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The Security Laws (Amendment) Act, 2014317

THE SECURITY LAWS (AMENDMENT) ACT, 2014
No. 19 of 2014

Date of Assent: 19th December, 2014

Date of Commencement: 22nd December, 2014

**AN ACT of Parliament to amend the laws relating to
security**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Security Laws (Amendment) Act, 2014 and shall come into force upon publication. Short title.
2. Section 3 of the Public Order Act is amended— Amendment of section 3 of Cap. 56.
 - (a) in subsection (1) by deleting the words “one thousand shillings or to imprisonment for a term not exceeding six months” and substituting therefor the term “one hundred thousand shillings or imprisonment for a term not exceeding two years”;
 - (b) in subsection (2) by deleting the expression “Attorney-General” and substituting therefor the expression “Director of Public Prosecutions”;
3. Section 7 of the Public Order Act is amended— Amendment of section 7 of Cap. 56.
 - (a) in subsection (1) by deleting the expression “Commissioner of Police” and substituting therefor the expression “Inspector-General of National Police Service”;
 - (b) in subsection (6) by deleting the term “Commissioner of Police” and substituting therefor “Inspector-General of National Police Service”.
4. Section 8 of the Public Order Act is amended— Amendment of section 8 of Cap. 56.
 - (a) in subsection (1) by—
 - (i) deleting the words “Commissioner of Police or Provincial Commissioner” and substituting therefor the words “Cabinet Secretary, on the advice of the Inspector-General of the National Police Service”;
 - (ii) deleting the expression “(being, in the case of a Provincial Commissioner within his province)”;

- (b) by deleting subsection (4);
- (c) in subsection (6) by deleting the term “one thousand” and substituting therefor the term “ten thousand”.

Amendment of
section 9 of Cap. 56.

5. Section 9 of the Public Order Act is amended—

- (a) in subsection (1) by deleting the term “province” and substituting therefor the term “county”;
- (b) in subsections (3) by deleting the term “Commissioner of Police” and substituting therefor the term “Cabinet Secretary”;
- (c) in subsection (6) by deleting the term “one” and substituting therefor the term “ten”.

Amendment of
section 11 of Cap. 56.

6. Section 11 of the Public Order Act is amended in subsection (1) by deleting the term “ten” and substituting therefor the term “one hundred”.

Repeal of section 12
of Cap. 56.

7. The Public Order Act is amended by repealing section 12.

Amendment of
section 13 of Cap. 56.

8. Section 13 of the Public Order Act is amended in subsection (1) by deleting the expression “47 of the Police Act” and substituting therefor the expression “106 of the National Police Service Act”.

Amendment of
section 17 of Cap. 56.

9. Section 17 of the Public Order Act is amended by deleting the term “five thousand” and substituting therefor the term “fifty thousand”.

Amendment of
section 19 of Cap. 56.

10. Section 19 of the Public Order Act is amended by deleting the term “Attorney-General” and substituting therefor the term “Director of Public Prosecutions”.

Amendment of
section 21 of Cap. 56.

11. Section 21 of the Public Order Act is amended by deleting the words “of the first class”.

Insertion of new
section 66A in Cap.
63.

12. The Penal Code is amended by inserting the following new section immediately after section 66—

Prohibited
publications and
broadcasts.

66A. (1) A person who publishes, broadcasts or causes to be published or distributed, through print, digital or electronic means, insulting, threatening, or inciting material or images of dead or injured persons which are likely to cause fear and alarm to the general public or disturb public peace

commits an offence and is liable, upon conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding three years or both.

(2) A person who publishes or broadcasts any information which undermines investigations or security operations by the National Police Service or the Kenya Defence Forces commits an offence and is liable, upon conviction, to a fine not exceeding five million shillings or a imprisonment for a term not exceeding three years, or both.

(3) The freedom of expression and the freedom of the media under Articles 33 and 34 of the Constitution shall be limited as specified under this section for the purposes of limiting the publication or distribution of material likely to cause public alarm, incitement to violence or disturb public peace.

13. The Penal Code is amended by inserting the following new section immediately after section 128—

Offences by public officers.

128A. A public officer commits an offence and is liable, upon conviction, to imprisonment for a term of not less than fifteen years where in the course of his or her employment he or she—

- (a) aids or facilitates the commission of a felony;
- (b) facilitates the irregular entry of an alien or a criminal into Kenya;
- (c) conceals the whereabouts of a criminal; or
- (d) irregularly issues identification documents,

Insertion of new section 128A in Cap. 63.

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Insertion of new section 251A in Cap. 63.

14. The Penal Code is amended by inserting the following new section immediately after section 251—

Insulting modesty by forcible stripping.

251A. A person who intentionally insults the modesty of any other person by forcibly stripping such person, commits an offence and is liable, upon conviction, to imprisonment for a term not less than ten years.

Insertion of section 36A of Cap. 75.

15. The Criminal Procedure Code is amended by inserting the following new sections immediately after 36—

Remand by court.

36A. (1) Pursuant to Article 49(1) (f) and (g) of the Constitution, a police officer shall present a person who has been arrested in court within twenty-four hours after being arrested.

