

SPECIAL ISSUE

Kenya Gazette Supplement No. 104 (National Assembly Bills No. 23)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2026

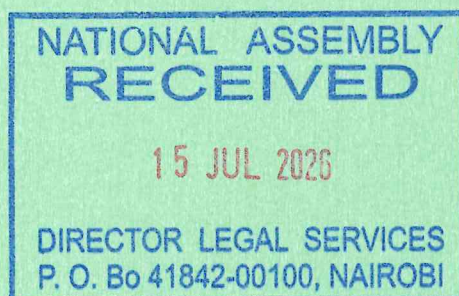
NAIROBI, 17th April, 2026

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Commission of Inquiry (Amendment) Bill, 2026 843



1962-1963

THE GOVERNMENT OF KENYA



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

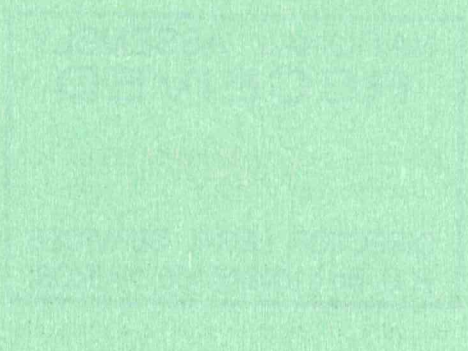
NATIONAL ASSEMBLY BILL NO. 10

NATIONALITY ACT, 1962

1962

PRINTED AND PUBLISHED BY THE GOVERNMENT OF KENYA

THE GOVERNMENT OF KENYA, NAIROBI



**THE COMMISSIONS OF INQUIRY (AMENDMENT)
BILL, 2026**

A Bill for

**AN ACT of Parliament to amend the Commissions of
Inquiry Act and for connected purposes**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Commissions of Inquiry (Amendment) Act, 2026. Short title.

2. The Commissions of Inquiry Act is amended by repealing section 3 and replacing therefor the following new section— Repeal and replacement of section 3 of Cap. 102.

3. (1) The President may, with the approval of the National Assembly, appoint such number of commissioners as may be necessary to inquire into a matter which, in the opinion of the President, is in the public interest to inquire into. Issue of the Commission of Inquiry.

(2) Subject to subsection (1), the President shall not appoint commissioners to inquire into a matter falling under the mandate of a Constitutional Commission or an Independent office established under the Constitution unless the matter—

(a) requires coordination or joint action by two or more Constitutional Commissions or Independent Offices; and

(b) would be effectively addressed through the issue of a commission of inquiry.

(3) Each commission shall specify the matter to be inquired into and direct when the inquiry report shall be submitted.

(4) Where more than one commissioner is appointed, the commission may designate one commissioner to be the vice chairperson.

(5) Without prejudice to the generality of any regulations made under section 19 of this Act, each commission shall direct how it shall execute its mandate and, in particular, the commission shall in any suitable case

contain the following directions to be observed by the commissioner—

- (a) the commissioner shall conform with the following instructions that—
 - (i) evidence that may adversely affect the reputation of any person, or that may tend to reflect in any way upon the character or conduct of any person, shall not be received unless the commissioner is satisfied that it is relevant to the inquiry;
 - (ii) all reasonable efforts have been made to give such person prior warning of the general nature of the evidence, and that, where no such warning has been given, the general nature of the evidence has been communicated to that person;
 - (iii) the person shall be given such opportunity as is reasonable and practicable to be present, either in person or by a legal representative, at the hearing of such evidence, to cross-examine any witness testifying and to adduce without unreasonable delay material evidence in his behalf in refutation of or otherwise in relation to the evidence;
 - (iv) the person shall be given such opportunity as is reasonable and practicable to be present, either in person or by a legal representative, at the hearing of such evidence, to cross-examine any witness testifying and to adduce without unreasonable delay material evidence in his behalf in refutation of or otherwise in relation to the evidence;
 - (v) hearsay evidence which adversely affects the reputation of any person, or tends to reflect in any way upon the character or conduct of any person, shall not be received;
 - (vi) no expression of opinion shall be received in evidence of the character, conduct or motives of any person, except in so far as the commissioner considers it essential, for

ascertaining the truth of the matter into which he is commissioned to inquire, to depart from such instructions; and

- (b) in the event of any such departure from these instructions, the commissioner shall record reasons therefor in the record of the inquiry, and shall report reasons therefor, in the report of the inquiry.

(6) (1) A Commission shall hold an inquiry in public except where the Commission is satisfied that a private inquiry is desirable for —

- (a) the preservation of order;
- (b) the due conduct of the inquiry; or
- (c) the protection of the person, property or reputation of any witness in the inquiry or any person referred to in the course of the proceedings.

