

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2018**

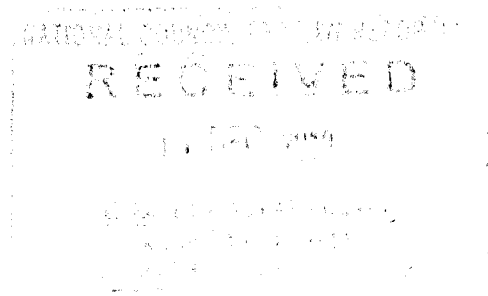
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**NAIROBI, 10th December, 2018**

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**THE CONSTITUTION OF KENYA (AMENDMENT)  
BILL, 2018**

**A Bill for**

**AN ACT of Parliament to amend the Constitution of  
Kenya.**

**ENACTED** by the Parliament of Kenya, as follows—

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| <p><b>1.</b> This Act may be cited as the Constitution of Kenya (Amendment) Act, 2018.</p>   | <p>Short title.</p>                                |
| <p><b>2.</b> This Act shall apply to general elections following the coming into force of this Act.</p>  | <p>Application.</p>                                |
| <p><b>3.</b> Article 6 of the Constitution is amended by—</p> <p>(a) deleting clause (1) and substituting therefor the following new clause -</p> <p style="padding-left: 40px;">(1) The territory of Kenya is divided into the National Capital City and the counties specified in the First Schedule.</p> <p>(b) inserting the following new clauses immediately after clause (1) —</p> <p style="padding-left: 40px;">(1A) The National Capital City shall be known as Nairobi and shall be the seat of the National Government.</p> <p style="padding-left: 40px;">(1B) The President shall, in exercise of the powers conferred upon him by Article 132(2)(a), appoint for the National Capital City, a Cabinet Secretary who shall exercise such powers and perform such functions as may be delegated to the Cabinet Secretary from time to time by the President.</p> <p style="padding-left: 40px;">(1C) The National Capital City shall comprise-</p> <p style="padding-left: 80px;">(a) constituencies for purposes of the election of members of the National Assembly provided for under Article 97 (1)(a); and</p> <p style="padding-left: 80px;">(b) such administrative structures as shall be provided for by an Act of Parliament.</p> | <p>Amendment of Article 6 of the Constitution.</p> |

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| <p><b>4.</b> Article 88 of the Constitution is amended in clause (4) by deleting paragraph (c) and substituting therefor the following new paragraph-</p> <p style="padding-left: 40px;">(c) the delimitation of constituencies, wards and the administrative structures provided for under Article 6(1C)(b);</p>   | <p>Amendment of Article 88 of the Constitution.</p>         |
| <p><b>5.</b> Article 89 of the Constitution is amended by deleting clause (3) and substituting therefor the following new clause-</p> <p style="padding-left: 40px;">(3) The Commission shall—</p> <p style="padding-left: 80px;">(a) review the number, names and boundaries of wards periodically;</p> <p style="padding-left: 80px;">(b) review the number, names and boundaries of the administrative structures provided for under Article 6(1C)(b) in the manner provided for by national legislation; and</p> <p style="padding-left: 80px;">(c) not delimit any wards in the National Capital City.</p> | <p>Amendment of Article 89 of the Constitution.</p>         |
| <p><b>6.</b> Article 97 of the Constitution is amended in clause (1) by deleting the words “forty-seven” appearing at the beginning of paragraph (b) and substituting therefor the words “forty-six”.</p>   | <p>Amendment of Article 97 of the Constitution.</p>         |
| <p><b>7.</b> Article 98 of the Constitution is amended in clause (1) by deleting the words “forty-seven” appearing at the beginning of paragraph (a) and substituting therefor the words “forty-six”.</p>   | <p>Amendment of Article 98 of the Constitution.</p>         |
| <p><b>8.</b> Article 200 of the Constitution is amended in clause 2(a) by deleting the words “capital city” appearing immediately after the words “governance of the” and substituting therefor the words “National Capital City”.</p>  | <p>Amendment of Article 200 of the Constitution.</p>        |
| <p><b>9.</b> The First Schedule to the Constitution is amended by deleting item 47.</p>   | <p>Amendment of the First Schedule to the Constitution.</p> |
| <p><b>10.</b> Parliament shall enact the legislation required under this Act within ninety days of the commencement of this Act.</p>  | <p>Enactment of legislation.</p>                            |

## MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Constitution exclude Nairobi from the ambit of county governments and to place it under the leadership of the National Government. The Bill further seeks to establish Nairobi as the National Capital City and empowers the President to nominate a Cabinet Secretary to be responsible for the management of the City.

Nairobi City is a focal point for development and Kenya's interaction with the rest of the world. It is the seat of the National Government, a strategic hub for business in Africa and the rest of the world and the headquarters of various international organs and embassies for numerous countries. Its cosmopolitan nature, central location and presence of key national government headquarters make it a city for all Kenyans.

Nairobi City is therefore distinct from other counties and requires to be managed and planned for differently. In addition, Nairobi faces unique challenges that are notably different from other counties yet it has been subjected to the same revenue sharing formula as other counties.

This Bill therefore proposes that Nairobi be managed by the National Government which is better resourced and utilizes a significant proportion of the resources in Nairobi.

The approach of having the national Capital managed by the central government has been adopted by many other countries including, Nigeria, Mexico and the United States of America. Indeed at independence, the quasi-federal system of government adopted by Kenya distinguished Nairobi Area from the seven other semi-autonomous regions (*Majimbo*s) despite the fact the regions had extensive political and development powers for delivery of public services.

The Bill is alive to the power of the people and their right to be represented. As such, this right will continue to be fulfilled through the election of representatives to the National Assembly.

AARON CHERUIYOT,  
*Senator.*