

SPECIAL ISSUE

Kenya Gazette Supplement No. 139 (National Assembly Bills No. 35)



REPUBLIC OF KENYA

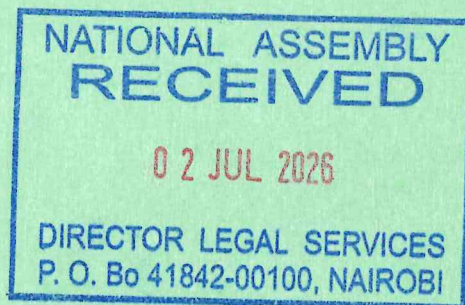
KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2026

NAIROBI, 5th June, 2026

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KENYA GAZETTE SUPPLEMENT

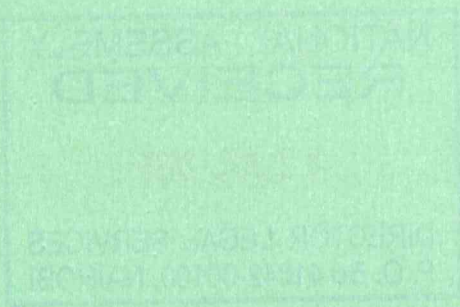
NATIONAL ASSEMBLY BILL NO. 15, 2020

NAIROBI, 31st June, 2020

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Bill to Introduce and Amend the National Assembly

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THE IRRIGATION (AMENDMENT) BILL, 2026

A Bill for

AN ACT of Parliament to amend the Irrigation Act to provide for the merger of the Irrigation Authority and the National Water Harvesting and Storage Authority; to harmonise the functions of the merged Authorities; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

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

2. The Irrigation Act (hereinafter referred to as the “principal Act”) is amended in section 2 by— Amendment of section 2 in Cap. 347.

(a) deleting the definition of the term “Authority” and substituting therefor the following new definition—

“Authority” means the National Irrigation and Water Storage Authority established under section 7;

(b) deleting the definition of the term “water harvesting” and substituting therefor the following new definition—

“water harvesting” means activities where water from rainfall, surface runoff or sub-surface water is collected, diverted, extracted, stored and utilized for irrigation; and

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

“flood control” means any infrastructure constructed for prevention of excess water flow to save or protect lives and property and for irrigation, land reclamation and other uses;

“irrigation infrastructure” means all infrastructure including water harvesting & storage structures, flood control structures, abstraction, conveyance, distribution, on-farm water application facilities, drainage works, and any other related accessories;

“irrigation infrastructure management” means the

planning, development, and improvement of the physical systems and structures that deliver water to agricultural land;

“irrigation scheme management” means the planning, operation, and maintenance of irrigation systems to ensure efficient water use for agricultural purposes by overseeing the entire process of water distribution, from sourcing and storing water to delivering it to crops in the right quantities and at the right time; and

“irrigation water storage” means infrastructure and practices designed to capture and store water for use in irrigation.

3. Section 4 of the principal Act is amended by inserting the words “and irrigation infrastructure, water harvesting & storage for irrigation” immediately after the word “irrigation”.

Amendment of section 4 in Cap. 347.

4. Section 6 of the principal Act is amended in subsection (1), by inserting the words “land reclamation and flood control for irrigation and other uses” immediately after the words “storage for irrigation”.

Amendment of section 6 of Cap. 347.

5. The principal Act is amended by deleting the heading of PART III and substituting therefor the following new heading—

Amendment of the heading in PART III of Cap. 347.

PART III— THE NATIONAL IRRIGATION AND WATER STORAGE AUTHORITY

6. Section 7 of the principal Act is amended in subsection (1) by inserting the words “and Water Storage” immediately after the words “National Irrigation”.

Amendment of section 7 of Cap. 347.

7. Section 17 of the principal Act is amended—

Amendment of section 17 of Cap. 347.

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

“(1) The Cabinet Secretary shall in consultation with the entity responsible for water resource management, Water Resource Authority Secretary, the National Irrigation and water storage Authority, the National Land Commission, the Council of Governors and other relevant stakeholders, prescribe administrative and regulatory

frameworks within existing laws and regulations on existing and future water storage and irrigation requirements.

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

(d) in such a manner that water storage for irrigation is implemented for the time being by the entity responsible for irrigation and water storage for irrigation.

8. Section 19 of the principal Act is amended by—

Amendment of section 19 of Cap. 347.

(a) deleting the marginal note and substituting therefor the following new marginal note—

“Management of irrigation infrastructure”; and

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

“(2) The Cabinet Secretary shall, through the Authority, oversee operation and management of irrigation infrastructure, except those under county governments, and community owned irrigation schemes, intake, main and secondary systems as necessary.

