its full term as if it had been imposed by the Institute.

(14) Nothing in this Act shall affect the pension rights of any employee under the Pensions Act. Cap. 189.

MEMORANDUM OF OBJECTS AND REASONS

The main objective of this Bill is to establish a legal framework relating to forest conservation and management that is in tandem with modern realities, contemporary global discourse on forestry conservation and management and Kenya's obligations on the environment and generally conform to the dictates of the Constitution.

Further, the amendments to the Forest Conservation and Management Act are premised on the emerging needs and existing gaps within the forest sector. These needs and existing gaps have been discussed in the recently approved National Forest Policy, 2023 which now forms the basis for national action with regards to forestry development, conservation and management.

Clause 2 of the Bill seeks to amend section 2 of the Act. The amendment seeks to introduce the definition of certain terms and phrases used in the proposed amendments to the Act. It also seeks to amend certain definitions in the Act.

Clause 3 of the Bill seeks to amend section 4 of the Act to include the promotion of efficient water harvesting and management technologies for tree growing in dryland areas as a principle to be observed by all actors in the forestry sector.

Clause 4 of the Bill proposes to amend section 7 of the Act to provide for the headquarters of the Service and to require the devolution of the services of Kenya Forest Service.

Clause 5 of the Bill proposes an amendment to section 8 which seeks to provide for certain additional functions of Service, including development of agroforestry and commercial forestry in private and community land in collaboration with respective county governments and the individual owners of private forests.

Clause 6 of the Bill seeks to amend section 16 of the Act to empower the Cabinet Secretary to handle the designation of officers as uniformed and disciplined. The current provision requires that the Board, on the recommendation of the cabinet secretary responsible for matters related to internal security may designate a category of officers to be uniformed and disciplined officers. The amendment also introduces mandatory training and also oath of office for designated staff.

Clause 7 of the Bill seeks to insert a new section 17A to provide for the establishment of the Kenya Forest Academy. The Academy shall be an institution within the Service. The Kenya Forest Academy shall, among other things, provide training to the officers of the service.

Clause 8 of the Bill proposes an amendment to section 21 of the Act to provide for an additional function of the county governments in relation to forests.

Clause 9 of the Bill proposes an amendment to section 22 of the Act to delete the reference to the Science, Technology and Innovation Act (Cap. 511).

Clause 10 of the Bill proposes the insertion of new Parts IIIA and IIIB to the Act. Part IIIA introduces a significant institutional development in the forest sector governance and management, the establishment of the office of the Director of Forest Regulation, responsible for setting standards and regulation of entities in the forest sector.

The new Part IIIB seeks to establish the Kenya Forestry Research Institute under the Act. The Institute is currently housed in a Schedule to the Science, Technology and Innovation Act. Anchoring the Institute in the Act will ensure enhanced coordination and the Institute will now exist in an operational space that is relevant to its mandate. The new Part also contains a more streamlined and expanded mandate of the Institute, including the provision of commercial forestry investment advisory services to stakeholders to enhance its adoption and upscaling.

Clause 11 of the Bill seeks to amend section 42 of the Act by adding a new subsection (4) requiring an owner of any forest to identify and designate specific areas of the forest as buffer zones to reduce negative edge effects and enhance ecosystem services.

Clause 12 of the Bill seeks to insert a new section 43A to require, among other things, that all dryland forests be managed on a sustainable basis to promote integrated management of dryland forests through traditional and conventional management systems and that Service and the Institute, in collaboration with county governments and private owners, shall upscale commercial and non-commercial, agro-silvo-pastoralism, fruit and fodder trees in dryland areas.

Clause 13 of the Bill seeks to introduce a new proposed section 53A, which is intended to empower the Institute to establish protocols for Payment for Ecosystem Services schemes.

