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**NATIONAL MUSEUMS AND HERITAGE
(AMENDMENT) BILL, 2019**

A Bill for

AN ACT of Parliament to amend the National Museums and Heritage Act and for connected purposes.

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the National Museums and Heritage (Amendment) Act, 2019.

Short title

2. Section 2 of the National Museums and Heritage Act, in this Act referred to as “the principal Act”, is amended in sub section(1) by—

Amendment of
Section 2 of No. 6
of 2006

- (a) deleting definition of the term “Board”;
- (b) deleting definition of the term “minister”
- (c) inserting the following new definitions in their proper alphabetical sequence—

“Authority” means the Kenya Heritage Authority;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for ancient and national monuments of national importance;

“county executive committee member” means the county executive committee member responsible for matters relating to cultural heritage and museums

3. Section 3 of the Principal Act is amended by deleting the words “National Museums of Kenya” appearing immediately after the words “known as the” and substituting therefor the words “Kenya Heritage Authority”.

Amendment of
Section 3 of the
Principal Act

4. The Principal Act is amended by deleting section 4 and substituting therefor the following new section—

Amendment of
Section 4 of the
Principal Act

Functions of the
Authority

4. The Kenya Heritage Authority shall —

- (a) identify, acquire and record ancient and historical monuments and sites that

- are of national importance for inclusion in the national heritage inventory;
- (b) serve as a national repository for artefacts that are of scientific, natural, cultural, technological or human interest and that are of national importance;
 - (c) protect and conserve heritage sites of national and global importance and attributes therein including global biodiversity;
 - (d) undertake research in fields of ancient, historical, scientific, cultural, natural, technological and human interest;
 - (e) disseminate and transmit knowledge on things of ancient and historical monuments and sites of national importance;
 - (f) promote sustainable utilization of heritage resources for national development;
 - (g) develop principles and standards and make recommendations on policies for the management of the national heritage resources;
 - (h) liaise with the county governments and the relevant national regional and international institutions on heritage management;
 - (i) advise and provide

professional expertise and technical support to county governments and any entity or person responsible for the management of heritage resources at national and county level;

- (j) issue excavation and exploration licences in connection with national heritage;
- (k) secure and exhibit the national heritage, antiquities and monuments to the public;
- (l) promote the public's enjoyment and understanding of the national heritage, antiquities and monuments; and
- (m) undertake all other lawful things incidental or relevant to the attainment of the functions of the Authority.

5. The Principal Act is amended by inserting the following new section immediately after section 4—

Powers of
the
Authority

4A. The Authority may—

- (a) purchase or exchange, take on lease, or acquire by gift or otherwise, movable or immovable property for any purpose of or connected with the Authority;
- (b) sell, lease or exchange immovable property from time to time vested in the Authority which is no longer, or not for the time

being, required for any such purposes;

- (c) mortgage or charge immovable property from time to time vested in the Authority as security for repayment with or without interest, of any money borrowed for the purposes of the Authority;
- (d) partner, where necessary, with any county governments, community or individual for conservation of historical sites and monuments of national importance;
- (e) acquire by way of gift or purchase, or accept by way of loan or deposit, any object of scientific, cultural, technological, historical or human interest relevant to Kenyan heritage;
- (f) exchange, sell or otherwise dispose of property not required for the purpose of the Authority as specified in the Regulations;

Provided that no object which is accessioned and registered as part of the collection of a national museum shall be—

- (i) sold, given away, mortgaged, pledged or in any way permanently disposed of save under

authority of a resolution of the Board and with the consent in writing of the Cabinet Secretary; or

- (ii) lent to any person or organization, within or outside Kenya, unless under authority of a resolution of the Board and with the consent of the Cabinet Secretary;
- (g) charge such fees as may be prescribed for excavation and other licenses issued under this Act;
- (h) with the consent of the Cabinet Secretary and with the authority of a resolution by the Board, lend objects vested in the Authority to any person or institution whether within or outside Kenya;
- (i) loan, for research purposes, specimens and collections under the appropriate loaning agreements;
- (j) apply money received on the sale or disposal of movable property or by way of payment for admission to a National Heritage Centre or by way of gift or grant or otherwise, in the purchase of any object which in the opinion of the Authority it

is desirable to acquire for a National Heritage Centre or in furthering interest in and increasing the utility in a National Heritage Centre;