9. Section 25 of the principal Act is amended in subsection (1) by inserting the words “, infrastructure” immediately after the words “Disputes related to irrigation” appearing in paragraph (a).

Amendment of section 25 of Cap. 347.

10. Section 27 of the principal Act is amended in paragraph (b) by inserting the words “and irrigation infrastructure” immediately after the words “important schemes”.

Amendment of section 27 of Cap. 347.

11. The principal Act is amended by inserting the following new section immediately after section 35—

Insertion of a new section in Cap 347.

Transfer of functions, assets, liability and staff from National Water Harvesting and Storage Authority to the National Irrigation and Water Storage Authority.
Cap 372.

35A. (1) All property, assets, rights, liabilities, obligations, agreements and other arrangements not linked to water services provision as provided for in section 148 of the Water Act, existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on

behalf of the National Water Harvesting and Storage Authority shall, upon the commencement of this Act be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the National Irrigation and Water Storage Authority to the same extent as they were enforceable by or against the National Water Harvesting and Storage Authority before the commencement of this Act.

(2) Any legal proceedings pending in any court, the Water Appeal Board or other tribunal by or against the National Water Harvesting and Storage Authority in respect of any matter, shall continue by or against the National Irrigation and Water Storage Authority.

(3) A person who immediately before the commencement of this Act was an employee of the National Water Harvesting and Storage Authority shall, on the commencement of this Act, be deemed to be an employee of the National Irrigation and Water Storage Authority on terms to be determined by the Salaries and Remuneration Commission.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the Irrigation (Amendment) Bill, 2026 is to enhance the efficiency of water storage and harvesting in Kenya by merging the National Irrigation Authority established under the Irrigation Act, *Cap. 347* and National Water Harvesting and Storage Authority established under the Water Act, *Cap. 372*.

The Bill seeks to streamline the functions of the two entities by merging their mandates which shall be implemented by the National Irrigation and Water Harvesting Authority.

Clause 1 provides for the short title of the Act.

Clause 2 proposes to amend section 2 of the principal Act by deleting the definition of the term “Authority and water harvesting” and substituting with new definitions. The proposal further seeks to insert the definition of new terms in the Act.

Clause 3 proposes to amend section 4 of the principal Act by inserting the words “and irrigation infrastructure, water harvesting & storage for irrigation.” immediately after the words “irrigation”.

Clause 4 proposes to amend section 6 of the principal Act by inserting the words “land reclamation and flood control for irrigation and other uses” immediately after the words “storage for irrigation”.

Clause 5 provides for the amendment to the heading of Part III.

Clause 6 proposes to amend section 7 (1) of the principal Act by inserting the words “and Water Storage” immediately after the words “National Irrigation”.

Clause 7 proposes to amend section 17 of the principal Act by deleting and substituting subsection (1).

Clause 8 proposes to amend section 19 of the principal Act by deleting and substituting the marginal note and subsection (2).

Clause 9 proposes to amend section 25 of the principal Act by inserting the words “infrastructure” immediately after the words “Disputes related to irrigation”.

Clause 10 proposes to amend section 27(b) of the principal Act by inserting the words “and irrigation infrastructure” immediately after the words “important schemes”.

Clause 11 proposes to amend the principal Act by inserting a new section which provides for the transitional provisions.

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

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

Statement as to whether the Bill concerns county governments

The Bill concerns county governments in terms of Article 110(1) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

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 not occasion additional expenditure of public funds.

Dated 14th May, 2026.

KIMANI ICHUNG'WAH,
Leader of the Majority Party.

Section 2 of Cap. 347 which it is intended to amend—

2. Interpretation In this Act, unless the context otherwise requires—

“agency contract” means a legal agreement creating a fiduciary relationship whereby the principal agrees that subsequent actions by the agent are binding as if the principal acted thereupon;

“agriculture” has the meaning assigned to it under section 2 of the Agriculture, Fisheries and Food Authority Act, (No. 13 of 2013);

“Authority” means the National Irrigation Authority established under section 7;

“authorized” means authorized by or under this Act;

“Board” means the Board of the Authority established under section 9;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to irrigation;

“Chief Executive Officer” means the Chief Executive Officer of the Authority appointed under section 12;

“commercial irrigation farmer” means a farmer who by means of irrigation grows crops primarily for sale;

“Council of Governors” means the Council of County Governors established under the Intergovernmental Relations Act, (No. 2 of 2012);

“county irrigation development unit” means the unit or entity established by a county government to carry out irrigation matters under section 14;

“Department” means the State Department responsible for matters relating to irrigation;