Clause 14 of the Bill seeks to amend section 55 of the Act to expand its scope to provide beyond just the national tree planting days to other events in the conservation and promotion of forestry events in Kenya. It is now proposed to empower or require the Cabinet Secretary to plan and execute programmes necessary for observing the national tree-planting initiatives and other international forest events.

Clause 15 of the Bill seeks to amend section 56 so as to empower the Service to grant easements in public forests only for public roads and critical installations and wayleave for public utilities.

Clause 16 of the Bill seeks to amend section 58 to transfer from the Service to the Cabinet Secretary, the power to gazette a chain-of-custody system for the verification of the origin of forest products from public, community and private forests and the compliance.

Clause 17 of the Bill proposes to amend section 61 so as to introduce a penalty for the offence of exporting or importing a forest product prohibited for export or import.

Clause 18 of the Bill seeks to amend section 64 so as to protect all forests, including private forests, from unlawful violation by unauthorized persons. The current provision only protects public forests. The amendment further seeks to enhance punishment of the offences under that section up from one hundred thousand shillings or to imprisonment for a term not exceeding six months to exceeding one million or imprisonment for a term not exceeding twelve months.

Clause 19 of the Bill seeks to amend section 67 of the Act in order to streamline the terminology with respect to public forests. It also seeks to enhance the penalty for the offence of importing, exporting, re-exporting or introducing any forest products into or from Kenya without a permit.

Clause 20 of the Bill proposes to amend section 71 of the Act to require the Cabinet Secretary to consult on the recommendation of the Board of the Service and the Board of the Institute while making regulations for carrying into effect the provisions of the Act.

Clause 21 of the Bill provides for new sections to protect the rights of the Institute over discoveries, inventions, innovation, improvements and intellectual property rights of the Institute and vests the same in the Institute. The institute is also permitted to jointly own any discoveries, inventions, innovation, improvements and intellectual property rights pursuant to a funding agreement between the Institute and any entity. The proposed new section 75B seeks to empower the Institute to prescribe the fees and other charges payable for any service or facility it offers.

Clause 22 of the Bill seeks to amend the First Schedule to mandate the Board of the Institute to regulate and conduct its business and affairs in the manner provided in the Schedule.

Clause 23 of the Bill seeks to insert a new Schedule after the Third Schedule to provide for the Oath of allegiance for the officers designated under section 16 of the Act.

Clause 24 of the Bill provides for consequential amendments to the Science, Technology and Innovation Act, Cap. 511 to delete the Kenya Forestry Research Institute from the list of research institutes under that Act.

Clause 25 of the Bill seeks to provide for transitional matters and savings in relation to the Institute.

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

The Bill delegates legislative powers, but it does not limit fundamental rights and freedoms.

Statement on whether the Bill concerns County Governments

Paragraph 10 of Part 2 of the Fourth Schedule to the Constitution provides that implementation of specific national government policies on natural resources and environmental conservation, including soil and water conservation and forestry conservation, is a function of the county governments.

In view of this, the Bill does concern county governments in terms of Article 110(1)(a) of the Constitution as it does affect the functions and powers of county governments recognized in the Fourth Schedule to the Constitution.

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

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 24th July, 2025.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

Section 2 of Cap. 385 which it is proposed to amend –

2. Interpretation

In this Act unless the context otherwise requires –

“benefits” mean quantifiable and non-quantifiable goods and services provided by forest ecosystems;

“Board” means the Board of the Kenya Forest Service;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to forestry;

“chain of custody” means the channel through which products are distributed, tracked and monitored from their origin in the forest to their end-use;

“commercial use” means any use of forest products or forest land, other than direct use for personal purposes or infrastructure development and it includes uses involving trade or any other disposition of forest products or forest land for direct or indirect financial benefits;

“community” means a clearly defined group of users of forest land identified on the basis of ethnicity, culture or similar community of interests as provided under Article 63 of the Constitution;

“community forest association” means a group of local persons who have registered as an association or other organization established to engage in forest management and conservation;

