

SPECIAL ISSUE

Kenya Gazette Supplement No. 21 (National Assembly Bills No. 13)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2019

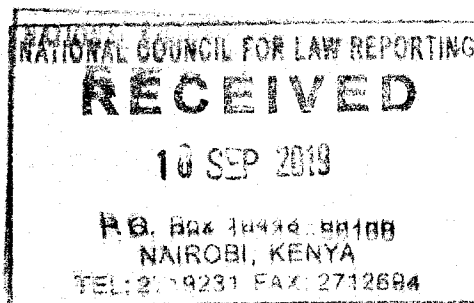
NAIROBI, 15th March, 2019

CONTENT

Bill for Introduction into the National Assembly —

PAGE

The Statutory Instruments (Amendment) Bill, 2019 125



**THE STATUTORY INSTRUMENTS
(AMENDMENT) BILL, 2019**

A Bill for

**AN ACT of Parliament to amend the Statutory
Instruments Act**

ENACTED by the Parliament of Kenya, as follows—

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

2. The Statutory Instruments Act is amended in section 12 by deleting sub-section (3). Amendment of section 12 of No. 23 of 2013.

MEMORANDUM OF OBJECTS AND REASONS**Statement of Objects and Reasons**

The principal object of the Act is to amend section 12 (3) of the Statutory Instruments Act, 2013 in order to remove the provision that exempts rules and regulations made by courts of competent jurisdiction. As it is presently, all statutory instruments with the **exception** of regulations made by courts of competent jurisdiction are subjected to scrutiny by Parliament. Consequently, the said exemption offends the mandatory provisions of Article 94 (5) of the Constitution which provides that no person or body other than Parliament has the power to make provisions having force of law in Kenya except under authority conferred by the Constitution or by legislation. A close look at comparative commonwealth jurisdictions reveal that this is the practice obtaining in the United Kingdom and India where rules made by the respective Rules Committees are laid before Parliament for approval.

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

The Bill does not delegate legislative powers neither does it limit fundamental rights and freedoms.

Statement that the Bill does not concern County Governments

The Bill seeks to amend the Statutory Instruments Act so as to include regulations made by courts to fall under the purview of the Act. In view of this, the Bill does not concern County Governments in terms of Article 110 (1) (a) of the Constitution as it does not affect the functions and powers of County Governments recognized in the Fourth Schedule to the Constitution.

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

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 5th March, 2019.

MUTURI KIGANO,
Member of Parliament.

Section 12 of No. 23 of 2013 which the Bill proposes to amend—

Referral to the Committee

12. (1) Every statutory instrument issued, made or established after the commencement of this Act shall upon tabling before the respective House of Parliament stand referred to the Committee or any other committee that may be established for the purpose of reviewing and scrutinizing statutory instruments.

(2) Nothing under subsection (1) may be construed as precluding the Committee from scrutinizing statutory instruments previously published before the commencement of this Act.

(3) The provisions of subsection (1) shall not apply to any rules, regulations and orders emanating from a court of competent jurisdiction in Kenya.