

REPUBLIC OF KENYA



PARLIAMENT
OF KENYA
LIBRARY

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT
SECOND SESSION

THE DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK
REPORT ON THE STATUTE LAW MISCELLANEOUS AMENDMENT BILL OF 2018

DIRECTORATE OF COMMITTEE SERVICES,
THE NATIONAL ASSEMBLY,
PARLIAMENT BUILDINGS,
NAIROBI.

JUNE 2018

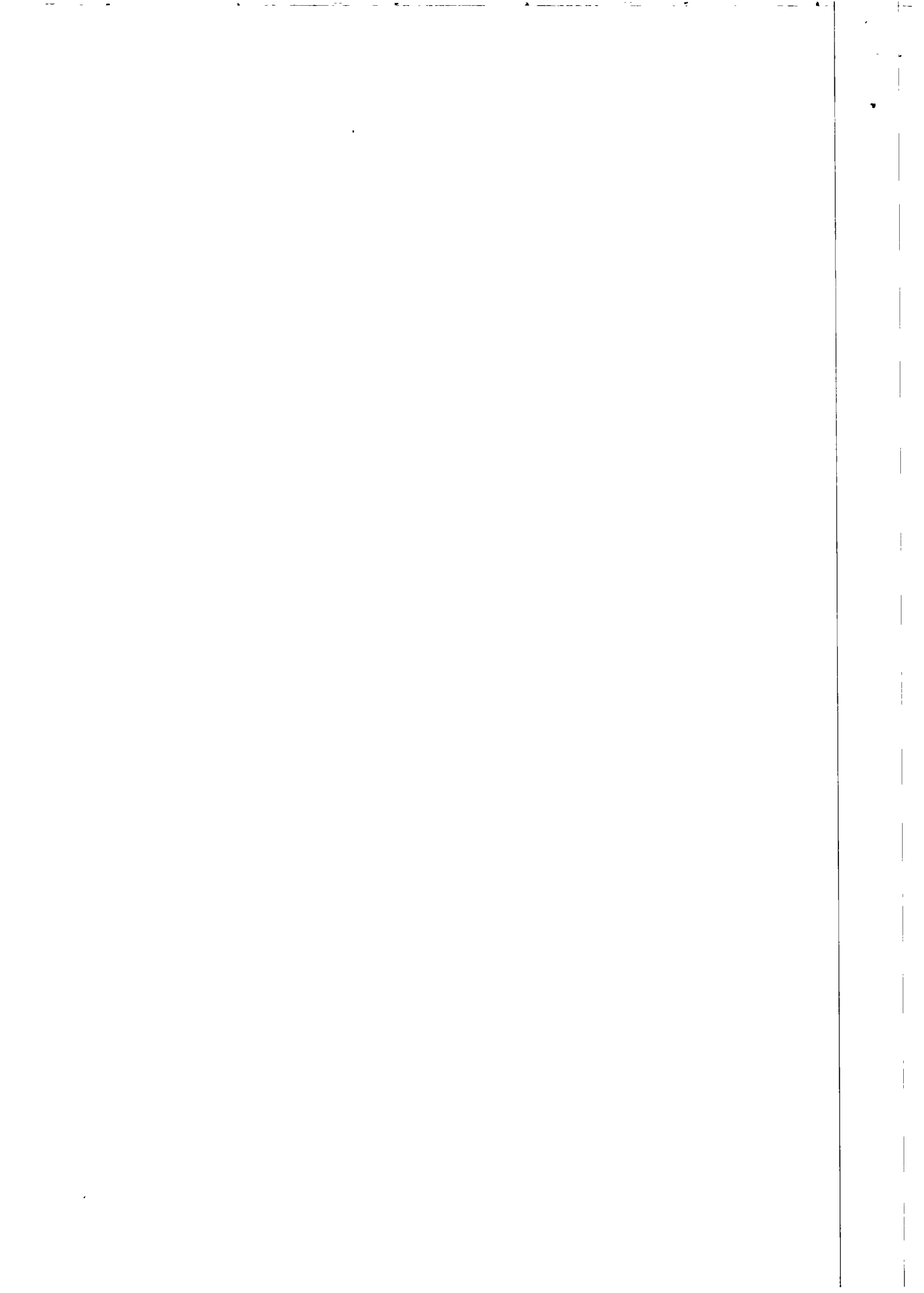


Table of Contents

CHAIRMAN'S FOREWORD2

COMMITTEE MANDATE.....3

COMMITTEE MEMBERSHIP3

INTRODUCTION4

PUBLIC PARTICIPATION5

COMMITTEE'S OBSERVATIONS10

COMMITTEE'S RECCOMENDATIONS10

CHAIRMAN'S FOREWORD

The Statute Law (Miscellaneous Amendments) Bill, 2018 National Assembly Bill No. 12 of 2018 was published on 10th April 2018 and read first time on 18th April, 2018. The bill is in keeping with the practice of making amendments which do not merit the publication of separate Bills and consolidating them to one Bill. The bill therefore proposes amendments to various Acts of Parliament. Pursuant to the provisions of Standing Order 127 (1), of the National Assembly Standing Orders which provides *that a Bill having been read a first time shall stand committed to the relevant Departmental Committee* it is on this basis that the Committee makes this Report.

I take this opportunity to thank all Members of the Committee for their input in the consideration of the Statute Law (Miscellaneous Amendments) Bill, 2018. The Committee also takes this opportunity to thank the Offices of the Speaker and of the Clerk of the National Assembly for the logistical support accorded to it during the exercise. The Committee also appreciates the role played by the media following its coverage of the proceedings, thus enhancing accountability and transparency.

Pursuant to provisions of Standing Order 199 (6), and on behalf of the Departmental Committee on Administration and National Security, it is my pleasant privilege and honor to present to this House the Report of the Committee on the Statute Law (Miscellaneous Amendments) Bill, 2018.

In considering the bill, the Committee received submissions from the following stakeholders;

- i. The Council of Governors
- ii. The Ministry of Agriculture and Irrigation
- iii. The Ministry of Health