“concession agreement” means authorization which is a long term agreement issued by the Service for the management of a specified forest area at a price determined after forest valuation and bidding;

“customary rights” mean the rights which result from a long series of habitual or customary actions, constantly repeated, which have, by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit;

“ecosystem” means a dynamic complex of plant, animal micro-organism communities and their non-living environment interacting as a functional unit;

“forest” means land which is declared or registered as a forest, or woody vegetation growing in close proximity in an area of over 0.5 of a hectares including a forest in the process of establishment, woodlands, thickets;

“forestland” means a tract of land, including its flora and fauna, that is devoted to growing trees for the production of timber, wood and other forest products;

“forest community” means a group of persons who have a traditional association with a forest for the purposes of livelihood, culture or religion;

“forest concession” means the right of use granted to an individual or organization in respect to a specific area in a national or county forest by means of a long-term contract for the purpose of commercial forest management and utilization;

“forest industries” means all businesses and organizations whose primary activities include growing, managing, processing or marketing of trees;

“forest manager” means a person responsible for the management of a forest under his or her charge and implementation of this Act including—

in the case of a public forest, the Kenya Forest Service or the County Government as the case may be;

in the case of a community forest the person responsible for the management of community land under the relevant law; and

in the case of a private forest, the owner of the private forest;

“forest management plan” means a written document establishing direction and goals for the management, conservation and utilization of a specific forest land area; specifying—

all silvicultural practices and activities necessary to accomplish the merchantable production of a forest product; and

all practices that will minimize adverse environmental effects and improve livelihoods;

“forest officer” includes the professional, technical and disciplined cadre of the Service;

“forest owner” means—

in the case of a public forest, the government as defined in Article 62(1)(g) of the Constitution;

in the case of a community forest, the community as defined in Article 63 of the Constitution; and

in the case of a private forest, the registered owner of the land as defined in Article 64 of the Constitution.

“forest produce” includes bark, animal droppings, beeswax, canes, charcoal, creepers, earth, fibre, firewood, frankincense, fruit, galls, grass, gum, honey, leaves, flowers, limestone, moss, murrum, soil, myrrh, peat, plants, reeds, resin, rushes, rubber, sap, soil, seeds, spices, stones, timber, trees, water, wax, withies, and such other things as may be declared by the Cabinet Secretary to be forest produce for the purpose of this Act;

“forest resources” means anything of practical, commercial, social, religious, spiritual, recreational, educational, scientific, subsistence, or other potential use to humans that exists in the forest environment, including but not limited to flora, fauna, and microorganisms;

“Fund” means the fund established pursuant to Section 27;

“green zone” trees planted in an urban area covering less than 0.5 ha.

“indigenous forest” means a forest which has come about by natural regeneration of trees primarily native to Kenya;

“Institute” means the Kenya Forestry Research Institute established under the Science, Technology and Innovation (Cap. 511);

“joint management agreement” means authorization where the Service or the County Department responsible for forestry agrees to enter into partnership with other persons for the joint management of a specified forest area, specifying the contribution, rights and obligations of each party and setting out the methods of sharing the costs and benefits accruing from the forest so managed;

“licence” means a permit or other written authorization issued under the provisions of this Act;

“livestock” means domesticated animals such as cattle, goats, sheep, asses, poultry, horses, camels and pigs and includes their young thereof;

“nature reserve” means an area of land declared to be nature reserve under Section 39;

“permit” means authorization issued to a person to undertake a specified forestry-related activity or service;

“person” means a natural person, an association, organization or a corporate body;

“private forest” means forest as classified under Section 30(4);

“property mark” means a mark placed on a log, timber or other forest produce with a prescribed instrument to denote ownership by the Service or any other person;

“protected tree” means any tree or tree species which has been declared under this Act to be protected;

“provisional forests” means any forest which has been declared a provisional forest by the Cabinet secretary under Section 35;

“public forest” means forests as classified under 30(2) and (3);

“Service” means the Kenya Forest Service established under Section 7 of this Act;

“special use licence” means authorization issued to a person to undertake an activity whose primary purpose is to yield public benefit in transportation, communication, energy, research or education;

“timber” means any tree that has been felled or which has fallen, and cut wood or logs;

“timber licence” means authorization issued to a person for timber harvesting in a specified forest area;

“wildlife” means all forms of fauna and flora other than domesticated plants and animals.