- (k) solicit and accept and receive subscriptions, donations, devices and bequests, whether of movable or immovable property and whether absolute or conditional for the general or special purposes of the Authority or subject to any trust;
- (l) charge for admission to a National Heritage Centre, or to any lecture, exhibit, conducted tour, course of instruction or other facility, or for publications, such fees or prices as the Authority may, subject to any regulations made under this Act, think fit;
- (m) borrow, with or without security, such moneys as may from time to time be needed for any purposes of the Authority;
- (n) conduct environmental and heritage impact assessments, subject to the provisions of the national laws and international treaties and conventions;
- (o) enter into association with such bodies or organisations within or outside Kenya as the

Authority may consider desirable or appropriate and in furtherance of the purposes for which the Authority is established;

- (p) enter into agreements or partnerships with other bodies, organisations and persons including persons with proprietary interests over land on which monuments are situate;
- (q) establish branches and national heritage centres;
- (r) establish standards, develop guidelines and advise any person or entity on heritage management;
- (s) monitor ancient and historical monuments and sites of national importance for purposes of preservation and conservation;
- (t) create, develop, own, protect and exploit inventions and innovations resulting from research activities undertaken on or by the aid of heritage resources;
- (u) establish mechanisms for effective dissemination of information on heritage;
- (v) set fees or other charges prescribed under this Act as may be necessary or expedient for;
- (w) preserving and increasing

the utility of the collections;

(x) securing the due administration of anything vested in or acquired by the Authority through this Act or other written law, and;

(y) do all other lawful things incidental or conducive to the attainment of the functions of the Authority

6. The Principal Act is amended by deleting section 5 and substituting therefor the following new sections—

Amendment
of Section 5 of
the Principal
Act

Functions of County Museums may—

5. (1) The County Museums

(a) purchase or exchange, take on lease, or acquire by gift or otherwise, movable property for any purpose of or connected with the County Museums;

(b) mortgage or charge immovable property from time to time vested in the County Museums as security for repayment, with or without interest, of any money borrowed for the purposes of the County Museum ;

(c) appoint advisory committees for museums;

(d) acquire by way of gift or purchase, or accept by way of loan or deposit, any object of scientific, cultural,

technological, historical
or human interest;

- (e) in consultation with the
Cabinet Secretary,
exchange, sell or
otherwise dispose of
objects not required for
the purpose of the
County Museums and
lend objects vested in
the County Museum to
any person or
institution whether
within or outside
Kenya:

Provided that no object
which is accessioned and
registered as part of the
collection of a county
museum shall be—

- (i) sold, given
away,
mortgaged,
pledged or in
any way
permanently
disposed of save
under authority
of a resolution
of the Authority
and with the
consent in
writing of the
Cabinet
Secretary; or
- (ii) lent to any
person or
organization,
within or
outside Kenya,
unless under
authority of a
resolution of the

Board and with
the consent of
the Cabinet
Secretary;

- (f) upon the approval of the County Executive Committee Member, form companies to take over or assist in any of the functions of the County Museums;
- (g) apply money received on the sale or disposal of movable property or by way of payment for admission to a museum or by way of gift or grant or otherwise, in the purchase of any object which in the opinion of the County Executive Committee Member it is desirable to acquire for a county museum or in furthering interest in and increasing the utility in a county museum;
- (h) solicit and accept and receive subscriptions, donations, devices and bequests (whether of movable or immovable property and whether absolute or conditional) for the general or special purposes of a county museum or subject to any trust;
- (i) charge for admission to a county museum, or to any lecture, exhibit,