(2) Notwithstanding subsection (1), if a police officer has reasonable grounds to believe that the detention of a person arrested beyond the twenty-four hour period is necessary, the police officer shall—

- (a) produce the suspect before a court; and
- (b) apply in writing to the court for an extension of time for holding the suspect in custody.

(3) An application under subsection (2) shall be supported by an affidavit sworn by the police officer and shall specify—

- (a) the nature of the offence for which the suspect has been arrested;
- (b) the general nature of the evidence on which the suspect has been arrested;
- (c) the inquiries that have been made by the police in relation to the offence and any further inquiries proposed to be made by the police; and

(d) the reasons necessitating the continued holding of the suspect in custody.

(4) In determining an application under subsection (2), the court shall consider any objection that the suspect may have in relation to the application and may—

(a) release the suspect unconditionally;

(b) release the suspect subject to such conditions as the court may impose to ensure that the suspect—

(i) does not, while on release, commit an offence, interfere with witnesses or the investigations in relation to the offence for which the suspect has been arrested;

(ii) is available for the purpose of facilitating the conduct of investigations and the preparation of any report to be submitted to the court dealing with the matter in respect of which the suspect stands accused; and

(iii) appears at such a time and place as the court may specify for the purpose of conducting preliminary proceedings or the trial or for the purpose of assisting the police with their inquiries; or

(c) having regard to the circumstances specified under subsection (5), make an order for the remand of the suspect in custody.

(5) A court shall not make an order for the remand in custody of a suspect under subsection (5)(c) unless—

- (a) there are compelling reasons for believing that the suspect shall not appear for trial, may interfere with witnesses or the conduct of investigations, or commit an offence while on release;
- (b) it is necessary to keep the suspect in custody for his protection, or, where the suspect is a minor, for his welfare;
- (c) the suspect is serving a custodial sentence; or
- (d) the suspect, having been arrested in relation to the commission of an offence, has breached a condition for his release.

(6) The court may, for the purpose of ensuring the attendance of a suspect under subsection (4)(b)(ii) or (iii), require the suspect—

- (a) to execute a bond for such reasonable amount as the court considers appropriate in the circumstances; and
- (b) to provide one or more suitable sureties for the bond.

(7) Where a court makes an order for the remand of a suspect under subsection (4)(c), the period of remand shall not exceed thirty days.

(8) A police officer who detains a suspect in respect of whom an order has been issued under subsection (4)(c) may, at any time before the expiry of the period of remand specified by the court, apply to the Court for an extension of that period.

(9) The court shall not make an order for the extension of the time for remand under subsection (8) unless it is satisfied that having regard to the circumstances for which an order was issued under subsection (4)(c), it is necessary to grant the order.

(10) Where the court grants an extension under subsection (9), such period shall not, together with the period for which the suspect was first remanded in custody, exceed ninety days.

Insertion of a new section 42A of Cap. 75.

16. The Criminal Procedure Code is amended by inserting the following new sections immediately after 42—

Disclosure by prosecution.

42A. (1) Pursuant to Article 50(2)(j) of the Constitution, the prosecution shall inform the accused person in advance of the evidence that the prosecution intends to rely on and ensure that the accused person has reasonable access to that evidence.

(2) In proceedings under the Prevention of Terrorism Act, the Narcotic Drugs and Psychotropic Substances (Control) Act, the Prevention of Organized Crimes Act, the Proceeds of Crime and Anti-Money Laundering Act and the Counter-Trafficking in Persons Act, the prosecution may, with leave of court, not disclose certain evidence on which it intends to rely until immediately before the hearing—

- (a) if the evidence may facilitate the commission of other offences;
 - (b) if it is not in the public interest to disclose such evidence;
 - (c) where there are grounds to believe that disclosing such evidence might lead to an attempt being improperly made to persuade a witness to make a statement retracting his original statement, not to appear in court or otherwise to intimidate him.
- (3) Evidence shall be deemed to be in the public interest, if that evidence—
- (a) touches on matters of national security;

touches on the identity of an informant where there are good reasons for believing that disclosure of the informant's identity may place the family of the informant in danger;

- (b) discloses the identity of a witness who might be in danger of assault or intimidation if his identity is known;
- (c) contains details which, if they became known, might facilitate the commission of other offences or alert someone not in custody that the person was a suspect;
- (d) discloses some unusual form of surveillance or method of detecting crime.

(4) Disclosure of evidence to the Court and the accused person under this section shall be done in camera.

Insertion of section
118A of Cap. 75.

17. The Criminal Procedure Code is amended by inserting the following new section immediately after section 118—

Ex-parte application
for search warrant.

118A. An application for a search warrant under section 118 shall be made ex-parte to a magistrate.

Insertion of sections
343 – 345 in Cap. 75.

18. The Criminal Procedure Code is amended by inserting the following provisions immediately after section 342 —

POLICE SUPERVISION

Person twice
convicted may be
subject to police
supervision.