Section 4 of Cap. 385 which it is proposed to amend –

4. Guiding Principles

The principles of this Act shall be –

- (a) good governance in accordance with Article 10 of the Constitution;
- (b) public participation and community involvement in the management of forests;
- (c) consultation and co-operation between the national and county governments;
- (d) the values and principles of public service in accordance with Article 232 of the Constitution;
- (e) protection of indigenous knowledge and intellectual property rights of forests resources; and
- (f) international best practices in management and conservation of forests.

Section 7 of Cap. 385 which it is proposed to amend –

7. Establishment of the Kenya Forest Service

(1) There is established a service to be known as the Kenya Forest Service.

(2) The Service shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of--

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of moveable and immovable property;
- (c) entering into contracts; and
- (d) undertaking or performing all other activities necessary for the proper performance of its functions under this Act that may lawfully be done or performed by a body corporate.

Section 8 of Cap. 385 which it is proposed to amend –

8. Functions of the Service

The functions of the Service shall be to—

- (a) conserve, protect and manage all public forests in accordance with the provisions of this Act;
- (b) prepare and implement management plans for all public forests and, where requested, assist in preparation of management plans for community forests or private forests in consultation with the relevant owners;
- (c) receive and consider applications for licenses or permits in relation to forest resources or management of forests or any other relevant matter in accordance with this Act;
- (d) establish and implement benefit sharing arrangements in accordance with the provisions of this Act;
- (e) assist county governments to build capacity in forestry and forest management in the counties;
- (f) in consultation with relevant stakeholders, develop programmes for tourism and for recreational and ceremonial use of public forests;
- (g) promote forestry education and training;
- (h) register and maintain a register of all forest management plans prepared for public forests;
- (i) collaborate with relevant persons in identifying research needs and applying research findings in relation to forests and forestry;

- (j) manage water catchment areas in relation to soil and water conservation, carbon sequestration and other environmental services in collaboration with relevant stakeholders;
- (k) prepare—
 - (i) a Forest Status Report for the Cabinet Secretary once in every two years; and
 - (ii) a Resource Assessment Report for the Cabinet Secretary once in every five years;
- (l) consider and recommend to the Cabinet Secretary the establishment of public forests on un-alienated public land or any other public land;
- (m) consider and recommend to the Cabinet Secretary the determination and alteration of boundaries of public forests;
- (n) establish forest conservancy areas for purposes of conservation and management;
- (o) approve the provision of credit facilities and technical training for community-based forest industries, and the provision of incentives to persons for the sustainable utilization of wood and non-wood forest products;
- (p) implement and enforce rules and regulations governing importation, exportation and trade in forest produce; and
- (q) develop, maintain and regularly update a geographic information system database of all forests in Kenya.

Section 16 of Cap. 385 which it is proposed to amend—

16. Uniformed and disciplined staff

(1) The Board may, on the recommendation of the Cabinet Secretary responsible for matters related to internal security, designate a specific cadre of the staff of the Service to be a uniformed and disciplined force.

(2) The Board may prescribe a disciplinary code for the cadre of staff designated under this section to be a uniformed and disciplined force.

(3) In the performance of their functions and the exercise of their powers, the rights of the cadre of staff designated under this section may be limited in accordance with the provisions of Article 24(5) of the Constitution.

