

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**SENATE BILLS, 2021**

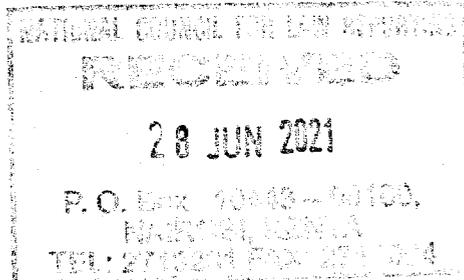
**NAIROBI, 12th May, 2021**

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**THE STATUTORY INSTRUMENTS (AMENDMENT)  
BILL, 2021**

**A Bill for**

**AN ACT of Parliament to make amendments to the Statutory Instruments Act and for connected purposes**

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

1. This Act may be cited as the Statutory Instruments (Amendment) Act, 2021.

Short title.

2. The Statutory Instruments Act, in this Act referred to as the “principal Act”, is amended in section 11 by—

Amendment of section 11 of No. 23 of 2013.

(a) deleting the words “responsible Clerk” appearing immediately after the words “transmitted to the” in subsection (1) and substituting therefor the words “Clerk of the Senate and the Clerk of the National Assembly”;

(b) deleting subsection (2); and

(c) deleting the words “responsible Clerk” appearing at the beginning subsection (3) and substituting therefor the words “Clerk of each House”.

3. The principal Act is amended in section 15 by—

Amendment of section 15 of No. 23 of 2013.

(a) deleting subsection (1) and substituting therefor the following new subsection.

(1) The Committee shall make a report to the relevant House containing a resolution either that the statutory instrument that stands referred to the Committee be approved or that the statutory instrument be annulled.

(b) deleting subsection (3) and substituting therefor the following new subsection.

(3) Notwithstanding subsection (2) the House may, by resolution, extend the time within which the Committee shall consider a statutory instrument under subsection (2) for a period not exceeding twenty-eight days.

4. The principal Act is amended by inserting the following new section immediately after section 15-

Insertion of new section 15A in No. 23 of 2013.

Concurrence on a statutory instrument.

**15A.** (1) The Clerk of the House to which a statutory instrument is referred shall, upon-

- (a) the resolution of the relevant House under section 15(1) for the approval or annulment of a statutory instrument; or
- (b) expiry of the period specified under section 15(2);

cause the resolution of the House to be transmitted to the Clerk of the other House within two days of the resolution.

(2) A resolution under subsection (1) shall stand referred to the relevant Committee of that House which shall consider the resolution together with the statutory instrument and report to the House within fourteen days of the referral.

(3) The House to which resolution is referred to under subsection (1) may extend the time within which the Committee shall consider the resolution for a period not exceeding seven days.

(4) If both Houses resolve to—

- (a) approve the statutory instrument; or
- (b) annul the statutory instrument;

the Clerk of the House to which the statutory instrument was transmitted under section 11(1) shall, within seven days of the decision, notify the regulation-making authority.

(5) Where the House resolves to revoke a statutory instrument and the other House does not, the statutory instrument shall be referred to a joint committee for mediation in accordance with Article 113 of the

**Constitution which shall be applied with the necessary modification.**

**5. The principal Act is amended by deleting section 18 and substituting therefor the following new section—**

Amendment of section 18 of No. 23 of 2013.

Annulment.

**18. (1) When Parliament passes a resolution to annul a statutory instrument the statutory instrument shall be deemed to be annulled.**

**(2) The regulation making authority shall publish the annulment of the statutory instrument within fourteen days of the annulment.**

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

The principal object of this Bill is to make provision for the procedure of consideration of Statutory Instruments by County Assemblies. Subsidiary legislation is key in the running of County Governments. The Bill seeks to provide a legal mechanism by which County Assemblies will scrutinize statutory instruments.

**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 fundamental rights and freedoms.

**Statement of how the Bill concerns County Governments**

The 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 as set out in the Fourth Schedule of the Constitution by making it mandatory for the County Executive to table all its statutory instruments before the County Assemblies.

Dated the 1st April, 2021.

**MOHAMED FAKI,**  
*Chairperson, Delegated Legislation Committee.*

*Section 11 of No. 23 of 2013 which it is proposed to amend—*

**Laying of statutory instruments before Parliament**

11. (1) Every Cabinet Secretary responsible for a regulation-making authority shall within seven (7) sitting days after the publication of a statutory instrument, ensure that a copy of the statutory instrument is transmitted to the responsible Clerk for tabling before the relevant House of Parliament.

(2) Notwithstanding subsection (1) and pursuant to the legislative powers conferred on the National Assembly under Article 109 of the Constitution, all regulation-making authorities shall submit copies of all statutory instruments for tabling before the National Assembly.

(3) The responsible Clerk shall register or cause to be registered every statutory instrument transmitted to the respective House for tabling or laying under this Part.

(4) If a copy of a statutory instrument that is required to be laid before the relevant House of Parliament is not so laid in accordance with this section, the statutory instrument shall cease to have effect immediately after the last day for it to be so laid but without prejudice to any act done under the statutory instrument before it became void.

*Section 15 of No. 23 of 2013 which it is proposed to amend—*

**Report to Parliament**

15. (1) The Committee shall make a report to Parliament containing only a resolution that the statutory instruments that stands permanently referred to the Committee be revoked.

(2) Where the Committee does not make the report referred to in subsection (1) within twenty eight sitting days after the date of referral of the statutory instrument to the Committee under section 12, or such other period as the House may, by resolution approve, the statutory instrument shall be deemed to have fully met the relevant considerations referred to in section 13.

(3) Despite the provision of this Act or any other written law, where a time is prescribed for doing an act or taking a proceeding by the National Assembly relating to the handling of a statutory instrument, the National Assembly may, by resolution, extend that time by a period not exceeding twenty-one days.