343. (1) When a person, having been convicted of an offence punishable with imprisonment for a term of three years or more is again convicted of an offence punishable with imprisonment for a similar term or of an offence under section 345, the court may, at the time of passing sentence of imprisonment on that person, also order that he shall be subject to police supervision as provided by section 344 for a period not

exceeding five years from the date of his release from prison.

(2) If the conviction is set aside on appeal or otherwise, the order shall become void.

(3) An order under this section may be made by the High Court when exercising its powers of revision.

Requirements from persons subject to police supervision.

344. (1) A court may at any time direct that a person shall, whilst subject to police supervision under section 343 and at large in Kenya, comply with all or any of the following requirements, and may vary any such directions at any time—

- (a) to reside within the limits of a specified area;
- (b) not to transfer his or her residence to another area without the written consent of an authorised police officer in charge of that area;
- (c) not to leave the area in which the person resides without the written consent of the police officer in charge of that area;
- (d) at all times to keep the authorised police officer in charge of the area in which the person resides notified of the house or place in which he or she resides and provide his or her telephone and other contacts;
- (e) to present him or herself, whenever called upon by the authorised police officer in charge of the area in which the person resides, at any place in that area specified by that officer.

(2) The freedom of movement and residence under Article 39 of the Constitution shall be limited as specified under this section for the purposes of limiting the movement of persons under a lawful police supervision order.

(3) The Cabinet Secretary may make regulations for carrying out the provisions of this section, and in particular prescribing the manner in which persons may be brought before a court for the purposes of this section.

Automatic police supervision.

344 A. (1) A person who is convicted of an offence under section 296(1), 297(1), 308 or 322 of the Penal Code the Prevention of Terrorism Act or the Sexual Offences Act shall be subject to police supervision for a period of five years from the date of his release from prison.

“(2) A person who is subject to police supervision under this section shall, whilst he or she is so subject—

- (a) reside within the limits of such area as the Commissioner of Prisons shall, in each case, specify in writing to the Inspector General of Police upon the person's release;
- (b) not transfer his or her residence to another area without the written consent of the police officer in charge of the specified area;
- (c) not leave the area in which he or she resides without the written consent of the police officer in charge of that area;
- (d) at all times keep the police officer in charge of the area in which he or she resides notified of the house or place in which he or she resides;

- (e) present himself or herself, whenever called upon by the police officer in charge of the area in which he resides, at any place in that area specified by that officer

(3) The freedom of movement and residence under Article 39 of the Constitution shall be limited as specified under this section for the purposes of limiting the movement of persons under a lawful police supervision order.

Failure to comply with requirements under section 344.

345. (1) A person subject to police supervision who fails to comply with a requirement placed upon him or her by or by virtue of section 344 or 344A commits an offence and is liable, upon conviction, to imprisonment for a term not exceeding six months and on a second or subsequent conviction for that offence to imprisonment for a term not exceeding twelve months.

(2) Reasonable efforts made by a person to comply with a supervision order shall be a defence to the offences under subsection (1).

(3) A police officer may arrest without warrant a person whom he suspects upon reasonable grounds of having committed an offence under this section.

Amendment of Section 348A of Cap. 75.

19. The Criminal Procedure Code is amended by repealing section 348A and replacing it with the following new section—

Right of appeal against acquittal, order of refusal or order of dismissal.

348A. (1) When an accused person has been acquitted on a trial held by a subordinate court or High Court, or where an order refusing to admit a complaint or formal charge, or an order dismissing a charge, has been made by a subordinate court or High Court, the Director of Public Prosecutions may appeal to the High Court or the Court of Appeal as the case may be, from the acquittal or order on a matter of fact and law.

(2) If the appeal under subsection (1) is successful, the High Court or Court of Appeal as the case may be, may substitute the acquittal with a conviction and may sentence the accused person appropriately.

Amendment of
Section 364 of Cap.
75.

20. Section 364 of the Criminal Procedure Code is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (b) —

“(c) in proceedings under section 203 or 296 (2) of the Penal Code, the Prevention of Terrorism Act, the Narcotic Drugs and Psychotropic Substances (Control) Act, the Prevention of Organized Crimes Act, the Proceeds of Crime and Anti-Money Laundering Act and the Counter-Trafficking in Persons Act, where the subordinate court has granted bail to an accused person, and the Director of Public Prosecution has indicated his intention to apply for review of the order of the court, the order of the subordinate court shall be stayed for a period not exceeding fourteen days pending the filing of the application for revision”.

Insertion of section
379A in Cap. 75.

21. The Criminal Procedure Code is amended by inserting the following new section immediately after section 379 —

Appeal to the Court
of Appeal on High
Court’s original
jurisdiction.

379A. In proceedings under section 203 or 296 (2) of the Penal Code, the Prevention of Terrorism Act, the Narcotic Drugs and Psychotropic Substances (Control) Act, the Prevention of Organized Crimes Act, the Proceeds of Crime and Anti-Money Laundering Act and the Counter-Trafficking in Persons Act, where the High Court, in exercise of its original jurisdiction, has granted bail or bond to an accused person, the Director of Public Prosecution, may, as of right, appeal against that decision to the court of appeal and the order may be stayed for a period not exceeding fourteen days pending the filing of an appeal.