“Dispute Resolution Committee” means the Dispute Resolution Committee established under section 8(2)(d);

“farmer” includes a crop, livestock or fish farmer; “irrigators” means the persons or entities which own, operate or manage an irrigation scheme;

“irrigation” means any hydraulic engineering driven process, which supplies water to crops or any other cultivated plants, livestock, aquaculture and desired forest trees;

“irrigation scheme” means a systematic and orderly irrigation system covering a defined area of land regardless of the type or system of irrigation employed;

“irrigation management transfer” means the transfer to the users of authority and responsibility for both governance and delivery of management services in an irrigation and drainage scheme;

“irrigation service fee” means the rates to be charged to water users for receiving irrigation services;

“irrigation service plan” means the annual plan for water acquisition and distribution, scheme maintenance and repairs, other management tasks, staff and group labour mobilization, budget and irrigation service fee;

“irrigation water user” means a member of a water users' association who uses water from an irrigation scheme for an approved purpose such as for crops, livestock, and fish farming;

“irrigation water users' association” means any association established under section 20;

“large scale irrigation scheme” means a scheme which acreage size covers over three thousand acres, and is developed and managed by the Authority, and is established for national strategic purposes, or such schemes as implemented by the private sector;

“licence” means a licence issued by the Cabinet Secretary or such other person as the Cabinet Secretary may authorize;

“medium scale irrigation scheme” means a scheme which in acreage size covers over one hundred acres to three thousand acres, and is implemented by the Authority, or another state agency in collaboration with county government, or such schemes as implemented by a private entity;

“Ministry” means the Ministry for the time being responsible for matters related to irrigation;

“monitoring and evaluation” means a system of measuring, reporting and interpreting the quantity and quality of inputs provided, actions implemented, immediate outcomes achieved and ultimate impacts realized;

“national irrigation scheme” means an area of land designated as such by the Cabinet Secretary through a gazette notice;

“Scheme Management Committee” means the Scheme Management Committee established under section 8(2)(c);

“smallholder irrigation and drainage scheme” means an irrigation scheme that is developed, owned and managed by communities as irrigation water user groups or individual farmers;

“small scale irrigation scheme” means a scheme which in acreage size covers less than one hundred acres and implemented by a county government, or by the national government through Authority in case of trans boundary or inter county schemes or strategic schemes or such schemes as implemented by a private entity;

“storage” means infrastructure and practices designed to capture and store water for use in irrigation;

“strategic irrigation scheme” means a national or a county scheme which serves a specific production purpose.

“transboundary, trans-county or inter county irrigation scheme” means a scheme whose area of coverage lies across at least two administrative county boundaries; and

“Water Tribunal” means the Water Tribunal established under section 119 of the Water Act, (No. 43 of 2016);

“water harvesting” means activities where water from rainfall or surface runoff is collected, diverted, stored and utilized; and

“Water Resources Authority” has the meaning assigned to it under section 2 of the Water Act, (No. 43 of 2016).

Section 4 of Cap. 347 which it is intended to amend—

4. Act to prevail in irrigation matters

The provisions of this Act shall prevail in case of any inconsistency between this Act and any other legislation in matters relating to irrigation.

Section 6 of Cap. 347 which it is intended to amend—

6. Role of national government

(1) The Cabinet Secretary shall develop, manage and regulate irrigation throughout Kenya and to this extent shall ensure the effective exercise and performance by any authority or person under the authority of the Cabinet Secretary of their powers and duties in relation to irrigation and drainage, including water harvesting and storage for irrigation.

(2) Without prejudice to the generality of the foregoing, the Cabinet Secretary shall have responsibility with regard to development management and regulation of irrigation to—

- (a) formulate policies, make legislative proposals to Parliament, provide sector regulation, coordination and guidance, and monitoring and evaluation;

- (b) develop general principles, guidelines and standards for promoting development and for the coordination of irrigation planning;
- (c) establish, through a gazette notice, national, public or strategic schemes of any category as defined in this Act;
- (d) promote the use of efficient irrigation systems across the country;
- (e) subject to resource constraints, ensure availability and adequacy of water for irrigation;
- (f) receive and determine applications for any irrigation projects, including issuance of irrigation licences for irrigation schemes;
- (g) monitor and enforce conditions attached to licenses for all irrigation schemes;
- (h) report to both Houses of Parliament annually, and from time to time as may be necessary, on the state of, and needs for, irrigation development management and regulation in the country;
- (i) in collaboration with county governments, gather information and maintain data bases on irrigation development management and regulation including data on irrigation water supplies, demands, projects, irrigated areas, management performance, potential for expansion and human resources;
- (j) conduct periodic technical and management audits of irrigation schemes infrastructure, governance, management and financing;
- (k) maintain storage investments for their proper use implementation; and
- (l) carry out other mandate as may be specified in this Act or any other written law.

