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SENATE BILLS, 2021

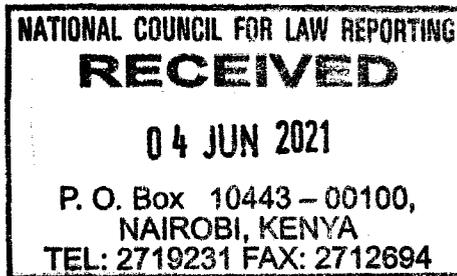
NAIROBI, 30th April, 2021

CONTENT

Bill for Introduction into the Senate—

PAGE

The Irrigation (Amendment) Bill, 2021 597



THE IRRIGATION (AMENDMENT) BILL, 2021

A Bill for

AN ACT of Parliament to amend the Irrigation Act, 2019 and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Irrigation (Amendment) Act, 2021

Short title.

2. Section 2 of the Irrigation Act, 2019, in this Act referred to as “the principal Act”, is amended—

Amendment of Section 2 of No 14 of 2019.

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

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

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

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

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

“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;

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

“Council of Governors” means the Council of County Governors established under the Intergovernmental Relations Act, 2012;

No. 2 of 2012.

“irrigators” means the persons or entities which own,

operate or manage an irrigation scheme;

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

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

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

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

3. Section 3 of the principal Act is amended in subsection (2) by inserting the words “management and regulation” immediately after the word “development”.

Amendment of section 3 of No 14 of 2019.

4. Section 6 of the principal Act is amended in subsection (2)

Amendment of section 3 of No 14 of 2019.

(a) by deleting the words “and management” appearing in the opening statement and substituting therefor the words “management and regulation”;

(b) by deleting the words “and management” appearing in paragraph (h) and substituting therefor the words “management and regulation”; and

(c) by deleting the words “and management” appearing in paragraph (i) and substituting therefor the words “management and regulation”.

5. Section 8 of the principal Act is amended in subsection (2) by deleting paragraph (j) and substituting therefor the following new paragraph—

Amendment of section 8 of No. 14 of 2019.

(j) provide, manage, and administer land in national or public irrigation schemes as well as inter-county schemes for public use;

6. Section 9 (1) of the principal Act is amended—

Amendment of section 9 of No. 14 of 2019.

(a) in subsection (1) —

(i) by deleting paragraph (f) and substituting

therefor the following new paragraph—

- (f) two persons of opposite gender and from different regions, with knowledge and experience in matters relating to water, agriculture, irrigation or environmental studies, appointed by the Cabinet Secretary from a list of four nominees submitted by the Council of County Governors;
- (ii) by deleting paragraph (g) and substituting therefor the following new paragraph—
 - (g) one person with knowledge and experience in matters relating to either civil engineering, economics, finance or rural development, appointed by the Cabinet Secretary from a list of three nominees submitted by a registered private sector membership organisation with a national outlook;
- (iii) by deleting paragraph (h) and substituting therefor the following new paragraph—
 - (h) two persons appointed by the Cabinet Secretary out of four persons nominated by the National Irrigation Farmers Associations;
- (iv) by inserting the following new paragraph immediately after paragraph (h) —
 - (i) the Attorney-General or his representative;
- (b) by deleting subsection (5) and substituting therefor the following new subsection—

‘(5) The Board shall adhere to principles of corporate governance and may from time to time establish committees for the better carrying out of its functions.’

7. Section 11 of the principal Act is amended by inserting the word “other” immediately before the word “activity”.

Amendment of section 11 of No. 14 of 2019.

8. Section 13 of the principal Act is amended by deleting the expression “section 34” and substituting therefor the expression “section 35”.

Amendment of section 13 of No. 14 of 2019.

9. Section 15 of the principal Act is amended in

Amendment of section 15 of No.

subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph—

14 of 2019.

- (a) in consultation with the Water Resources Authority, put in place appropriate water use fees structures and make arrangements with the Water Resources Authority in respect of requisition of irrigation water in bulk;

10. Section 16 of the principal Act is amended—

Amendment of
section 16 of No.
14 of 2019.

- (a) in subsection (2) by deleting the words “the Department” and substituting therefor the words “the Authority”;
- (b) in subsection (3) by deleting the words “the Department” and substituting therefor the words “the Authority”.

11. The principal Act is amended by repealing section 17 and replacing it with the following new section—

Repeal and
replacement of
section 17 of No.
14 of 2019.

Administrative and
legal framework
water storage

17. (1) The Cabinet shall in consultation with the Water Resource Authority Secretary, the National Water Storage and Harvesting Authority, the National Lands 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, and
- (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