Amendment of
section 2 of Cap. 76.

22. Section 2 of the Extradition (Contiguous and Foreign Countries) Act is amended by inserting the following new definition in proper alphabetical sequence—

“reciprocal backing of warrants” means warrants from contracting nations issued in accordance with the contracting agreement;

Amendment of
section 8 of Cap. 107.

23. Section 8 of the Registration of Persons Act is amended by inserting the following subsection immediately after subsection (1)—

“(1A) The Director may establish identification committees or appoint persons as identification agents to assist in the authentication of information furnished by a parent or guardian”.

Amendment of
section 14 of Cap.
107.

24. Section 14 of the Registration of Persons Act is amended—

- (a) in subsection (1) by deleting the term “fifteen” and substituting therefor the term “two hundred”;
- (b) in subsection (2) by deleting the term “five” and substituting therefor the term “fifty”;

Amendment of
section 19 of Cap.
107.

25. The Registration of Persons Act is amended by inserting the following new section immediately after section 18—

Power to cancel
registration and
revoke an identity
card.

18A. (1) The Director shall cancel the registration and revoke the identity card of any person issued under this Act if the card was obtained through—

- (a) misrepresentation of material facts;
- (b) concealment of material facts;
- (c) fraudulently;
- (d) forgery;
- (e) multiple registration; or
- (f) any other justifiable cause.

(2) Before cancellation of the registration and revocation of the identity card as provided in sub section (1), the Director shall notify the card holder in writing of the intention to cancel the registration and revoke the card unless the holder can show cause within fifteen days why the cancellation should not be done.

(3) The cancellation of a registration and the revocation of a card under subsection (2) shall not take effect until after the expiry of fifteen days from the date of cancellation and revocation to allow the card holder to appeal to a court of competent jurisdiction.

(4) Any person whose registration has been cancelled and identity card revoked or whose citizenship has been otherwise revoked under an existing law shall be under obligation to surrender the identity card to the registrar.

(5) The Director shall by notice in the Gazette publish the names and identity card number of the person whose registration is cancelled and the identity cards revoked.

Insertion of section
20A in Cap. 80.

26. The Evidence Act is amended by inserting the following new section immediately after section 20 —

Proof of written
statement by consent.

20A. (1) If the person who makes a statement cannot read it, the statement shall be read to him by an officer of or above the rank of a Chief Inspector or a magistrate before he signs it, and an endorsement shall be made thereof by the person who so read the statement to the effect that it was so read.

(2) A copy of the statement, together with a copy of any document referred to in the statement as an exhibit, or with such information as may be necessary in order to enable the party on whom it is served to inspect such document or a copy thereof, shall, before the date on which the document is to be tendered in evidence, be served on each of the other parties to the proceedings, and any such party may, at least two days before the commencement of the proceedings, object to the statement being tendered in evidence under this section.

(3) If a party objects under subsection (2) that the statement in question be tendered in evidence, the statement shall not, but

subject to the provisions of subsection (4), be admissible as evidence under this section.

(4) If a party does not object under subsection (2) or if the parties agree before or during the proceedings in question that the statement may be so tendered in evidence, the statement may, upon the mere production thereof at such proceedings, be admitted as evidence in the proceedings.

(5) When the documents referred to in subsection (3) are served on an accused person, the documents shall be accompanied by a written notification in which the accused person is informed that the statement in question shall be tendered in evidence at his trial in lieu of the State calling as a witness the person who made the statement, but that such statement shall not without the consent of the accused person be so tendered in evidence if he notifies the prosecutor concerned, at least two days before the commencement of the proceedings, that he objects to the statement so being tendered in evidence.

(6) The parties to criminal proceedings may, before or during such proceedings, agree that any written statement referred to in subsections (1) which has not been served in terms of subsection (2) be tendered in evidence at such proceedings, whereupon such statement may, upon the mere production thereof at such proceedings, be admitted as evidence in the proceedings.

(7) Notwithstanding that a written statement made by any person may be admissible as evidence under this section—

- (a) a party by whom or on whose behalf a copy of the statement was served, may call such person to give oral evidence;
- (b) the court may, of its own motion, and shall, upon the application of

any party to the proceedings in question, cause the person giving oral evidence to be summoned before the court, or the court may, where the person concerned is resident outside the court's jurisdiction, issue summons to be effected through the diplomatic channel.

(8) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section, shall be treated as if it had been produced as an exhibit and identified in court by the person who made the statement.

(9) Any person who makes a statement which is admitted as evidence under this section and who in such statement willfully and falsely states anything which, if sworn, would have amounted to the offence of perjury, shall be deemed to have committed the offence of perjury and shall, upon conviction, be liable to the punishment prescribed therefor.

Insertion of section
33(1) in Cap. 80

27. The Evidence Act is amended in section 33 by inserting the words "or electronically recorded" immediately after the words "written or oral".

Amendment to
section 25A of Cap
80

28. The Evidence Act is amended in section 25A of the Act by deleting the expression "Chief Inspector" appearing in subsection (1) and substituting therefor the word "Inspector".

