THE CLIMATE CHANGE (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the Climate Change Act, 2016, and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Climate Change (Amendment) Act, 2023.

2. The Climate Change Act, 2016, in this Act referred to as the “principal Act” is amended in section 2 by inserting the following new definition in proper alphabetical sequence—

“carbon budget” means the approved quantity of Greenhouse Gases emission that is acceptable over a specified time and shall be informed by the National Greenhouse Gas Inventory and guide on emission allocation for Nationally Determined Contributions and trading;

“carbon market” means mechanism that enables and allows public and private entities to transfer and transact emission reduction units, mitigation outcomes or offsets generated through carbon initiatives, programmes and projects;

“carbon standards” means a complete set of rules, procedures, and methodologies that guide on the generation and issuance of certified carbon credits;

“Designated National Authority” means the entity or organization granted the responsibility to authorize and approve participation in projects under the Paris Agreement;
“National Carbon Registry” means the Carbon Registry established under section 23G;

“nature-based solutions” means actions to protect, sustainably manage, or restore natural ecosystems, that address societal challenges such as climate change, human health, food and water security, and disaster risk reduction effectively and adaptively, simultaneously providing human well-being and biodiversity benefits;

“non-market approaches” means approaches that aim at promoting mitigation and adaptation ambition; enhancing public and private sector participation in the implementation of nationally determined contributions; and enabling opportunities for coordination across instruments and relevant institutional arrangements;

“Reduced Emissions from Deforestation and Forest Degradation (REDD+)” means activities in the forest sector that reduces greenhouse gas emissions from deforestation and forest degradation, as well as the sustainable management of forests and the conservation and enhancement of forest carbon stocks at national and sub national levels;

“share of proceeds” means levies from activities under the Paris Agreement that are used to cover administrative expenses as well as assisting developing country Parties that are vulnerable to the adverse effects of climate change to meet the costs of adaptation;

“UNFCCC” means the United Nations Framework Convention on Climate Change.
“whitelist” means

3. Section 3 of the principal Act is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (g)—

(ga) provide guidance in the development and implementation of carbon markets and non-market approaches in compliance with international obligations.

4. Section 4 of the principal Act is amended in subsection (2) by deleting the words “in accordance with the Schedule” appearing in paragraph (f).

5. Section 6 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (f)—

(fa) provide guidance and policy direction on carbon markets to the national and county governments, the public and other stakeholders.

6. Section 7 of the principal Act is amended—

(a) in sub section (2) by—

(i) deleting paragraph (c);

(ii) inserting the following new paragraph immediately after paragraph (e)—

(ea) a representative of the youth;

(iii) deleting the words “nominated by the body representing the largest number of institutions in the private sector” appearing in paragraph (f);

(iv) deleting the words “nominated by the most representative registered national umbrella
association of civil societies working on climate change” appearing in paragraph (g);

(v) deleting the words “within the meaning of Article 260 of the Constitution who has knowledge and experience in matters relating to indigenous knowledge” appearing in paragraph (h);

(vi) deleting the words “nominated by the Commission for University Education” appearing in paragraph (i);

(b) by deleting subsection (7);

(c) in subsection (12) by deleting the words “Except as provided in subsection (7)”.

7. Section 8 of the principal Act is amended in subsection (2) by—

(a) inserting the following new paragraphs immediately after paragraph (b)—

(ba) advise the Council on the carbon budget for trading based on Kenya’s international obligations;

(bb) approve international transfers of mitigation outcomes and emission reduction based on advice from the Directorate of Climate Change;

(bc) approve measurement, reporting and verification of greenhouse gas emissions;

(bd) authorize the establishment of the REDD+ Registry and other sector registries to feed into the National Carbon Registry.

(b) deleting the word “biannually” appearing in paragraph (e) and substituting therefor the word “annually”;

Amendment of section of 8 No. 11 of 2016.
(2A) The Cabinet Secretary shall appoint the Designated National Authority for market mechanisms.

