

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 143 (Senate Bills No. 12)*

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REPUBLIC OF KENYA

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**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2020**

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**NAIROBI, 10th August, 2020**

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**THE KENYA CITIZENSHIP AND IMMIGRATION  
(AMENDMENT) BILL, 2020**

**A Bill for**

**AN ACT of Parliament to amend the Kenya Citizenship and Immigration Act; and for connected purposes.**

**ENACTED** by the Parliament of Kenya, as follows —

**1.** This Act may be cited as the Kenya Citizenship and Immigration (Amendment) Act, 2020.

Short title.

**2.** Section 2 of the Kenya Citizenship and Immigration Act, in this Act referred to as the principal Act, is amended by inserting the following new definitions in their proper alphabetical sequence —

Amendment of section 2 of No. 12 of 2011.

“Kenyan living abroad” means a citizen of Kenya who for the time being is domiciled in a country outside Kenya;

“returnee” means a Kenyan living abroad who is returning to reside permanently in Kenya.

**3.** The principal Act is amended by inserting the following new Part immediately after section 32 —

Insertion of new Part VA in No. 12 of 2011.

**PART VA — MANAGEMENT OF THE AFFAIRS OF  
KENYANS LIVING ABROAD**

Duties of the Cabinet Secretary.

**32A.** (1) In this Part, “Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to foreign affairs.

(2) The Cabinet Secretary shall put in place mechanisms to safeguard the welfare of Kenyans living abroad including —

- (a) developing and implementing strategies for Kenyans living abroad to participate in the development process;
- (b) developing measures to enhance the safety and security of Kenyans living abroad;
- (c) developing and implementing mechanisms for engagement with Kenyans living abroad; and

(d) establishing an administrative and institutional framework for the coordination of matters relating to Kenyans living abroad.

(3) The Cabinet Secretary shall, for the effective implementation of subsection (2), —

(a) facilitate information sharing as a means of ensuring continuous engagement between the National and county governments and Kenyans living abroad;

(b) develop policies to incentivize the participation of Kenyans living abroad in the economic development, governance and democratic processes in Kenya;

(c) establish a collaborative framework with Kenyans living abroad to promote Kenya as an investment destination;

(d) in consultation with other relevant state agencies, put in place fiscal and non-fiscal measures to promote investment, in Kenya, by Kenyans living abroad;

(e) in consultation with the relevant State agencies, put in place measures for the protection of Kenyans living abroad including access to legal representation, adequate healthcare services and access to basic services during a pandemic or other emergency in the country of residence;

(f) develop and regularly update an integrated database on Kenyans living abroad and in particular

document the expertise and skills of Kenyans living abroad;

- (g) facilitate the timely issuance and renewal of passports and the processing of any documents required to be issued by the National Government to a Kenyans living abroad;
- (h) develop a framework for the reintegration of returnees upon arrival in Kenya; and
- (i) nominate recipients of the Presidential Distinguished Service Award for Kenyans living abroad.

Delegation.

**32B.** (1) The Cabinet Secretary may designate a department within the Ministry or delegate to such public officers as the Cabinet Secretary may consider necessary for the effective discharge of the functions specified under section 32A.

(2) The Cabinet Secretary shall, in ensuring that the services specified under section 32A are accessible to all Kenyans living abroad, liaise with public officers serving in Kenya missions for the welfare of Kenyans living abroad.

Returnees.

**32C.** (1) A Kenyan who, having lived abroad, intends to return permanently to Kenya shall have the right to access government services.

(2) For purposes of subsection (1), the Cabinet Secretary shall liaise with the relevant Kenya mission to ensure that a person who intends to permanently return to Kenya is adequately facilitated to access government services including —

- (a) updating any citizen information including voter registration, National Social Security Fund and

the National Health Insurance Fund;

- (b) updating any documents relating to the education of that person; and
- (c) access to other social services.

Consular services

**32D.** (1) The Cabinet Secretary shall ensure that services provided at Kenya mission shall be, as far as possible, made accessible to Kenyans living abroad taking into account the geographical size of the country or territory in which the Kenya mission is located and the number of Kenyan citizens ordinarily resident in that country or territory.

(2) For purposes of subsection (1), the Cabinet Secretary shall ensure that —

- (a) services provided at Kenya missions are timely and appropriate to the circumstances; and
- (b) Kenya missions are progressively established in territories or countries in which Kenya does not have a representation

Voluntary saving schemes services.

**32E.** (1) The Cabinet Secretary shall, in consultation with the relevant Kenya mission, promote the establishment of voluntary savings scheme for Kenyans living abroad.

(2) For purposes of subsection (1), the Cabinet Secretary may liaise with financial institutions in Kenya to negotiate favourable terms on the investments of any contributions that may be made.

(3) The Cabinet Secretary may, in consultation with the Cabinet Secretary for Treasury and the Governor of the Central

Bank, —

- (a) develop policies and programmes offering incentives to Kenyans living abroad to invest in Kenya;
- (b) establish a database setting out information on programmes and projects in Kenya for investment by Kenyans living abroad; and
- (c) put in place measures for the prevention of fraudulent practices that hinder investment, in Kenya, by Kenyans living abroad.

Associations of Kenyans living abroad.

**32F.** (1) Kenyans living abroad may, pursuant to Article 36 of the Constitution and subject to the relevant laws of the country in which they reside, form an association.

(2) An association formed under subsection (1) may, subject to the laws of the respective country in which it is formed, be registered at the relevant Kenya mission.

(3) For purposes of subsection (2), the Kenya missions shall keep and maintain an up-to-date register of all associations of Kenyans living abroad.

(4) Kenya missions may collaborate with the relevant association for the holding of events to mark a national day in Kenya.

Reporting requirements

**32G.** The Cabinet Secretary shall submit an annual report to Parliament on the implementation of policies relating to the management of welfare of Kenyans living abroad.

## **MEMORANDUM OF OBJECTS AND REASONS**

The principal purpose of the Bill is to put in place mechanisms for the protection of the interests of Kenyans living abroad and to ensure their active participation in the socio-economic development of the country. The collective community of Kenyans living abroad play an important role in the development agenda of the country. For instance, foreign remittances account for a substantial percentage of the Gross Domestic Product. The Bill seeks to enhance these contributions while simultaneously tapping into the skills and expertise of Kenyans living abroad.

The State is expected by the Constitution to safeguard the welfare of all the Kenyan citizens be they home or away. It is on this premise that the Bill has also proposed enhanced Kenya mission services and provided a framework for the voluntary establishment of associations of Kenyans living abroad. These two-prong approach will ensure that not only is the State aware of the challenges of its citizens abroad but also Kenyans living abroad can collectively advocate for their needs.

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

The Bill does not delegate legislative powers, nor does it limit the fundamental rights and freedoms.

### **Statement on how the Bill concerns county governments**

The Bill proposes to enhance the participation of Kenyans living abroad in the socio-economic development agenda as well as governance processes. Development and governance processes involve the delivery of services and discharge of functions by both the national and county governments. The provisions of the Bill would have an impact on the discharge of devolved functions by county governments. The Bill is therefore a Bill concerning county government in terms of Article 110 (1) (a) of the Constitution.

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

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

IRUNGU KANG'ATA,  
*Senator.*