(2) Subject to subsection (1), where the Commission is satisfied that the inquiry shall be held in private, the Commission shall order that no person shall publish the name, address or photograph of any witness or person or any evidence or information whereby the witness is likely to be identified.

Cap. 63.

(7) A person who contravenes an order issued by a Commission to attend the proceedings of an inquiry commits an offence and shall, without prejudice to section 121 of the Penal Code, be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

(8) A person is disqualified from appointment as a member of a Commission if the person—

- (a) is a Member of Parliament;
- (b) is a member of a County Assembly, governor or deputy governor of a county, or other member of the executive committee of a county government;
- (c) has been dismissed or removed from office for contravention of the provisions of the Constitution or any other written law; or

(d) is an undischarged bankrupt.

(9) A serving judge may, subject to consultation and approval of the Chief Justice, be appointed to a Commission of inquiry as a commissioner.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Commissions of Inquiry Act, Cap. 102, to require that the appointment of persons to a commission of inquiry by the President be made with the approval of the National Assembly. Further, the Bill proposes that a commission of inquiry not be appointed to enquire into matters that may fall within the mandate of Constitutional Commissions in order to avoid overlap or duplication of functions.

The Bill further seeks to align section 3 of the Commissions of Inquiry Act with the Constitution by requiring that any appointment of a sitting judge to a commission of inquiry be made with the approval of the Chief Justice, in line with the principle of judicial independence.

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

This Bill does not delegate legislative powers or limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Bill does not concern county governments in terms of Article 110(1) (a) of the Constitution as it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Article 186(3) of the Constitution provides that a function or power not assigned by this Constitution or national legislation to a county is a function or power of the national government.

Statement as to 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....., 2026.

GABRIEL KOSHAL TONGOYO,
*Chairperson, Departmental Committee,
on Administration and Internal Security.*

*Section 3 of Cap.102 which it is proposed to amend—***3. Issue of commissions of inquiry**

(1) The President, whenever he considers it advisable so to do, may issue a commission under this Act appointing a commissioner or commissioners and authorizing him or them, or any specified quorum of them, to inquire into the conduct of any public officer or the conduct or management of any public body, or into any matter into which an inquiry would, in the opinion of the President, be in the public interest.

(2) Every commission shall specify the matter to be inquired into, and shall direct where and when the inquiry shall be made and the report thereof rendered, and, where more commissioners than one is appointed, the commission may designate one such commissioner to be chairperson, and, if the President so thinks fit, another such commissioner to be deputy chairperson, of the commissioners.

(3) Without prejudice to any regulations made under section 18 of this Act, every commission shall direct how the commission shall be executed and, in particular, shall in a suitable case contain the following directions to be observed by the commissioner—

- (a) that the commissioner shall conform with the following instructions—
 - (i) that evidence adversely affecting the reputation of any person, or tending to reflect in any way upon the character or conduct of any person, shall not be received unless the commissioner is satisfied it is relevant to the inquiry, and that all reasonable efforts have been made to give such person prior warning of the general nature of the evidence, and that, where no such warning has been given, the general nature of the evidence has been communicated to that person;
 - (ii) that person shall be given such opportunity as is reasonable and practicable to be present, either in person or by his advocate, at the hearing of such evidence, to cross examine any witness testifying thereto, and to adduce without unreasonable delay material evidence in his behalf in refutation of or otherwise in relation to the evidence;
 - (iii) that hearsay evidence which adversely affects the reputation of any person, or tends to reflect in any way upon the character or conduct of any person, shall not be received;

(iv) that no expression of opinion shall be received in evidence of the character, conduct or motives of any person, except in so far as the commissioner considers it essential, for ascertaining the truth of the matter into which he is commissioned to inquire, to depart from such instructions; and

(b) that, in the event of any such departure from these instructions, the commissioner shall record his reasons therefor in the record of the inquiry, and shall report thereon, with his reasons therefor, in his report of the inquiry.

(4) A commission may direct that the public shall not be admitted to all or to any specified part of the proceedings of the inquiry; and subject to any such direction, every inquiry shall be held in public, but the commissioner may exclude any person or class of persons from all or any part of the proceedings of the inquiry if he is satisfied that it is desirable so to do for the preservation of order, for the due conduct of the inquiry, or for the protection of the person, property or reputation of any witness in the inquiry or any person referred to in the course of the proceedings thereof, and may, if he is satisfied that it is desirable for any of the purposes aforesaid so to do, order that no person shall publish the name, address or photograph of any such witness or person or any evidence or information whereby he would be likely to be identified, and any person who contravenes such an order shall, without prejudice to section 121 of the Penal Code (Cap. 63), be guilty of an offence and liable to a fine not exceeding two thousand shillings.