Section 17 of Cap. 385 which it is proposed to amend—

17. Kenya Forestry College

(1) There is hereby established a college to be known as the Kenya Forestry College that shall—

- (a) provide forestry education;
- (b) provide vocational and technical training courses in forest conservation, and the management and sustainable utilization of forests; and
- (c) provide training in the protection of forests and allied natural resources.

(2) The College shall develop training programmes from certificate to diploma level in forest management and utilization.

(3) The College shall, in consultation with stakeholders, design training programmes to support apprenticeship and vocational training in the forest sector including short courses for communities, private forest owners and forest industries.

(4) The Board shall formulate policies for the administration and management of the College.

Section 21 of Cap. 385 which it is proposed to amend—

21. Forestry functions of County Governments

(1) Each County Government—

- (a) shall implement national policies on forest management and conservation;
- (b) shall manage all forests on public land defined under Article 62(2) of the Constitution;
- (c) shall prepare an annual report, with the approval of the County Assembly, for the Service on the activities of the county government in relation to this Act and any national policies on forest management and conservation;
- (d) shall promote afforestation activities in the county;
- (e) shall advice and assist communities and individuals in the management of community forests or private forests; and
- (f) may enter into joint management agreements with communities or individuals for the management of community forests or private forests.

(2) A county assembly may enact legislation for the better carrying into effect of the provisions of this section.

(3) The Service may if requested, collaborate, partner or offer assistance to the County Government for the better carry out the provisions of this Act.

Section 22 of Cap. 385 which it is proposed to amend—

22. Forestry research and development

(1) The Kenya Forestry Research Institute, as established under the Science, Technology and Innovation Act (Cap. 511), shall be the agency in forestry research and development.

(2) The Institute shall develop research and development programmes to provide information and technologies for sustainable development of forestry and allied natural resources.

(3) The Institute shall, in consultation with relevant organizations—

- (a) prepare forestry research and development strategies for the country;
- (b) conduct expert training courses in forestry and allied natural resources;
- (c) disseminate research findings to support forestry development in the country and counties; and
- (d) participate in the development and monitoring of national forest standards.

(4) The Institute shall, on a regular basis, compile and submit a report for the Cabinet Secretary relating to forestry research and development.

Section 29 of Cap. 385 which it is proposed to amend—

29. Management of the Trust Fund

(1) The Trust Fund shall be managed by a Board of Trustees appointed by the Cabinet Secretary.

(2) The Board of Trustees shall comprise of—

- (a) a chairperson and four other members appointed by the Cabinet Secretary in an open and competitive process;
- (b) the Director-General or a designated representative, who shall be an ex officio member of the Board; and
- (c) the principal Secretary responsible for forestry who shall be an ex officio member of the Board.

(3) The Board of Trustees shall—

- (a) determine the amounts of money payable in respect of any purpose for which the Fund is established and formulate the conditions for disbursement;

(b) make necessary investments from the Fund for the realisation of the Fund's objectives, in securities approved from time to time by the National Treasury; and

(c) keep and maintain audited accounts of the Fund and publish such accounts in such manner as may be approved by the National Treasury.

(4) The Cabinet Secretary shall make regulations for the management and administration of the Fund.

Section 42 of Cap. 385 which it is proposed to amend—

42. Management of indigenous forests

(1) All indigenous forests and woodlands shall be managed on a sustainable basis for purposes of—

(a) conservation of water, soil and biodiversity;

(b) riparian and shoreline protection;

(c) cultural use and heritage;

(d) recreation and tourism;

(e) sustainable production of wood and non-wood products;

(f) carbon sequestration and other environmental services;

(g) education and research purposes;

(h) habitat for wildlife in terrestrial forests and fisheries in mangrove forests.

(2) In pursuance of subsection (1), the Service shall, in consultation with the forest conservation committee for the area where the indigenous forest is situated, prepare forest management plans.

(3) The Service may enter into a joint management agreement for the management of any indigenous forest or part thereof with any person, institution, government agency or forest association.