The Committee sincerely thanks the Offices of the Speaker and the Clerk of the National Assembly for the immense and timely technical and logistical support accorded to it in the execution of its mandate. I also thank all the Members of the Committee for their commitment and hard work which enabled us to complete the tasks related to the scrutiny of the proposed amendments and compilation of this report.

The Committee is also grateful to stakeholders who made submissions in relation to the Consideration of the Bill.

On behalf of the Departmental Committee on Agriculture and Livestock pursuant to provisions of Standing Order 127, it is my pleasant privilege and honor to present the Report of the Committee on its consideration of the Statute Law (Miscellaneous Amendments) National Assembly Bill No. 12 of 2018.

SIGNED..........DATE.....

THE HON. HON. ADEN HAJI ALI, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK

COMMITTEE MANDATE

The Departmental Committee on Agriculture and Livestock is established pursuant to the provisions of Standing Order No. 216(5) of the National Assembly and in line with Article 124 of the Constitution which provides for the establishment of the Committees by Parliament. The mandate and functions of the Committee is to;

- a) *Investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
- b) *Study the programmes and policy objectives of the Ministries and departments and the effectiveness of the implementation;*
- c) *Study and review all legislation referred to it;*
- d) *Study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with its stated objectives;*
- e) *Investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- f) *Vet and report on all appointments where the constitution or any law requires the National Assembly to approve, except those under Standing Order 204; and*
- g) *Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

COMMITTEE MEMBERSHIP

1. Hon. Adan Haji Ali, M.P.
2. Hon. Emmanuel Wangwe, MP.
3. Hon. Florence Mutua, MP.
4. Hon. Maison Leshoomo, MP.
5. Hon. Silas Kipkoech Tiren, M.P.
6. Hon. Ferdinard Wanyonyi, MP
7. Hon. Francis Munyua Waititu, M.P.
8. Hon. Simba Arati, MP.
9. Hon. Dr. John Kanyuithia Mutunga, M.P.
10. Hon. Yegon Brighton Leonard, MP
11. Hon. Gabriel Kago Mukuha, M.P.
12. Hon. John Paul Mwirigi, M.P.
13. Hon. Adan Haji Yussuf, M.P.
14. Hon. Janet Jepkemboi Sitienei, M.P.
15. Hon. Dr. Daniel Kamuren Tuitoek, M.P.
16. Hon. Joyce Kamene, MP.
17. Hon. Fred Ouda, M.P.
18. Hon. Justus Makokha Murunga, MP.