Insertion of section
59A in Cap 80

29. The Evidence Act is amended by inserting the following new section immediately after section 59—

Agreement on facts
not in issue

59A. (1) If an accused person has appointed an advocate and, at any stage during the proceedings, it appears to a prosecutor that a particular fact or facts which must be proved in a charge against an accused person is or are not in issue or shall not be placed in issue in criminal proceedings against the accused person, the prosecutor

may, forward or hand a notice to the accused person and his advocate setting out that fact or those facts and stating that such fact or facts shall be deemed to have been proved at the proceedings unless notice is given that any such fact shall be placed in issue.

(2) The notice by the prosecutor under subsection (1) shall be sent by registered mail or handed to the accused and his advocate personally at least fourteen days before the commencement of the criminal proceedings or the date set for the continuation of such proceedings, or within such shorter period as may be approved by the court or agreed upon by the accused person or his advocate and the prosecutor.

(3) If any fact mentioned in the notice under subsection (2) is intended to be placed in issue at the proceedings, the accused person and his advocate shall at least five days before the commencement or the date set for the continuation of the proceedings, or within such shorter period as may be approved by the court or agreed upon with the prosecutor, deliver a notice in writing to that effect to the registrar or the clerk of the court, as the case may be, or orally notify the registrar or the clerk of the court to that effect, in which case the registrar or the clerk of the court shall record such notice.

(4) If, after receipt of the notice from the prosecutor under subsection (1), any fact mentioned in that notice is not placed in issue as under subsection (3), the court may deem such fact or facts, subject to subsections (5) and (6), to have been sufficiently proved at the proceedings concerned.

(5) If a notice was forwarded or handed over by a prosecutor under subsection (1), the prosecutor shall notify the court at the commencement of the proceedings of such fact and of the response thereto, if any, and

the court shall thereupon institute an investigation into those facts which are not disputed and enquire from the accused person whether he confirms the information given by the prosecutor, and whether he understands his rights and the implications of the procedure and where the advocate of the accused person replies to any question by the court under this section, the accused person shall be required by the court to declare whether he confirms such reply or not.

(6) The court may on its own motion or at the request of the accused person order oral evidence to be adduced regarding any fact contemplated in subsection (4).

Insertion of section
63A in Cap. 80.

30. The Evidence Act is amended by inserting the following new section immediately after section 63(3) —

Teleconferencing and
video conferencing.

63A. (1) A court may receive oral evidence through teleconferencing and video conferencing.

(2) The Chief Justice may develop regulations to govern the use of teleconferencing and video conferencing.

Amendment of Cap.
80.

31. The Evidence Act is amended by inserting the following new section immediately after section 78 —

Admissibility of
electronic and digital
evidence.

78A. (1) In any legal proceedings, electronic messages and digital material shall be admissible as evidence.

(2) The court shall not deny admissibility of evidence under subsection (1) only on the ground that it is not in its original form.

(3) In estimating the weight, if any, to be attached to electronic and digital evidence, under subsection (1), regard shall be had to—

- (a) the reliability of the manner in which the electronic and digital evidence was generated, stored or communicated;

- (b) the reliability of the manner in which the integrity of the electronic and digital evidence was maintained;
- (c) the manner in which the originator of the electronic and digital evidence was identified; and
- (d) any other relevant factor.

(4) Electronic and digital evidence generated by a person in the ordinary course of business, or a copy or printout of or an extract from the electronic and digital evidence certified to be correct by a person in the service of such person, is on its mere production in any civil, criminal, administrative or disciplinary proceedings under any law, the rules of a self-regulatory organization or any other law or the common law, admissible in evidence against any person and rebuttable proof of the facts contained in such record, copy, printout or extract.

Insertion of section 36A in Cap. 90.

32. The Prisons Act is amended by inserting the following new section immediately after section 36—

Prisoners detained for terrorist activity, etc. to be kept apart.

36A. (1) The Commissioner shall confine persons who are imprisoned for committing an offence under the Prevention of Terrorism Act, 2012 or for committing a serious offence in a separate prison or in separate parts of the same prison in such manner as to prevent, as far as practicable, their seeing or conversing or holding any communication other than with a prisoner convicted of an offence under the Prevention of Terrorism Act, 2012.

Insertion of new section 70A in Cap. 90.

33. The Prisons Act is amended by inserting the following new section immediately after section 70—

Register.

70A. (1) The Commissioner shall maintain records of all prisoners detained in all prisons in Kenya.

(2) The records shall consist of—

- (a) personal data;
- (b) biometrics;
- (c) physical address;
- (d) postal address;
- (e) reasons for detention;
- (f) number of times detained; and
- (g) such other particulars as may be prescribed by the Cabinet Secretary in Regulations.

(3) The Commissioner shall ensure control and regulation of the information in the register, necessary safeguards for protection and confidentiality of the data or information contained in the registration and data serialization established, developed and maintained under this Act, including any database and networking infrastructure.

(4) The Commissioner shall maintain an integrated biometric system to enable sharing of information within the criminal justice system.

Amendment of
section 2 of Cap 114.