Section 43 of Cap. 385 which it is proposed to amend—

43. Management of plantation forests

(1) All plantation forests in a public forest shall be managed on a sustainable basis for the production of wood and other forest products and services for commercial purposes.

(2) Where the Service is satisfied that all or part of a public forest which is a plantation forest may be efficiently managed through a licence,

concession, contract, joint agreement, it may place an advertisement in at least two daily newspapers of national circulation calling for applications from interested persons for the management of the public forest.

(3) An applicant for the management of a public forest in accordance with this section shall submit the application together with a proposed management plan in respect of the forest.

(4) A person aggrieved by the decision of the Service in relation to the application made in accordance with this may appeal to the Environment and Land Court within sixty days of the decision.

(5) A licence, concession, contract or joint management agreement made in accordance this section shall comply with the Constitution, this Act and any relevant written law.

(6) The Service shall consider the interests of the local communities in the management of public forests.

Section 53 of Cap. 385 which it is proposed to amend—

53. Incentives and benefit sharing

Subject to Article 66 of the Constitution, investors in forests shall share the benefits of their investment with local communities by applying various options including but not limited to infrastructure, education, employment and social amenities and in accordance with rules made under this act or other relevant laws.

Section 55 of Cap. 385 which it is proposed to amend—

55. National tree planting week

The Cabinet Secretary shall plan and execute programmes necessary for observing the national tree-planting week and the International Day of Forests.

Section 56 of Cap. 385 which it is proposed to amend –

56. Authorization and private sector involvement

(1) The Service may, whenever circumstances make it necessary or appropriate to do so, invite the private sector to participate in the sustainable management of forests under their jurisdiction.

(2) The Service may issue authorisations for forestry activities in form of—

(a) a permit;

(b) a timber licence;

- (c) a special use licence;
- (d) a contract;
- (e) a joint management agreement; or
- (f) a concession agreement.

(3) No authorization shall be issued in respect of a forest for which there is a pre-existing authorization, except on terms mutually agreed upon by all the parties involved.

Section 58 of Cap. 385 which it is proposed to amend—

58. Chain-of-custody

(1) The Service shall publish in the Gazette a chain-of-custody system for the verification of the origin of forest products from public, community and private forests and the compliance of license holders in accordance with this Act.

(2) The Service shall upon request support the process of establishing and maintaining the chain of custody for a county government.

(3) A person in possession of or trading in forest products shall comply with the requirements of the chain-of-custody system established under this section.

Section 61 of Cap. 385 which it is proposed to amend—

61. Prohibition on trade in restricted forest produce

The Cabinet Secretary may declare by Notice in the Gazette any forest produce that may not be exported or imported.

Section 64 of Cap. 385 which it is proposed to amend—

64. Prohibited activities in forests

(1) Except under a licence or permit or a management agreement issued or entered into under this Act, no person shall, in a public or provisional forest—

- (a) fell, cut, take, burn, injure or remove any forest produce;
- (b) be or remain therein between the hours of 7 p.m. and 6 a.m. unless using a recognised road or footpath, or is taking part in cultural, scientific or recreational activities;
- (c) erect any building or livestock enclosure, except where the same is allowed for a prescribed fee;

- (d) smoke, where smoking is by notice prohibited, or kindle, carry or throw down any fire, match or other lighted material;
- (e) de-pasture or allow any livestock to be therein;
- (f) clear, cultivate or break up land for cultivation or for any other purpose;
- (g) enter any part thereof which may be closed to any person;
- (h) collect any honey or beeswax, or hang on any tree or elsewhere any honey barrel or other receptacle for the purpose of collecting any honey or beeswax, or enter therein for the purpose of collecting honey and beeswax, or be therein with any equipment designed for the purpose of collecting honey or beeswax;
- (i) construct any road or path;
- (j) set fire to, or assist any person to set fire to, any grass or undergrowth or any forest produce;
- (k) possess, bring or introduce any chain saw or logging tools or equipment;
- (l) damage, alter, shift, remove or interfere in any way whatsoever with any beacon, boundary mark, fence notice or notice board.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(3) Any person who contravenes the provisions of section 60 shall be guilty of an offence and is liable on conviction to a fine not exceeding one million or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(4) Any person who contravenes the provisions of section 59 shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