- conducted tour, course of instruction or other facility, or for publications, such fees or prices as the County Museum may, subject to any regulations made under this Act, think fit;
- (j) borrow, with or without security, such moneys as may from time to time be needed for any purposes of the County Museum;
 - (k) in consultation with the National Council for Science and Technology, maintain existing research institutions and establish new ones;
 - (l) subject to the provisions of the Environmental Management and Co-ordination Act (No. 8 of 1999), conduct environmental impact assessments;
 - (m) enter into association with other bodies or organizations within or outside Kenya as the Board may consider desirable or appropriate and in the furtherance of the purposes for which the County Museum is established;
 - (n) open a bank account or bank accounts for the funds of the County

Museums, and;

(o) do all such other lawful things as may seem to the County Museums to be incidental or conducive to the attainment of any of the functions of the County Museums.

(2) The County Museum may receive moneys from any source and may apply those moneys to defray its expenses in carrying out the functions and exercising the powers conferred on it by this Act

7. The Principal Act is amended by inserting the following new section immediately after section 5—

County heritage **5A.**
Inspectors

(1) The County Executive member responsible for heritage may appoint a heritage inspector.

(2) The heritage inspector shall undertake the following functions—

(a) make a full assessment of the state of compliance with heritage legislation;

(b) ensure that county heritage articles are preserved and maintained properly;

(c) consult with any representatives (person, community, entity) by informing them of any violations of heritage legislation encountered and what further action he/she intends to take;

(d) make reports on any violations on county

heritage sites and articles to the county executive member for action; and

- (e) inspect any damage to county heritage sites and articles and advise a way forward to the county executive member.

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

Amendment of Section 6 of the Principal Act

(a) in subsection (1)

- (i) by deleting paragraph (a) and substituting therefor the following new paragraph:

“a chairperson appointed by the Cabinet Secretary after consultation with the President”

- (ii) by deleting the words “National Museums of Kenya” appearing immediately after the word ‘the’ and substituting therefor with the words “Authority”, and;

(b) in subsection (3) by deleting the entire subsection and substituting therefor the following new paragraph—

- (i) The Authority shall have the general management, development and control of all ancient and historical monuments of national importance and protected areas and declared by this Act.

9. Section 14(1) of the principal Act is amended by deleting the words “National Museums” appearing immediately after the word ‘the’ and substituting therefor with the words “Authority”.

Amendment of Section 14 of the Principal Act

10. Section 16(1) of the principal Act is amended by deleting the words “National Museums” appearing immediately after the word ‘the’ and substituting therefor with the words “Authority”.

Amendment of Section 16 of the Principal Act

11. Section 17 of the principal Act is amended by deleting the words “National Museums” appearing immediately after the word ‘the’ and substituting therefor with the words “Authority”.

Amendment of Section 17 of the Principal Act

12. The Principal Act is amended by deleting section 18 and substituting therefor the following new sections—

Amendment of
Section 18 of
the Principal
Act

Funds of the Board **10.** The funds of the Authority shall comprise—

- (a) such monies as may be appropriated by Parliament for the purposes of protection, management and maintenance of ancient and historical monuments of national importance;
- (b) such monies as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) all monies from any other source provided for, donated or lent to the Authority.

13. Section 19 of the Principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the words “Authority”.

Amendment
of Section 19
of the
Principal Act

14. Section 20 of the principal Act is amended—

Amendment
of Section 20
of the
Principal Act

- (a) by deleting subsection (2)(a) and substituting therefor with the following new subsection—
 - (i) The annual estimates shall make provisions for all the estimated expenditure of the Authority for the financial year concerned and in particular shall provide for—
 - (a) the payment of salaries, allowances and other charges in respect of the staff of the Authority;
 - (b) the payment of pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the Authority;
 - (c) the proper maintenance of ancient and historical monuments of national importance and protected areas;

(d) the funding of training, research and development activities of the Authority;

(e) the acquisition, maintenance, repair and replacement of the equipment and other movable property of the Authority, and;

(f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Authority may deem appropriate.