34. The Firearms Act is amended in section 2—

- (a) by inserting the following new definition in proper alphabetical sequence—

“Board” means the Firearms Licensing Board established under section 3;

- (b) by inserting the following new paragraph in the definition of the word “firearm” —

“(c) telescopes, mufflers, silencers, bulletproof gear, night vision devices and other similar accessories”.

Repeal of section 3 of
Cap 114.

35. The Firearms Act is amended by repealing section 3 and replacing it with the following new section—

3. (1) There is hereby established the Firearms Licensing Board.

(2) The Board shall be appointed by the Cabinet Secretary and shall consist of a Chairman and—

- (a) two representatives from the National Police Service one of whom shall be from the Directorate of Criminal Investigation;
- (b) one representative from the Office of the Attorney-General;
- (c) one representative from a private members group of lawfully registered gun owners;
- (d) one representative from the Kenya Wildlife Service;
- (e) one representative from the National Intelligence Service; and
- (f) one representative from the National Focal Point.

(3) There shall be a Secretariat of the Board which shall consist of such officers as may be necessary to discharge its duties under this Act.

(4) The persons serving as licensing officers immediately before the commencement of this section shall be deemed to be officers of the Secretariat referred to in subsection (3).

(5) The functions of the Board shall be to—

- (a) certify suitability of applicants and periodically assess proficiency of firearms holders;
- (b) issue, cancel, terminate or vary any licence or permit issued under this Act;
- (c) register civilians firearm holders, dealers and manufactures of firearms under this Act;

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- (d) register, supervise, and control all shooting ranges that are registered under this Act;
- (e) establish, maintain and monitor a centralized record management system under this Act;
- (f) perform such other functions as the Cabinet Secretary may prescribe from time to time.

Amendment of
section 4 of Cap. 114.

36. The Firearms Act is amended in section 4 —

- (a) by inserting the following new subsection immediately after subsection (1) —
 - (1A) No person shall manufacture, assemble, purchase, acquire or have in his possession an armoured vehicle unless he holds a certificate of approval issued under this Act.
- (b) by inserting the following new paragraph in subsection (2) immediately after paragraph (b)—
 - (c) manufactures, assembles, purchases, acquires or has in his possession an armoured vehicle without approval under subsection (1A).

Amendment of
section 5 of Cap. 243.

37. The Radiation Protection Act is amended in section 5(1)(c) by inserting the following new subparagraphs immediately after subparagraph 5(1)(c)(vi)—

- (vi) a public officer nominated by the Minister for the time being responsible for foreign affairs;
- (vii) an officer from the Kenya Defence Forces;
- (viii) an officer from the National Intelligence Service;
- (ix) an officer from the National Police Service; and
- (x) an officer from the Kenya Revenue Authority.

Amendment of
section 5 of Cap. 403.

38. The Traffic Act is amended in section 5 by inserting the following new subsection immediately after subsection (3) —

(4) The Authority shall create, maintain and update a database of all motor vehicles with diplomatic number plates which are owned or operated by foreign nationals, and shall require such number plates to be surrendered upon the end of the tour of duty, retirement or sale of the motor vehicle.

Amendment to section
12 of Cap. 403.

39. Section 12 of the Traffic Act is amended by inserting the following new subsection immediately after subsection (1)—

(2) A person who contravenes or fails to comply with the provisions of this section commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or imprisonment for a term not exceeding twelve months or both.

Amendment to section
118 of Cap. 403.

40. Section 118 of the Traffic Act is amended in subsection (2) by—

- (a) deleting the words “ten thousand shillings” appearing in paragraph (a) and substituting therefor the words “one hundred thousand shillings”;
- (b) deleting paragraph (b) and substituting therefor the following paragraph—
 - (b) for second or subsequent offence, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months.

Amendment of
section 30 of Cap.
485.

41. The Investment Promotion Act, 2004 is amended in section 30 by deleting subsection (2) and substituting therefor the following new subsection—

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may make Regulations for—

- (a) amending the Second Schedule;
- (b) prescribing the categories of employees to be issued with work permits;
- (c) prescribing procedures for the vetting of investors.

Amendment of No 12 of 2012.

42. The Labour Institutions Act is amended by inserting the following new sections immediately after section 54—

Establishment of an inter-ministerial committee.

54A. (1) There is established an inter-ministerial Committee consisting of officers from—

- (a) the Ministry responsible for immigration;
- (b) the Ministry responsible for labour;
- (c) the Ministry responsible for security;
- (d) the Attorney-General; and
- (e) the Ministry responsible for foreign affairs.

(2) The officer from the Ministry responsible for labour shall be the chairperson of the Inter-ministerial Committee.

Functions of the inter-ministerial committee.

54B. The Inter-Ministerial committee shall be responsible for —

- (a) advising the Cabinet Secretary responsible for labour on matters related to work permits in relation with security issues; and
- (b) vetting the application for registration made by employment bureaus and agencies.

Requirement for approval by the Inter-Ministerial Committee.

54C. Every employment bureau or agency shall be required to seek and obtain government approval prior to sending Kenyan Citizens for employment outside Kenya and for employment of foreigners within Kenya.

Amendment of section 56 of No. 12 of 2007.