Chairperson

Vice- Chairperson

COMMITTEE SECRETARIAT

First Clerk Assistant	-	Ahmad Kadhi
Third Clerk Assistant	-	Nicodemus Maluki
Legal Counsel II	-	Colletah Sigilai
Fiscal Analyst	-	Omar Abdirahim

Research Officer III	-	Eric Kariuki
Rose Apalat Omtere	-	Audio Officer
Sergeant At arms	-	Alex Mutuku
Sergeant At arms	-	Faith Makena

INTRODUCTION

This report details the Consideration of the Statute Law (Miscellaneous Amendments) (**NATIONAL ASSEMBLY BILL NO. 12 OF 2018**). The Bill's main objective is to amend the following;

1. **The Biosafety Act, 2009 (No. 2 of 2009)**
The Bill seeks to amend the Biosafety act, 2009 to make provisions relating to the Board.
2. **The Kenya Agricultural and Livestock Research Act, 2013 (No.17 of 2013).** The Bill proposes to amend the Kenya Agricultural and Livestock Research Act, 2013, to delete paragraphs (f) of the second schedule, (i) of the Third Schedule and paragraph (d) of the Fourth Schedule. These paragraphs had placed matters relating to forest management and research under the Ministry of Agriculture.

The Committee considered the memoranda and public participation proposals in the Bill during its sitting of Tuesday 31st May and Thursday 7th June, 2018.

The Committee's decisions on the amendments were based on the Constitutional requirements and views from the relevant stakeholders. The Committee has deliberated on the Bill and considering the views from the stakeholders, recommends that the House approves the bill as published;

PUBLIC PARTICIPATION

Article 118 of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the Legislative and other business of Parliament and its Committees"

Standing order 127 (3) provides that, "the Departmental Committee to which a bill is committed shall facilitate public participation and shall take in to account views and recommendations of the public when the committee makes its report to the House."

In the Consideration of the Bill, the committee invited memoranda from the public vide a notice in the local dailies Pursuant to Article 118 of the Constitution and Standing order 127 (3).

STATUTE LAW MISCELLANEOUS AMENDMENT BILL 2018

The Committee received various memoranda from institutions and persons who are stakeholders. Their proposals are presented in a concise manner in the table below;

The Biosafety Act, 2009 (No. 2 of 2009)			
ACT	PROPOSED AMENDMENT	COUNCIL OF GOVERNORS	Justification
<p>6 (1) The Authority shall be managed by a Board comprising of—</p> <p>(a) a chairperson, who shall be an eminent scientist, appointed by the Minister;</p> <p>(b) the Permanent Secretary in the Ministry for the time being responsible for science and technology;</p> <p>(c) the Permanent Secretary in the ministry for the time being</p>	<p>s.6(1). Delete and substitute therefor the following subsection -</p> <p>(1) The Authority shall be managed by a Board comprising of nine members as follows -</p> <p>(a) a Chairperson who shall be an eminent scientist, appointed by the Cabinet Secretary;</p> <p>(b) the Principal Secretary in the Ministry for the time being</p>	<p>Insert the following new paragraphs immediately after paragraph (g)–</p> <p>“(h) three representatives of the county government appointed by the Council of Governors”</p>	<p>The principal Act defines “biosafety” as the avoidance of risk to human and safety, and the conservation of the environment, as a result of the use of genetically modified organisms.</p> <p>In this regard counties have a role in conservation of the environment as provided for under function 10, part 2 of the Fourth</p>