(2B) The Designated National Authority appointed under subsection (2A) shall, in addition to international obligations, maintain the National Carbon Registry established under section 23H.

8. Section 9 of the principal Act is amended—

(a) in subsection (2) by deleting the words “and shall report to the Cabinet Secretary”;

(b) in subsection (3) by deleting the word “Director” and substituting therefor the word “Secretary”;

(c) in subsection (4) by deleting the word “Director” and substituting therefor the word “Secretary”;

(d) in subsection (4) by deleting the word “Director” and substituting therefor the word “Secretary”;

(e) in subsection (5) by deleting the word “Director” and substituting therefor the word “Secretary”;

(f) in subsection (6) by deleting the word “Director” and substituting therefor the word “Secretary”.

9. Section 10 of the principal Act is amended—

(a) in subsection (1) by deleting the word “Director” and substituting therefor the word “Secretary”;
The Climate Change (Amendment) Bill, 2023

(b) in subsection (2) by deleting the word “Director” and substituting therefor the word “Secretary”.

10. Section 13 of the principal Act is amended by—

(a) in subsection (3) by inserting the following new paragraph immediately after paragraph (l)−

(la) to guide on the description of annual carbon budget for each of the years that make up the five-year cycle;

(lb) to identify past, current and projected sector-based greenhouse gases emission profile;

(lc) to set out proposed carbon credit project pipeline based on the white list;

(ld) to review and recommend on the level of compliance with international climate commitments;

(le) to specifically identify, where appropriate, priority actions to explore carbon trading;

(b) in subsection (5) by deleting paragraph (f) and substituting therefor the following new paragraph−

(f) national and international laws and policies relating to climate change and carbon markets.

11. The principal Act is amended by inserting the following new Part immediately after Part IV—

PART IVA—REGULATION OF CARBON MARKETS
Carbon markets.

23A. Pursuant to section 6(fa), the policy direction on carbon markets shall cover all carbon markets and prescribe—

(a) Carbon reduction credits that aim to reduce emissions from current sources through projects;

(b) removal or sequestration credits that take carbon dioxide out of the atmosphere and either use or store it via afforestation, reforestation, nature-based solutions or technology-based removal; and

(c) technologies and projects on the whitelist;

(d) emission credits not taken into account, including—

(i) previously used emission credits;

(ii) emission reductions that have been achieved in violation of human rights;

(iii) the emission reductions have had significant negative social or environmental impacts;

(iv) emission reductions that were achieved before 1st January, 2013 and

(v) emission reductions that were registered before 1st January, 2013.

Principles governing trade in carbon markets.

23B. The trade in carbon market shall be guided by the following principles—
The Climate Change (Amendment) Bill, 2023

(a) transactions in carbon trading as carried out under this Act shall aim towards a reduction of greenhouse gas emissions as per the prescribed carbon standards;

(b) mitigation outcomes reported under the requirements of this Act shall be accounted for in tonnes of carbon dioxide equivalent;

(c) carbon offset projects shall ensure that emissions are kept out of the atmosphere for a reasonable length of time; and

(d) emission reductions shall be carefully recorded and documented for every offset scheme, utilizing appropriate accounting terms, corresponding adjustments, and location of offset as required by the UNFCCC and other standard bodies.

23C. (1) The participation in an initiative authorizing trade in carbon credits shall be—

(a) as a result of a bilateral or multilateral trading agreement;

(b) as a result of trading with a private entity;

(c) in a voluntary carbon market.

(2) The Cabinet Secretary may—

(a) enter into a bilateral or multilateral agreement with another State Party to trade carbon for emission reductions and removals;
(b) with the approval of the Cabinet, enter into an agreement with a private entity to offset carbon emissions;

(c) with the approval of the Cabinet, enter into any agreement to trade in a carbon market established or overseen by an internationally recognized entity, approved by a recognized credible international body.