43. The Labour Institutions Act is amended in section 56 by—

- (a) inserting the following new subsection immediately after subsection (1)—

“(2) The applications for registration made under subsection (1) shall be vetted by the Inter-Ministerial Committee established under section 54A”;

- (b) renumbering subsection (2) as subsection (3);
- (c) inserting the following new paragraph immediately before paragraph (a) in the renumbered subsection (3)—

“(aa) the applicant has satisfied the vetting process under section 54A”.

Amendment to section 26 of No. 33 of 2012

44. Section 26 of the National Transport Safety Authority Act is amended by deleting subsection(1) and substituting therefor the following subsection—

- (1) A person shall not—
 - (a) operate any class of vehicle including private vehicles as public service vehicles; or
 - (b) operate a commercial service vehicle whose tare weight exceeds three thousand and forty eight kilograms, unless the vehicle is licensed by the Authority.

Amendment of section 11 of No. 13 of 2006.

45. Section 11 of the Refugees Act is amended in subsection (1) by deleting the words “or in any case within thirty days after his entry”.

Amendment of section 12 of No 13 of 2006.

46. Section 12 of the Refugees Act is a amended by inserting the following new subsection immediately after subsection (2)—

- (3) Every person who has applied for recognition of his status as a refugee and every member of his family shall remain in the designated refugee camp until the processing of their status is concluded.

Amendment of section 14 of No 13 of 2006

47. Section 14 of the Refugees Act is amended by inserting the following new paragraph immediately after paragraph (b)—

- (c) not leave the designated refugee camp without the permission of the Refugee Camp Officer.

Insertion of new section 16D in No 13 of 2006

48. The Refugees Act is amended by inserting the following new section immediately.

Permitted number of
refugees and asylum
seekers in Kenya.

16A. (1) The number of refugees and asylum seekers permitted to stay in Kenya shall not exceed one hundred and fifty thousand persons.

(2) The National Assembly may vary the number of refugees or asylum seekers permitted to be in Kenya.

(3) Where the National Assembly varies the number of refugees or asylum seekers in Kenya, such a variation shall be applicable for a period not exceeding six months only.

(4) The National Assembly may review the period of variation for a further six months.

Amendment of
section 2 of No. 28 of
2012.

49. The National Intelligence Service Act, is amended in section 2 by—

- (a) inserting the words “decision making” immediately after the word “government’s” in the definition of the word “intelligence”;
- (b) inserting the following new definition in proper alphabetical sequence—

“protective and preventive security” means assessment of threats and vulnerabilities, measures and activities conducted to safeguard or protect classified information, critical installations, key government infrastructure and important personalities.

Amendment of
section 4 of No. 28 of
2012.

50. Section 4 of the National Intelligence Service Act is amended in subsection (3) by deleting the words “National Security” appearing before the word “Council”.

Amendment of
section 5 of No. 28 of
2012.

51. Section 5 of the National Intelligence Service Act is amended by—

- (a) deleting the words “to provide a confidential security report” appearing in subsection (1) (g) and substituting therefor the words “security vetting”;
- (b) inserting the following new paragraph immediately after paragraph (4)(b)—

- (c) members of the Service from performing the functions and exercising powers conferred by this Act or any written law.

Insertion of new sections in No.28 of 2012.

52. The National Intelligence Service Act is amended by inserting the following new section immediately after section 6—

Stoppage
detention.

and

6A. (1) An officer of the Service may stop, arrest and handover any person to the nearest police station whom the officer—

- (a) witnesses engaging in a serious offence; or
(b) finds in possession of any object or material that could be used for the commission of a serious offence.

Repeal of section 10 of No. 28 of 2012.

53. The National Intelligence Service Act is amended by repealing section 10.

Amendment of section 11C of No. 28 of 2012.

54. The National Intelligence Service Act, 2012 is amended in Section 11C by deleting the words “in accordance with Section 10(2), (3) and (4)”.

Amendment of section 36 of No. 28 of 2012.

55. Section 36 of the National Intelligence Service Act is amended in subsection (1) by inserting the words “who is subject to investigation by the Service or” immediately after the word “person”;

Repeal of Part V of section 42 of No.28 of 2012.

56. The National Intelligence Service Act is amended by repealing Part V and substituting therefor with the following new Part—

PART V—SPECIAL OPERATIONS

Authority to
undertake covert
operations.

42. (1) In this Part “special operations” means measures, efforts and activities aimed at neutralizing threats against national security.

(2) Where the Director-General has reasonable grounds to believe that a covert operation is necessary to enable the Service to investigate or deal with any threat to national security or to perform any of its functions, the Director-General may, subject to guidelines approved by the Council, issue

written authorization to an officer of the Service to undertake such operation.