15. Section 21 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the words “funds of the” and substituting therefor with the word “Authority”

Amendment of Section 21 of the Principal Act

16. Section 22 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”

Amendment of Section 22 of the Principal Act

17. The Principal Act is amended in section 23 by deleting the subsection and substituting therefor with the following new section—

Amendment of Section 23 of the Principal Act

Accounts and Audit

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

(2) The Board shall within three months from the end of the financial year submit to the Auditor-General or an auditor appointed under subsection (3), the accounts of the Authority together with—

(a) a statement of income and expenditure during the year; and

(b) a statement of the

assets and
liabilities of the
Authority on the
last day of that
year.

(3) The accounts of the Authority shall be audited by the Auditor-General or by an auditor appointed by the Board with the written approval of the Auditor-General.

(4) The appointment of an auditor shall not be terminated by the Board without the prior written consent of the Auditor-General.

(5) The Auditor-General may give general or specific directions to an auditor appointed under subsection (3) and the auditor shall comply with such directions.

(6) An auditor appointed under subsection (3) shall report directly to the Auditor-General on any matter relating to the directions given under subsection (5).

(7) The Auditor-General shall within six months after the end of the financial year report on the examination and audit of the accounts of the Authority to the Cabinet Secretary, and where an auditor has been appointed under subsection (3) he shall transmit a copy of

the report to the Auditor-General.

(8) The fee payable to an auditor appointed under subsection (3) shall be fixed and paid by the Board.

(9) Nothing in this Act shall be construed to prohibit the Auditor-General from carrying out an inspection of the Authority accounts or records whenever it appears to him desirable.

(10) Notwithstanding anything in this Act, the Auditor-General may transmit to the Cabinet Secretary a special report on any matters incidental to his power under this Act and the Public Audit Act, 2015.

18. Section 24 of the Principal Act is amended—

Amendment of section 24 of the Principal Act

- (a) in subsection (1) by deleting the words “Minister” and substituting therefor with the word “Cabinet Secretary” and;
- (b) in subsection (2) by deleting the words “Minister” and substituting therefor with the word “Cabinet Secretary”.

19. Section 25 of the principal Act is amended—

Amendment of Section 25 of the Principal Act

- (a) by deleting subsection (1) and substituting therefor with the following new paragraph:

“(1) After consultation with the Authority, the Cabinet Secretary may by notice in the *Gazette* declare—

- (a) an open space to be a protected area within the meaning of this Act;
- (b) a specified place or immovable structure which the Cabinet Secretary considers to be of historical interest, and a specified area of

land;

- (c) a specified site on which a buried monument or an immovable object of archaeological or paleontological interest exists or is believed to exist, and a specified area of land adjoining it which is in the Cabinet secretary's opinion required for maintenance thereof, to be a protected area within the meaning of this Act;
- (d) a specified object or type of object, as part of an immovable structure, which the Cabinet secretary considers to be of historical, cultural, or scientific interest, to be a protected object within the meaning of this Act;
- (e) a building and a specified area of land adjoining it which in the Cabinet secretary's opinion is required for the maintenance thereof to be a protected building within the meaning of this Act; or
 - (f) a geopark to be a protected area within the meaning of this Act, and the notice shall state that objections to a declaration made under this section shall be lodged with the Cabinet secretary within two months from the date of publication of the notice.”
 - (b) in subsection (2) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
 - (c) in subsection (5) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word

“Authority”, and;

- (d) in subsection (9) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

20. The principal Act is amended by deleting Section 26 of the Principal Act and substituting therefor the following new section—

Amendment of Section 26 of the Principal Act

Registers

16. The Authority shall maintain a register or registers of—

- (a) all protected areas and ancient and historical monuments of national importance;
- (b) all declarations made or deemed to have been made by the Cabinet Secretary under this Act,

which register or registers the public may search.

21. Section 27 of the Principal act is amended—

Amendment of section 27 of the Principal Act

- (a) in subsection (2) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and
- (b) in subsection (3) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority” .