<p>responsible for finance;</p> <p>(d) the Permanent Secretary of the Ministry for the time being responsible for agriculture;</p> <p>(e) the Director-General of the National Environment Management Authority;</p> <p>(f) the Managing Director of the Kenya Bureau of Standards;</p> <p>(g) the Managing Director of the Kenya Plant Health Inspectorate Services;</p> <p>(h) the Director of the Department of Veterinary Services;</p> <p>(i) the Secretary of the National Council for Science and Technology;</p> <p>(j) the Chief Public Health Officer;</p> <p>(k) six other persons appointed by the</p>	<p>responsible for Science and Technology;</p> <p>(c) the Principal Secretary in the Ministry for the time being responsible for finance;</p> <p>(d) the Principal Secretary in the Ministry for the time being responsible for agriculture;</p> <p>(e) three experts in the biological, environmental and social sciences respectively, appointed by the Cabinet Secretary;</p> <p>(f) one member with financial expertise, appointed by the Cabinet Secretary; and</p> <p>(g) the Chief Executive Officer who shall be an ex-officio member.</p>		<p>Schedule of the Constitution</p>	
--	--	--	-------------------------------------	--

<p>Minister, of whom at least two shall be of either gender and of whom—</p> <p>(i) three shall be experts in the following respective sciences, namely biological, environmental and social sciences;</p> <p>(ii) one shall represent interests of consumers;</p> <p>(iii) one shall represent the interests of farmers;</p> <p>(iv) one shall represent the interests of the biotechnology industry; and</p> <p>(1) a Chief Executive officer appointed under section 12, who shall be the Secretary to the Board.</p>				
<p>12. The Chief Executive Officer</p> <p>(1) There shall be a Chief Executive Officer of the Board who shall be</p>	<p>s.12(2). Delete and substitute therefor the following subsection -</p> <p>(2) The Chief Executive Officer</p>			

<p>appointed by the Board.</p> <p>(2) The Chief Executive Officer shall hold office for such period and on such terms and conditions of employment as the Board may determine.</p> <p>(3) The Chief Executive Officer shall be an ex officio member of the Board but shall have no right to vote at any meeting of the Board.</p> <p>(4) The Chief Executive Officer shall, subject to the direction of the Board, be responsible for the day to day management of the Authority.</p>	<p>shall hold office for a period of four years, which period may be renewed once subject to satisfactory performance, as evaluated by the Board of the Authority.</p>			
<p>14. Staff of the Authority</p> <p>The Board may appoint such officers, agents and other staff of the Authority as are necessary for the proper and efficient discharge of the</p>	<p>s.14. Delete and substitute therefor the following new section -</p> <p>Staff of the Authority 14. The Authority may employ a Corporation Secretary and such other officers,</p>			

functions of the Authority under this Act, upon such terms and conditions of service as the Board may determine.	agents and staff as may be necessary for the performance of the functions of the Authority under this Act.			
The Kenya Agricultural and Livestock Research Act, 2013 (No.17 of 2013).				
Second Schedule (f) Forest and Environment Research Institute.	Delete paragraph (f).	The Bill proposes to amend the Kenya Agricultural and Livestock Research Act, 2013, to delete paragraphs (f) of the second schedule, (i) of the Third Schedule and paragraph (d) of the Fourth Schedule. These paragraphs had placed matters relating to forest management and research under the Ministry of Agriculture.		
Third Schedule (i) forestry and wildlife; and	Delete paragraph (i).			
Fourth Schedule d) Kenya Forestry Research Institute.	Delete paragraph (d).			

The Committee further received communication from the Ministry of Health, seeking inclusion of the Principal Secretary, Ministry of Health in the Proposed amendment of the Biosafety Act No. 2 of 2009, Section 6 (1). This was justified by the National Biosafety Authority's role to conduct risk assessment of Genetically Modified Foods and determine their safety.

COMMITTEE OBSERVATIONS

The Committee made the following observations;

1. **The Biosafety Act, 2009 (No. 2 of 2009)** inclusion of the Principal Secretary, Ministry of Health in the Proposed amendment of the Biosafety Act No. 2 of 2009, Section 6 (1).
2. **The Kenya Agricultural and Livestock Research Act, 2013 (No.17 of 2013)**. The Committee agreed with the proposals contained in the bill to amend the Act.

COMMITTEE RECCOMENDATIONS

The Biosafety Act, 2009 (No. 2 of 2009) inclusion of the Principal Secretary, Ministry of Health in the Proposed amendment of the Biosafety Act No. 2 of 2009, Section 6 (1).

SIGNED..........DATE.....

THE HON. HON. ADEN HAJI ALI, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON AGRICULTURE AND LIVESTOCK