Section 67 of Cap. 385 which it is proposed to amend –

67. Other offences

- (1) Any person who—
 - (a) commits a breach of, or fails to comply with the provisions of this Act;

- (b) commits a breach of, or fails to comply with any of the terms or conditions of a licence issued to him or her under this Act;
- (c) fails to comply with a lawful requirement or demand made or given by a forest officer;
- (d) obstructs a person in the execution of his or her powers or duties under this Act;
- (e) makes or is found in possession of charcoal in a national, county or provisional forest; or in community forest, private forest or farmlands without a licence or permit of the owner as the case may be:

commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Any person who wilfully or maliciously sets fire to any public, provisional, community or private forest commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not less than one year, or to both such fine and imprisonment.

(3) Any person who operates a sawmill in a manner contrary to that prescribed in rules made under this Act commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(4) Save under a licence or permit or a management agreement issued or entered into under this Act, no person shall, in a forest capture or kill any animal, set or be in possession of any trap, snare, gin or net, or dig any pit, for the purpose of catching any animal, or use or be in possession of any poison or poisoned weapon:

Provided that nothing in this sub paragraph shall be deemed to prohibit the capturing or killing of an animal in accordance with the conditions of a valid license or permit issued under the Wildlife Conservation and Management Act (Cap. 376).

(5) Any livestock found in any forest shall, unless the owner thereof proves to the contrary, be deemed to be there under the authority of the owner as well as the person, if any, actually in charge of the livestock.

(6) The livestock detained under this section shall be auctioned at the expiry of seven days if the owner does not reclaim it, and the proceeds of such auction shall be paid to the Service.

(7) Neither the Service nor the County Government or any of their officers shall be liable for the injury, loss or death of any livestock so seized and detained under Section 64(1)(e).

(8) Any person who, in any forest area—

- (a) introduces any exotic genetic material or invasive plants without authority from the forest manager;
- (b) dumps any solid, liquid, toxic or other wastes in a forest without authority of the forest manager;
- (c) grows any plant from which narcotic drugs can be extracted; or
- (d) extracts, removes, or causes to be removed, any tree, shrub or part thereof for export;

commits an offence and is liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding ten years, or to both such fine and imprisonment.

Section 71 of Cap. 385 which it is proposed to amend –

71. Regulations

(1) The Cabinet Secretary may, on the recommendation of the Board, make Regulations for or with respect to any matter which is necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the foregoing, Regulations may be made under this section for—

- (a) formulating guidelines on incentives and benefit sharing;
- (b) specifying the conditions subject to which any licence, permit or authorization may be granted or issued under this Act;
- (c) regulating activities in public forests, provisional forests, nature reserve and visitor indemnity;
- (d) prescribing measures that enhance community participation in the conservation and management of forests;
- (e) providing for protection of endangered and threatened tree species;
- (f) prescribing measures and mechanisms for participatory forest management agreements with other stakeholders and lead agencies;

