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NATIONAL COUNCIL FOR LAW REPORTING

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THE NATIONAL COHESION AND INTEGRATION (AMENDMENT) BILL, 2012

A Bill for

AN ACT of Parliament to amend the National Cohesion and Integration Act, 2008

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Cohesion and Integration (Amendment) Act, 2012.

2. The First Schedule to the National Cohesion and Integration Act, 2008 is amended—

(a) in the title, by deleting the words "National Assembly" and substituting therefor the words "Public Service Commission";

(b) by deleting paragraph 1 and substituting therefor the following new paragraph—

1. The Public Service Commission shall, before the expiry of the terms of the Chairperson, or the commissioners invite applications from persons qualified under this Act for nomination, as the Chairperson or commissioners by advertisement in the Gazette and in at least three daily newspapers of national circulation.

(c) in paragraph 2, by deleting the words "the Clerk" and substituting therefor the words "the Public Service Commission";
(d) in paragraph 3—

(i) by deleting the words "the relevant Parliamentary Committee" and substituting therefor the words "the Public Service Commission";

(ii) by inserting the following new proviso immediately after paragraph (b)-

Provided that where the terms of all eight commissioners are coming to an end, regard shall be had to the need for continuity and retention of expertise and experience in the selection process by the retention of at least three commissioners including the Chairperson;

(e) in paragraph 4, by deleting the words "the Committee" and substituting therefor the words "the Public Service Commission";

(f) in paragraph 5—

(i) by deleting the word "upon" and substituting therefor the words "within fourteen days of";

(ii) by deleting the words "the Committee" and substituting therefor the words "the Public Service
(g) by deleting paragraph 7 and substituting therefor the following new paragraph—

7. In nominating or appointing persons as commissioners, the National Assembly and the President shall have regard to gender equity and regional balance and the requirement to ensure continuity and retention of expertise and experience by reappointment of at least three commissioners, including the Chairperson, in cases where the term of all eight commissioners are expiring at the same time.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of the Bill is to amend the procedure for the appointment or reappointment of the Chairperson and commissioners of the National Cohesion and Integration Commission upon the expiry of their term under section 19 of the Act.

The Bill provides for the Public Service Commission to advertise and, together with the Ministry in charge of national cohesion and integration, interview and shortlist applicants for appointment or reappointment as Commissioners. The persons nominated for appointment as commissioners shall be approved by Parliament.

The Bill also ensures continuity in the Commission by providing that where the terms of all eight Commissioners come to an end at the same time, at least three commissioners, including the Chairperson shall remain as members of the Commission so as to ensure continuity and retention of institutional memory.
The enactment of this Act shall occasion expenditure of public funds, which shall be provided through the annual estimates.

Dated the 30th August, 2012.

EUGENE WAMALWA,
Minister for Justice,
National Cohesion and Constitutional Affairs.

The First Schedule of the National Cohesion and Integration Act, 2008 which it is proposed to amend—

FIRST SCHEDULE (s.17)

PROCEDURE FOR NOMINATING COMMISSIONERS BY THE NATIONAL ASSEMBLY

1. The Clerk of the National Assembly shall, within fourteen days of the commencement of this Act, by advertisement in the Gazette and in at least three daily newspapers of national circulation, invite applications from persons qualified under this Act for nomination as commissioners.

2. An application under paragraph 1 shall be forwarded to the Clerk within twenty-one days of the advertisement and may be made by any—

   (a) qualified person; or

   (b) any person, organization or group of persons proposing the nomination of any qualified person.

3. The relevant Parliamentary Committee in consultation with the Minister shall, within seven days of the expiry of the period prescribed under paragraph 2—

   (a) Consider all the applications received under
paragraph 2; and

(b) Recommend to the National Assembly suitably qualified persons for nomination as commissioners.

4. The Committee shall rank and provide comments regarding each of the finalists to the National Assembly.

5. The National Assembly shall, upon receipt of the recommendations of the Committee under paragraph 3, nominate fifteen persons for appointment as commissioners and shall submit the list of nominees to the Minister for onward transmission to the President.

6. The Minister shall forthwith forward the names of the persons nominated in accordance with paragraph 5 to the President who shall, by notice in the Gazette, appoint therefrom eight commissioners.

7. In nominating or appointing persons as commissioners, the National Assembly and the President shall have regard to gender equity and regional balance.