

SPECIAL ISSUE

Kenya Gazette Supplement No. 22 (National Assembly Bills No. 14)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

NAIROBI, 15th March, 2019

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Public Order (Amendment) Bill, 2019 129



THE PUBLIC ORDER (AMENDMENT) BILL, 2019

A Bill for

**AN ACT of Parliament to amend the Public Order Act,
and for connected purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Public Order Short title.
(Amendment) Act, 2019.

2. The Public Order Act (Cap. 56) is amended in Amendment of
section 5 of Cap.
56.
section 5 by inserting the following new sub-sections
immediately after sub-section (11)—

“(11A) A person who while at a public meeting or public procession causes grievous harm, damage to property or loss of earnings, shall be liable upon conviction to imprisonment for a term not exceeding six years or to a fine not exceeding one hundred thousand shillings, or both.

(11B) Where a person is convicted of an offence under subsection (11A), the court may an order over and above the sentence imposed, that the person or the organizer compensates the affected persons on such terms as the court may deem proper to grant.”

MEMORANDUM OF OBJECTS AND REASONS

The principal object for this Bill is to amend the Public Order Act to make provision for organizers of public meetings or public procession leading to loss of property, life or earnings to take responsibility for the loss and compensate the affected persons.

The Bill does not contain any provisions limiting any fundamental rights or freedom.

Statement that the Bill concerns county governments

The Bill does not affect the functions of the county governments and is therefore not a Bill concerning counties for purposes of the Article 110(1) Standing Orders.

Statement that the Bill is a Money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

SIMON KING'ARA,
Member of Parliament.

Section 5 of Cap. 56 which it is proposed to amend—

Regulation of Public meeting and Processions

5. (1) No person shall hold a public meeting or a public procession except in accordance with the provisions of this section.

(2) Any person intending to convene a public meeting or a public procession shall notify the regulating officer of such intent at least three days but not more than fourteen days before the proposed date of the public meeting or procession.

(3) A notice under subsection (2) shall be in the prescribed form and shall specify—

- (a) the full names and physical address of the organiser of the proposed public meeting or public procession;
- (b) the proposed date of the meeting or procession and the time thereof which shall be between six o'clock in the morning and six o'clock in the afternoon;
- (c) the proposed site of the public meeting or the proposed route in the case of a public procession.

(4) Where, upon receipt of a notice under subsection (2), it is not possible to hold the proposed public meeting or public procession for the reason that notice of another public meeting or procession on the date, at the time and at the venue proposed has already been received by the regulating officer, the regulating officer shall forthwith notify the organiser.

(5) The notification by the regulating officer under subsection (4) shall be in writing and shall be delivered to the organiser at the physical address specified pursuant to the provision of subsection (3).

(6) Where the regulating officer notifies the organiser of a public meeting or public procession in accordance with subsection (3) that it is not possible to hold the proposed meeting or procession, such public meeting or procession shall not be held on the date, at the time and venue proposed, but may, subject to this section, be held on such future date as the organiser may subsequently notify.

(7) The organiser of every public meeting or public procession or his authorised agent shall be present throughout the meeting or procession and shall assist the police in the maintenance of peace and order at the meeting or procession.

(8) The regulating officer or any police officer of or above the rank of inspector may stop or prevent the holding of—

- (a) any public meeting or public procession held contrary to the provisions of subsections (2) or (6);
- (b) any public gathering or other meeting or procession which, having regard to the rights and interests of the persons participating in such gathering, meeting or procession, there is clear, present or imminent danger of a breach of the peace or public order,

and may, for any of the purposes aforesaid, give or issue such orders, including orders for the dispersal of the meeting, procession or gathering as are reasonable in the circumstances, having regard to the rights and freedoms of the persons in respect of whom such orders are issued and the rights and freedoms of others.

(9) Any person who neglects or refuses to obey any order given or issued under subsection (7) shall be guilty of an offence.

(10) Any public meeting or public procession held contrary to the provisions of subsections (1) and (5) shall be deemed to be an unlawful assembly.

(11) Any person who takes part in any public meeting or public procession deemed to be an unlawful assembly under subsection (10), or holds, convenes or organises or is concerned in the holding, convening or organising of any such meeting or procession shall be guilty of the offence of taking part in an unlawful assembly under Chapter IX of the Penal Code and liable to imprisonment for one year.

(12) The organiser of any excluded meeting may request the regulating officer that the police be present at such meeting to ensure the maintenance of peace and order.

(13) A request under subsection (12) shall be in writing and shall be delivered to the regulating officer at least three days before the proposed date of the meeting.

(14) The regulating officer shall keep a public register of all notices received under subsection (2).

(15) Any person may, during working hours, inspect the register kept under subsection (14).