- (g) prescribing the manner of representation of communities and other stakeholders to the Board and forest conservation committees;
- (h) controlling the harvesting, collection, sale of and disposal of forest produce including timber grading and marking;
- (i) prescribing the amount of royalties or fees payable under this Act generally or in particular cases;
- (j) regulating the use and occupation of national and county forests for the purposes of residence, cultivation, and grazing;
- (k) providing guidelines for eco-tourism including recreation, camping, picnicking and cultural activities;
- (l) providing guidelines for management planning process;
- (m) providing the circumstances in which licences, permits, leases, concessions and other agreements may be applied for, granted, varied or cancelled, and the manner in which a person to whom a licence is granted may exercise a right or privilege conferred upon him/her by the licence;
- (n) regulating the felling, working and removal of forest produce in areas where trees may be felled or removed;
- (o) providing for compulsory use of property marks by the Service, the County Department responsible for forestry and owners of private forests for the purpose of identifying wood sold from national, county, community, provisional and private forests;
- (p) prescribing conditions under which mismanaged or neglected forests may be declared provisional forests and conditions for reverting them to the original owners;
- (q) providing for the creation of new forest areas including establishment of commercial forests;
- (r) regulating production, transportation and marketing of charcoal;
- (s) ensuring compliance with international obligations;
- (t) regulating engagement and operationalization of the payment for environmental services scheme.

(3) Regulations made under this section may require acts to be performed or done to the satisfaction of the Service, and may empower the Board to issue orders imposing conditions and dates upon, within or before which such acts or things shall be performed or done.

(4) Upon the recommendation of the relevant county government and in consultation with the Board, the Cabinet Secretary may make Regulations in respect of any community forests in the County.

(5) For the purpose of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect the provisions of this Act;
- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfillment of the objectives specified under this section;

the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act (Cap. 2) and the Statutory Instruments Act (Cap. 2A).

Section 75 of Cap. 385 which it is proposed to amend—

75. Cap. 387 to apply

(1) Where a provision of this Act requires a person to conserve or protect the environment, the relevant provisions of the Environmental Management and Co-ordination Act (Cap. 387), shall also apply with respect to the manner in which the conservation or protection shall proceed.

(2) No user rights or other licence or permit granted under this Act shall exempt a person from complying with the relevant provisions of the Environmental Management and Co-ordination Act (Cap. 387), or any other written law concerning the conservation and protection of the environment.

(3) A user or other related right shall not be granted under this Act where the requirement for a strategic environmental, cultural, economic and social impact assessment licence under the Environmental Management and Co-ordination Act (Cap. 387), has not been complied with.

Section 77 of Cap. 385 which it is proposed to amend—

77. [Spent]

The First Schedule of Cap. 385 which it is proposed to amend—

FIRST SCHEDULE [s. 12]

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. Tenure of office and conduct of business of the Board

(1) The chairperson of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further term of three years.

(2) Other than ex officio members, a member of the Board shall, subject to the provisions of this section, hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term of three years.

(3) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

(4) A member other than the chairperson or an ex officio member may—

- (a) at any time resign from office by notice in writing to the Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairman; or
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or
 - (iii) is convicted of an offence involving fraud or dishonesty; or
 - (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; or
 - (v) is incapacitated by prolonged physical or mental illness; or
 - (vi) is found to have acted in a manner prejudicial to the aims and objectives of this Act; or
 - (vii) fails to comply with the provisions of this Act relating to disclosure; or
 - (viii) is otherwise unable or unfit to discharge his/her functions as a member of the Board.

2. Meetings of the Board

(1) The Board shall meet not less than four times in every financial year, and not more than four months shall elapse between the date of one meeting and the date of the next meeting:

Provided that the chairperson may call a special meeting of the Board at any time where he deems it expedient for the transaction of the business of the Board.

(2) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(3) The quorum for the conduct of business of the Board shall be half of the members' and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(4) The chairperson shall preside over all meetings of the Board in which he is present, but in his/her absence, the vice-chairman shall preside, and in his/her absence the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(5) At the first meeting of the Board, the members shall elect a vice-chairperson, not being a public servant, from among its members.

3. Disclosure of interests

(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at the meeting of the Board at which the contract, proposed contract or matter is the subject of consideration, he/she shall, at the meeting and as soon as practicable after the commencement thereof, disclose that fact and shall be excluded at the meeting at which the contract, proposed contract or matter is being considered.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

4. Board may regulate procedure

Save as provided in this Schedule, the Board may regulate its own procedure.