(3) The Cabinet Secretary shall, in the performance of the functions under this section and in order to encourage broad support for irrigation development and management, consult and seek the co-operation of—

- (a) other ministries and agencies of the National Government;
- (b) the Council of County Governors;
- (c) county governments; and
- (d) non-government entities.

(4) The Cabinet Secretary shall, in consultation with the county governments and other stakeholders, formulate and publish in the Kenya

Gazette, a five-year national irrigation services strategy, based on, among others, the national irrigation policy for the time being in force.

(5) The Cabinet Secretary shall ensure effective implementation of the national irrigation services strategy and to this end shall institute reviews aligned to planning cycles or at such times as the Cabinet Secretary may determine.

(6) The Cabinet Secretary may exercise any or some of the duties and functions under subsection (1) above directly or through the Authority.

Part III of Cap. 347 which it is intended to amend—

PART III – THE NATIONAL IRRIGATION AUTHORITY

Section 7 of Cap. 347 which it is intended to amend—

7. Establishment of the Authority

(1) There is established an authority to be known as the National Irrigation Authority.

(2) The Authority 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 or lending money;
- (d) entering into contracts; and
- (e) doing such other acts necessary for the proper performance of the functions of the Authority.

(3) The headquarters of the Authority shall be in Nairobi.

(4) The Authority may establish such regional, county, catchments or subcatchment or sub-county level offices as the Board, may consider necessary.

Section 17 of Cap. 347 which it is intended to amend—

17. Administrative and legal framework for water storage

(1) The Cabinet Secretary shall in consultation with the Water Resource Authority Secretary, the National Water Storage and Harvesting Authority, the National Land Commission, the Council of Governors and other stakeholders prescribe administrative and regulatory frameworks

within existing laws and regulations on water storage existing and future irrigating requirements.

(2) Without prejudice to subsection (1), the Cabinet Secretary shall ensure that irrigation developments are planned and implemented—

- (a) in accordance with Integrated Water Resources Management Principles;
- (b) in accordance with agreements between irrigation water users and other stakeholders; and
- (c) in such a manner as to reduce conflicts on water resources, protect the environment and public health and share water appropriately and equitably for multiple uses.

Section 19 of Cap. 347 which it is intended to amend—

19. Management of irrigation schemes

(1) The Cabinet Secretary shall, through the Authority, oversee management of existing and new national or public schemes, except those under county governments, and particularly storage dams, intake, main and secondary systems as necessary.

(2) The Cabinet Secretary, through the Authority, shall provide resources and direction for capacity building and technical services to irrigation water users associations, scheme management committees, dispute resolution committees and other farmer associations to enable them to progressively accept and assume full responsibility for management of national or public schemes under appropriate agency contracts with the National Government or county governments, as the case may be.

(3) Despite any agency contracts between the National Government or county governments and any irrigation water users' association, scheme management committees, dispute resolution committees under subsection (2), all assets of the national or public irrigation schemes shall remain vested in the national government or county government as appropriate, which shall also retain regulatory oversight over governance, management and financing of such schemes.

(4) The Cabinet Secretary shall, through the Authority and in collaboration with county governments and relevant stakeholders provide support, subject to availability of resources, and direction for capacity building and technical advisory services to irrigation water users' associations, scheme management committees, dispute resolution committees and other farmer associations to enable them to take over

governance and management responsibility for smallholder schemes as soon as possible after they are developed.

Section 25 of Cap. 347 which it is intended to amend—

25. Dispute resolution

(1) Disputes related to irrigation and drainage scheme development, management, water allocations and delivery, financing, operation and maintenance and other matters shall be resolved within the irrigation water users association or at irrigation scheme level wherever possible.

(2) Each association which is legally registered shall have a Dispute Resolution Committee that consists of at least three members selected by its governing body.

(3) Decisions regarding any dispute contemplated under this section shall be made by the relevant Dispute Resolution Committee within thirty days of the hearing of the dispute in question.

Section 27 of Cap. 347 which it is intended to amend—

27. Monitoring and evaluation

(1) The Cabinet Secretary shall, in consultation with the county governments—

- (a) develop and implement a monitoring and evaluation system for the development, governance, management, regulation, provision and financing of irrigation at all levels, including assessment of inputs, outputs immediate outcomes and ultimate impacts based on the results;
- (b) conduct periodic irrigation management and performance audits in strategically important schemes, and may assess the financial management and quality of governance obtaining in the schemes.