(3) An agreement entered into under this Part shall aim to —

(a) promote the mitigation of greenhouse gas emissions while fostering sustainable development; and

(b) incentivize and facilitate participation in the mitigation of greenhouse gas emissions by authorized public and private entities.

(4) The Cabinet Secretary shall, in the national reporting mechanism to the UNFCCC, include any emission reduction resulting from agreements entered into under this section.

23D. (1) Carbon trading projects authorized under this Act shall be required to undergo an environmental and social impacts assessment in accordance with the Environmental Management and Coordination Act.

(2) Notwithstanding subsection (1), reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and
enhancement of forest carbon stocks in developing countries projects are required to undergo REDD+ safeguard standards assessment.

23E. (1) A project undertaken pursuant to this Act shall specify the anticipated environmental, economic or social of benefits the project.

(2) For purposes of subsection (1), the environmental benefits shall include—

(a) removal of greenhouse gases from the atmosphere and avoidance of emission of greenhouse gases in order to meet Kenya’s international obligations;

(b) incentives that promote offset projects;

(c) increase of carbon abatement in a manner that is consistent with protection of Kenya’s natural environment;

(d) improved resilience to the effects of climate change;

(e) achievement of Kenya’s greenhouse gases emissions targets.

(3) Every project undertaken pursuant to this Act shall be implemented through a community development agreement which shall outline the relationships and obligations of the proponents of the project with impacted communities.
(4) The National Government and the respective county government where the project is situated shall oversee and monitor the negotiation of the community development agreements with project proponents and the stakeholders.

(5) A community development agreement shall provide—

(a) a list of stakeholders of the project including: project proponents, the impacted communities, the National Government and the county government where the project is being undertaken;

(b) provision of an annual social contribution of at least twenty five percent (25%) of the aggregate earnings of the previous year to the community, to be managed and disbursed for the benefit of the community;

(c) manner of engagement with local stakeholders, especially the impacted communities;

(d) sharing of the benefits from the carbon markets and carbon credits between the project proponents and the impacted communities;

(e) proposed development of communities around the project; and

(f) manner of its review or amendment, which shall be at least every two years.
(6) A community development agreement entered into pursuant to this section shall be recorded in the National Carbon Registry.

(7) Every carbon projected undertaken pursuant to this Act shall take into consideration and aim to improve the economic, social and cultural wellbeing of the community around the project.

(8) The National Government and the respective county government where the project is situated shall enforce the community rights negotiated under a community development agreement.

(9) The Cabinet Secretary may prescribe additional requirements relating to the formulation of the community development agreement.

23F. The Government of Kenya shall, in compliance with international obligation, undertake best practices regarding share of proceeds and cancellation rates for overall global mitigation.

23G. (1) There is established a registry to be known as the National Carbon Registry.

(2) The Designated National Authority appointed under section 8(2A) shall be the custodian of the Registry.

(3) The Register established under this section shall include—

(a) carbon credit projects and programmes implemented to reduce greenhouse gas emissions in Kenya;
(b) a REDD+ Carbon registry;

(c) authorisations granted to participate in an initiative/projects/programmes under this Act;

(d) the carbon budget and the greenhouse gas reduction units;

(e) the amount of carbon credits issued or transferred by Kenya;

(f) the amount of carbon credits issued to emission reduction projects and programs recognized by Kenya from national greenhouse gas registry account;

(g) the transfer of carbon credits and any carbon credits issued or recognized by Kenya from a national greenhouse gas registry account;

(h) the cancellation of carbon credits and any other carbon credits issued or recognized by Kenya from a national greenhouse gases registry account; and

(i) any other carbon credits issued or recognized by the Kenya from a national greenhouse gases registry account.

Additional Requirements.

23H. The Cabinet Secretary shall prescribe additional requirements on the regulation of carbon markets.

Dispute resolution.

23I. (1) Any dispute arising under this part shall be referred to the Principal Secretary responsible for climate change matters.