22. Section 30 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

Amendment of section 30 of the Principal Act

23. Section 31 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”,

Amendment of section 31 of the principal Act

24. Section 34 of the principal Act is amended—

Amendment of section 34 of the principal Act

- (a) in subsection(b) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (b) in subsection(c) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and
- (c) in subsection(d) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

25. Section 36 of the principal Act is amended in subsection (b) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

Amendment of section 36 of the principal Act

26. Section 37 of the principal Act is amended—

Amendment of section 37 of the principal Act

- (a) in the first paragraph by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (b) in subsection (c) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

27. Section 38 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

Amendment of section 38 of the principal Act

28. Section 39 of the principal Act is amended —

Amendment of section 39 of the principal Act

- (a) in subsection(1) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (b) in subsection(2) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and;
- (c) in subsection(3) by deleting the words “National

Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

29. Section 40 of the principal Act is amended—

Amendment of section 40 of the principal Act

(a) in subsection(1) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;

(b) in subsection(2)(e) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;

(c) in subsection(2)(f) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;

(d) in subsection(2)(g) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and;

(e) in subsection(2)(k) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

30. The principal Act is amended by deleting section 41 and substituting therefor with the following new section—

Amendment of section 41 of the principal Act

Enforcement of agreements for protection of monuments

41. (1) If the owner or any other person who is bound by the terms of an instrument which constitutes the Authority guardian of a monument under section 39(3) or of an agreement for the protection and preservation of a monument under section 40 refuses to do an act which is in the opinion of the Authority is both necessary for the protection, preservation or maintenance of the monument and the responsibility of the owner or other person in accordance with the terms of the instrument or

agreement, or neglects to do the act within such reasonable time as may be fixed by the Authority, the Authority may authorize any person to do that act and the expense thereof, if and so far as it is established to have been the responsibility of the owner or other person, shall be recoverable from him.

(2) If the Authority establishes that the owner or occupier of a monument which is the subject of any such instrument or agreement intends to build or to do any other act or thing in contravention of the terms of the instrument or agreement, the High Court may grant an injunction to restrain that building or other act or thing.

31. Section 41 of the principal Act is amended—

Amendment of section 42 of the principal Act

- (a) in subsection(b) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and;
- (b) in subsection(c) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

32. Section 43 of the principal Act is amended—

Amendment of section 43 of the principal Act

- (a) in subsection (1) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (b) in subsection(2) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (c) in subsection(3) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (c) by deleting the words “National Museums” immediately appearing after the word “the” and

substituting therefor with the word "Authority";

- (d) in subsection(3)(b) by deleting the words "National Museums" immediately appearing after the word "the" and substituting therefor with the word "Authority", and;
- (d) in subsection(4) by deleting the words "National Museums" immediately appearing after the word "the" and substituting therefor with the word "Authority".

33. Section 44(b) of the principal Act is amended by deleting the words "National Museums" immediately appearing after the word "the" and substituting therefor with the word "Authority";

Amendment of section 44 of the principal Act

34. Section 45 of the principal Act is amended—

Amendment of section 45 of the principal Act

- (a) in subsection (1) by deleting the words "National Museums" immediately appearing after the word "the" and substituting therefor with the word "Authority", and;
- (b) in subsection(2) by deleting the words "National Museums" immediately appearing after the word "the" and substituting therefor with the word "Authority".

35. Section 46(2) of the principal Act is amended by deleting the words "National Museums" immediately appearing after the word "the" and substituting therefor with the word "Authority".

Amendment of section 46 of the principal Act

36. The principal Act is amended by deleting Section 47 of the Principal Act and substituting therefor the following new section—

Amendment of section 47 of the principal Act

Information concerning antiquities and protected objects

47. A person shall, if so required in writing by the Authority, within such period, not being less than one month as may be specified by the notice, furnish the Authority with full particulars of all objects in the person's possession which the person knows or has reason to believe to be antiquities or protected objects.