(2) Where the dispute referred to the Principal Secretary under subsection (1) is not resolved within thirty day of submission,
The dispute shall be referred to the National Environmental Tribunal.

12. The principal Act is amended by deleting the Schedule.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Climate Change Act, 2012.

Clause 2 of the Bill seeks to amend section 2 of the Act in order to provide for the definition of the new terms introduced in the amendments such as carbon markets, Designated National Authority, carbon budget etc.
Clause 3 of the Bill seeks to amend section 3 of the Act to provide for a legal framework on international market mechanisms on carbon markets as one of the objects of the Act.

Clause 4 of the Bill seeks to amend section 4 of the Act to delete reference to the Schedule.

Clause 5 of the Bill seeks to amend section 6 of the Act to mandate the Council, as the overarching policy organ on climate change, to provide guidance and policy direction on carbon markets in the country.

Clause 6 of the Bill seeks to amend section 7 of the Act to align the provisions on membership of the Council, for better operations.

Clause 7 of the Bill seeks to amend section 8 of the Act to provide for specific mandates of the Cabinet Secretary in relation to carbon markets, including designating a National Authority in compliance with international obligations.

Clauses 8 and 9 of the Bill seeks to amend sections 9 and 10 of the Act to rename the head of the Directorate as Secretary in line with Government nomenclature.

Clause 10 of the Bill seeks to amend section 13 of the Act to provide for components relating to carbon markets to be considered in the Action Plan as this is the main planning and mainstreaming document.

Clause 11 of the Bill seeks to insert a new Part in the Act on regulation of carbon markets.

Clause 12 of the Bill seeks to delete the Schedule to the Act as section 24 already provides for making of regulations on public participation.

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

The Bill confers on the Cabinet Secretary the powers to make Regulations. It does not limit any fundamental rights or freedoms.
The Climate Change (Amendment) Bill, 2023

Statement on how the Bill concerns county governments

The Bill concerns county governments in terms of Article 110 (1)(a) of the Constitution.

Statement of the Bill as a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a Money Bill within Article 114 of the Constitution.

Dated the ………………………………………….2023.

SOIPAN TUYA,
Cabinet Secretary for Environment, Climate Change and Forestry.

SECTIONS TO BE AMENDED

Section 2 of No 11 of 2016 which it is proposed to amend—

2. Interpretation

In this Act, unless the context otherwise requires—
"adaptation" means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects which moderates harm or exploits beneficial opportunities;

"all levels of government" means all departments and agencies of the national and county governments;

"Authority" means the National Environmental Management Authority established by the Environmental Management and Coordination Act, 1999 or its successor legislation;

"Cabinet Secretary" means the Cabinet Secretary of the Ministry for the time being responsible for matters relating to climate change;

"climate change" means a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities and which is in addition to natural climate change that has been observed during a considerable period;

"climate change duties" means the statutory obligations conferred on public and private entities to implement climate change actions consistent with the national goal of low carbon climate resilient development;

"climate change resilience" means the capability to maintain competent function and return to some normal range of function even when faced with adverse impact of climate change;

"climate change secretariat" means the secretariat established by the Public Service Commission to coordinate climate change mitigation and adaptation actions and interventions;

"climate finance" means monies available for or mobilized by government or non-government entities to finance climate change mitigation and adaptation actions and interventions;

"Council" means the National Climate Change Council established under section 5;

"county executive committee member" means the county executive committee member for the time being responsible for matters relating to climate change;
"emissions", in relation to a greenhouse gas, means emissions of that gas into the atmosphere where the emissions are attributable to human activity;

"Fund" means the Climate Change Fund established under section 25;

"greenhouse gas" includes but is not limited to—

(a) carbon dioxide;
(b) methane;
(c) nitrous oxide;
(d) hydrofluorocarbons;
(e) perfluorocarbons;
(f) sulphur hexafluoride; and
(g) indirect greenhouse gases;

"intergenerational" means with reference to equity among present and future generations and equity in the present generation;

"mainstreaming" means the integration of climate change actions into decision making and implementation of functions by the sector ministries, state corporations and county governments;

"mitigation" means efforts that seek to prevent or slow down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

"public entity" means body or person with functions of a public nature;

"private entity" means a body or person with functions of a private nature, and includes bodies registered under the Public Benefits Organisations Act, 2013, (No.18 of 2013);
"recycling", in relation to any waste, includes recovery and re-use whether or not the waste is subjected to any process and cognate expressions are to be construed accordingly; and

"waste" has the meaning assigned to it in section 2 of the Environmental Management and Co-ordination Act, 1999 (No. 8 of 1999).

Section 3 of No 11 of 2016 which it is proposed to amend—

3. Objects and purpose.
(1) This Act shall be applied for the development, management, implementation and regulation of mechanisms to enhance climate change resilience and low carbon development for the sustainable development of Kenya.

(2) Without prejudice to subsection (1), this Act shall be applied in all sectors of the economy by the national and county governments to—

(a) mainstream climate change responses into development planning, decision making and implementation;

(b) build resilience and enhance adaptive capacity to the impacts of climate change;

(c) formulate programmes and plans to enhance the resilience and adaptive capacity of human and ecological systems to the impacts of climate change;

(d) mainstream and reinforce climate change disaster risk reduction into strategies and actions of public and private entities;

(e) mainstream intergenerational and gender equity in all aspects of climate change responses;

(f) provide incentives and obligations for private sector contribution in achieving low carbon climate resilient development;

(g) promote low carbon technologies, improve efficiency and reduce emissions intensity by facilitating approaches and uptake of technologies that support low carbon, and climate resilient development;
(h) facilitate capacity development for public participation in climate change responses through awareness creation, consultation, representation and access to information;

(i) mobilize and transparently manage public and other financial resources for climate change response;

(j) provide mechanisms for, and facilitate climate change research and development, training and capacity building;

(k) mainstream the principle of sustainable development into the planning for and decision making on climate change response; and

(l) integrate climate change into the exercise of power and functions of all levels of governance, and to enhance cooperative climate change governance between the national government and county governments.

(3) The rights and duties conferred under this Act are in addition to those conferred by any other law.

Section 4 of No 11 of 2016 which it is proposed to amend—

4. Guiding values and principles
(1) The guiding values and principles of low carbon climate change resilient and development in this section shall bind all level of government and all persons when—

(a) enacting, applying or interpreting any provisions of this Act; and

(b) making or implementing public policy decisions on climate change.

(2) In discharging their functions and duties under this Act the Council, the Cabinet Secretary, county government, any state officer and state organ shall be guided by the following—

(a) national values and principles of governance in Article 10 of the Constitution and the values and principles of public service in Article 232 of the Constitution;
(b) be guided by the provisions of Articles 42 and 69 of the Constitution;

(c) ensure promotion of sustainable development under changing climatic conditions;

(d) ensure equity and social inclusion in allocation of effort, costs and benefits to cater for special needs, vulnerabilities, capabilities, disparities and responsibilities;

(e) ensure integrity and transparency;

(f) ensure participation and consultation with stakeholders in accordance with the Schedule.

Section 6 of No 11 of 2016 which it is proposed to amend—

6. Functions of the Council

The Council shall provide an overarching national climate change coordination mechanism and shall—

(a) ensure the mainstreaming of the climate change function by the national and county governments;

(b) approve and oversee implementation of the National Climate Change Action Plan;

(c) advise the national and county governments on legislative, policy and other measures necessary for climate change response and attaining low carbon climate change resilient development;

(d) approve a national gender and intergenerational responsive public education awareness strategy and implementation programme;

(e) provide policy direction on research and training on climate change including on the collation and dissemination of information relating to climate change to the national and county governments, the public and other stakeholders;
(f) provide guidance on review, amendment and harmonization of sectoral laws and policies in order to achieve the objectives of this Act;

(g) administer the Climate Change Fund established under this Act; and

(h) set the targets for the regulation of greenhouse gas emissions.