37. Section 48 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”. Amendment of section 48 of the principal Act

38. Section 49 of the principal Act is amended— Amendment of section 49 of the principal Act

(a) in subsection(2) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;

(b) in subsection (3) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and;

(c) in subsection(4) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”

39. Section 50 of the principal Act is amended— Amendment of section 50 of the principal Act

(a) in subsection (1) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and;

(b) in subsection(2) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

40. Section 51(a) of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”. Amendment of section 51 of the principal Act

41. Section 52 of the principal Act is amended— Amendment of section 52 of the principal Act

(a) in subsection(1) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and

(b) in subsection (5)(c) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”,

- 42.** Section 54 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”. Amendment of section 54 of the principal Act
- 43.** Section 56 of the principal Act is amended— Amendment of section 56 of the principal Act
- (a) in subsection (1) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and
 - (b) in subsection(2) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.
- 44.** Section 57(1) of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”. Amendment of section 57 of the principal Act
- 45.** Section 58 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”. Amendment of section 58 of the principal Act
- 46.** Section 62 of the principal Act is amended by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”. Amendment of section 62 of the principal Act
- 47.** Section 63 of the principal Act is amended— Amendment of section 63 of the principal Act
- (a) in subsection(a) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
 - (b) in subsection (b) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and;
 - (c) in subsection(c) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”
- 48.** The Principal Act is amended by deleting section Amendment of

64 and substituting therefor the following new section—

section 64 of the
principal Act

Burden of proof

64. In any proceedings under this Act, where the Cabinet Secretary has certified in writing that in his opinion, on the advice of the Authority, a thing is a monument, or a site of archaeological or paleontological interest, as the case may be, the burden of proof shall lie upon any person who asserts the contrary.

49. Section 68 of the principal Act is amended—

Amendment of
section 68 of the
principal Act

- (a) in the first paragraph by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (b) in subsection(a) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”;
- (c) in subsection (b) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”, and;
- (d) in subsection (c) by deleting the words “National Museums” immediately appearing after the word “the” and substituting therefor with the word “Authority”.

50. The principal Act is amended by deleting Section 69 of the Principal Act and substituting therefor the following new section—

Amendment of
section 69 of the
principal Act

Transitional
provisions

69. Upon the commencement of this Act, all the property, assets, rights and liabilities, obligations and agreements (including any contracts of employment) vested in, acquired, incurred or entered into by or on behalf of the Board of Directors, shall be deemed to be vested in or to have been acquired, incurred or entered into by or on behalf of the Authority, and accordingly every such right,

liability, obligation or agreement may be enforced by or against the Authority to the same extent as it could have been enforced by or against the Kenya National Heritage Board of Directors.

51. The principal Act is amended by deleting Section 71 of the Principal Act and substituting therefor the following new section—

Amendment of section 71 of the principal Act

Amendment to section 23 of Cap 130

71. Section 23 of the Copyright Act is amended by adding thereto the following new subsection immediately after subsection (4)—

(5) Notwithstanding anything else contained in this Act copyright in works eligible for copyright and vested in the Board of Directors or the Authority is conferred in perpetuity on the Authority.

52. The principal Act is amended by deleting Section 72 of the Principal Act.

Amendment of section 72 of the principal Act

53. The principal Act is amended by deleting Section 73 of the Principal Act.

Amendment of section 73 of the principal Act

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

The Bill seeks to give effect to the Fourth Schedule of the Constitution on distribution of functions between the National Government and the County Governments. Paragraph 25 of Part one of the Fourth Schedule assigns the responsibility of ancient and historical monuments of national importance to the National Government whereas paragraph 4 of Part two of the Fourth Schedule assigns the responsibility of cultural activities public entertainment and public amenities to the County Governments and this includes museums.

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

This Bill, once enacted, would amend the National Museums and Heritage Act and thus enable county governments to carry out their mandate as per the Fourth Schedule of the Constitution

Statement on how the Bill concerns county governments

The proposed Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the county governments with respect to cultural activities, public entertainment and public amenities as set out under paragraph 4 of part 2 of the Fourth Schedule to the Constitution. The Bill amends the National Museums and Heritage Act and thus outlines the functions of the national government and the county museums. The Bill therefore affects the functions and powers of county governments as provided under the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

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

Dated the 1st August, 2018.

ALICE MILGO,
Senator.