Section 8 of No 11 of 2016 which it is proposed to amend—

8. Powers and duties of the Cabinet Secretary

(1) Subject to the provisions of this Act, the Cabinet Secretary shall exercise control and provide guidance over climate change governance and implementation of this Act.

(2) The Cabinet Secretary shall—

(a) formulate and periodically review the climate change policy, strategy and the National Climate Change Action Plan and submit to the Council for approval;

(b) co-ordinate negotiations on climate change related issues in consultation with the Cabinet Secretary responsible for foreign affairs;

(c) formulate a national gender and intergenerational responsive public education and awareness strategy on climate change and implementation programme;

(d) provide through the Directorate, technical assistance on climate change actions and responses to county governments, based on mutual agreement and needs cited by the county governments; and

(e) report biannually to Parliament on the status of implementation of international and national obligations to respond to climate change, and progress towards attainment of low carbon climate resilient development.
(3) The Cabinet Secretary in discharge of the duties and functions under this Act shall be assisted by the Climate Change Directorate established under this Act.

Section 8 of No 11 of 2016 which it is proposed to amend—

9. Climate Change Directorate

(1) There is established the Climate Change Directorate, as a Directorate in the state Department for the time being responsible for climate change.

(2) The Directorate shall be the lead agency of the government on national climate change plans and actions to deliver operational co-ordination and shall report to the Cabinet Secretary.

(3) The Directorate shall be headed by a Director of Climate Change who shall be recruited competitively and appointed by the Public Service Commission.

(4) A person shall be qualified for appointment as a Director of Climate Change if the person—

(a) is a citizen of Kenya;

(b) has a postgraduate degree, knowledge and experience in any of the following fields—

(i) environmental studies;
(ii) (ii) engineering;
(iii) meteorology;
(iv) climatology;
(v) law;
(vi) economics; or
(vii) such other relevant field as may be determined by the Cabinet Secretary in consultation with the Public Service Commission;

(c) has at least ten years' experience at senior management level in the relevant field; and

(d) meets the requirements of Chapter Six of the Constitution.
(5) The Director appointed under subsection (4) shall be responsible for the performance of specific duties and functions of the Directorate as set out in this Act.

(6) The Director shall advise the Cabinet Secretary on matters relating to legislation, policy, co-ordination, regulation and monitoring of climate change governance.

Section 10 of No 11 of 2016 which it is proposed to amend—

10. Seal of the Council
(1) The seal of the Council shall be such device as may be determined by the Council and shall be kept by the Director of Climate Change.

(2) The affixing of the seal shall be authenticated by the chairperson of the Council and the Director of Climate Change.

(3) Any document purporting to be under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

Section 13 of No 11 of 2016 which it is proposed to amend—

13. Cabinet Secretary to coordinate the preparation of climate change action plans, strategies and policies

(1) The Cabinet Secretary shall, in accordance with Article 10 of the Constitution and section 3 of this Act, and through public consultation, formulate a National Climate Change Action Plan.

(2) The National Climate Change Action Plan shall be presented for approval by the Council.

(3) The National Climate Change Action Plan shall prescribe measures and mechanisms—

(a) to guide the county toward the achievement of low carbon climate resilient sustainable development;
(b) to set out actions for mainstreaming climate change responses into sector functions;

(c) for adaptation to climate change;

(d) for mitigation against climate change;

(e) to specifically identify all actions required as enablers to climate change response;

(f) to mainstream climate change disaster risk reduction actions in development programmes;

(g) to set out a structure for public awareness and engagement in climate change response and disaster reduction;

(h) to identify strategic areas of national infrastructure requiring climate proofing;

(i) to review and determine mechanisms for climate change knowledge management and access to information;

(j) to enhance energy conservation, efficiency and use of renewable energy in industrial, commercial, transport, domestic and other uses;

(k) to strengthen approaches to climate change research and development training and technology transfer;

(l) to review and recommend duties of public and private bodies on climate change;

(m) to review levels and trends of greenhouse gas emissions; and

(n) to identify outputs, overall budget estimates and timeframes to realize expected results.

(4) Without prejudice to the foregoing, the National Climate Change Action Plan shall address all sectors of the economy, and provide mechanisms for mainstreaming of the National Climate Change Action Plan into those sectors.
(5) In formulating the National Climate Change Action Plan, the Cabinet Secretary shall be informed by—

(a) scientific knowledge about climate change;

(b) technology and technological innovations relevant to climate change;

(c) economic circumstances, in particular the likely impact of the action plan on the following—

(i) the economy;

(ii) the competitiveness of particular sectors of the economy;

(iii) small and medium-size enterprises;

(iv) employment opportunities; and

(v) the socio-economic well-being of any segment or part of the population;

(d) fiscal circumstances, in particular, the likely impact of the action plans, strategies and policies on the marginalised and disadvantaged communities;

(e) social circumstances in particular, the likely impact of the action plans, strategies and policies on biodiversity and ecosystem services;

(f) international law and policy relating to climate change; and

(g) indigenous knowledge related to climate change adaptation and mitigation.

(6) A notice shall be published in the Kenya Gazette and national newspapers to notify the public on approval of the National Climate Change Action Plan by the Council.
The Directorate shall undertake a biennial review of the implementation of the National Climate Change Action Plan and report to the Council.

(8) The Cabinet Secretary shall, in every five-year period, review and update the National Climate Change Action Plan.

(9) The Cabinet Secretary, all public bodies, and any person or entity engaged in climate change governance and administration shall, when exercising any power or discharging any statutory duty or function, be bound by the contents of the National Climate Change Action Plan.

The Schedule to No 11 of 2016 which it is proposed to amend—

SCHEDULE

PROVISIONS ON PUBLIC CONSULTATION

[section 4(2)(f).]

1. (1) Where this Act imposes a requirement for public consultation in matters relating to climate change policy, strategy, programme, plan or action, the Council or respective public or private entity shall publish a notice—

   (a) in the Gazette;

   (b) in at least two newspapers with national circulation;

   (c) in at least one newspaper circulating in the locality to which the climate change policy, strategy, programme, plan or action relates; and

   (d) in at least one Kenyan radio station broadcasting in that locality.

(2) The notice shall in each case—

   (a) set out a summary of the policy, strategy, programme, plan or activity;

   (b) state the premises at which the details of the policy, strategy, programme, plan or action may be inspected;
The Climate Change (Amendment) Bill, 2023

(c) invite written comments on or objections to the policy, strategy, programme, plan or action;

(d) specify the person or body to which the comments are to be submitted; and

(e) specify a date by which the comments or objections are required to be received, not being a date earlier than sixty days after publication of the notice.

2. The Council or public or private entity shall make arrangements for the public to obtain copies, at a reasonable cost, of documents relating to the policy, strategy, programme, plan or action which are in the possession of the respective entities.

3. The Council or the respective public or private entity shall consider the—

   (a) written comments or objections received on or before the date specified under paragraph 1(2)(e); and

   (b) comments, whether in writing or not, received at a public meeting held in relation to the policy, strategy, programme, plan or action at which the Council or respective public or private entity was represented, or by any other invitation, to comment.

4. The Council or the respective public or private entity shall publish, in accordance with paragraph 1 of this Schedule, notice of the fact that a copy of the written decision of the Council or the respective public or private entity relating to the policy, strategy, programme, plan or action, and the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 1(2)(b).

5. Where regulations made under this Act so require, the Council or respective public or private entity shall cause a public meeting relating to a policy, strategy, programme, plan or action to be held before the Council or the respective public or private entity makes its decision on the policy, strategy, programme, plan or action.