(3) The written authorization issued by the Director-General under subsection (2)—

- (a) shall be sufficient authorization to conduct the operation;
- (b) may be served on any person so required to assist the Service or facilitate the covert operation or investigations required to be undertaken;
- (c) may authorize any member of the Service to obtain any information, material, record, document or thing and for that purpose—
 - (i) enter any place or obtain access to anything;
 - (ii) search for or remove or return, examine, take extracts from, make copies of or record in any manner the information, material, record, documents or thing;
 - (iii) monitor communication;
 - (iv) install, maintain or remove anything; or
 - (v) take all necessary action, within the law, to preserve national security; and
- (d) shall be specific and accompanied by a warrant from the High Court in the case of paragraph (c), and shall be valid for a period of one hundred and eighty days unless otherwise extended.

57. Section 64 of the National Intelligence Service Act is amended—

- (a) by inserting the following new paragraph immediately after paragraph (d) —

(dd) such other public officer as the President may appoint;

(b) in subsection (4), by inserting the following new paragraph immediately after paragraph (c)—

(d) to perform such other functions as may be conferred on the Council by this Act or by any other written law.

Amendment of section 65 of No. 28 of 2012

58. Section 65 of the National Intelligence Service Act is amended by deleting the word “Parliament” and substituting therefor the words “National Assembly”.

Amendment of section 74 of No. 28 of 2012

59. Section 74 of the National Intelligence Service Act is amended by inserting the following new subsection immediately after subsection (2)—

(3) It shall be the duty of every State Organ, State department, agency or public entity —

(a) that receives intelligence from the Service to act on or otherwise utilize the intelligence; and

(b) to provide information requested for by the Service:

Provided that for purposes of the intelligence referred to in paragraph (a), it shall be specific, actionable and timely

Amendment of section 3 of No. 30 in 2012.

60. Section 3 of the Prevention of Terrorism Act is amended in subsection (2) by inserting the words “shall afford the affected entity reasonable opportunity” immediately after the words “Inspector-General shall”.

Insertion of section 9A in No. 30 of 2012.

61. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 9—

Facilitation of terrorist acts.

9A. A person who advocates, promotes, advises or facilitates with intent to commit a terrorist act, any act preparatory to a terrorist act, commits an offence and is liable, on conviction to imprisonment for a term not exceeding twenty years.

Insertion of section 10A in No. 30 of 2012.

62. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 12—

Possession of weapons for terrorist purposes.

12A. (1) A person who is in possession of a weapon, an improvised explosive device or components of an improvised explosive device for purposes of terrorism commits an offence and is liable, on conviction, to imprisonment for a term of not less than twenty-five years.

(2) Without prejudice to subsection (1), unlawful possession of improvised explosive devices, assault rifles, rocket propelled grenades or grenades shall be presumed to be for terrorist or criminal purposes.

(3) The Cabinet Secretary shall, on recommendation of the National Security Council, by notice in the Gazette, publish a list of components of improvised explosive devices for purposes of subsection (1).

Possession of weapons in places of worship institution or public places.

12B. A person who, in any premises, institution or a public place, is in unlawful possession of a weapon, an improvised explosive device or components of an improvised explosive device, commits an offence and is liable, on conviction, to imprisonment for a term not exceeding thirty years.

Failure to prevent entry of weapons.

12C. (1) Any person, who, being in charge of any premises, institution or public place within which illegal weapons are recovered, shall be deemed to be in possession of such weapons and shall be liable to imprisonment for a term not exceeding thirty years.

(2) It shall be a defence if the person referred to in subsection (1) shows that he had no control over the entry of the weapons in any premises, institution or public place or he took appropriate step to prevent into the place of worship, institution or public place.

Radicalisation.

12D. A person who adopts or promotes an extreme belief system for the purpose of facilitating ideologically based violence to advance political, religious or social change

commits an offence and is liable on conviction, to imprisonment for a term not exceeding thirty years.

Amendment of section 23 in No. 30 of 2012.

63. Section 23 of the Prevention of Terrorism Act is amended by inserting the following subsection immediately after subsection (3)—

(3A) A person who being in Kenya, conspires with another person who is also in Kenya to carry out a terrorist act in Kenya or outside Kenya commits an offence.

Insertion of section 30A in No. 30 of 2012.

64. The Prevention of Terrorism Act is amended by inserting the following new sections immediately after section 30—

Publication of offending material.

30A. (1) A person who publishes or utters a statement that is likely to be understood as directly or indirectly encouraging or inducing another person to commit or prepare to commit an act of terrorism commits an offence and is liable on conviction to imprisonment for a term not exceeding fourteen years.

(2) For purposes of subsection (1), a statement is likely to be understood as directly or indirectly encouraging or inducing another person to commit or prepare to commit an act of terrorism if—

(a) the circumstances and manner of the publications are such that it can reasonably be inferred that it was so intended; or

(b) the intention is apparent from the contents of the statement.

(3) For purposes of this section, it is irrelevant whether any person is in fact encouraged or induced to commit or prepare to commit an act of terrorism.

Training or instruction for purposes of terrorism

30B. (1) A person who knowingly—

(a) attends training or receives instructions at any place, whether in Kenya or outside Kenya; or

(b) receives instruction or training on the use or handling of weapons,

that is wholly or partly intended for purposes connected with the commission or preparation for the commission of terrorist acts, commits an offence and is liable on conviction to imprisonment for a term not less than ten years.

(2) For purposes of subsection (1), it is irrelevant whether—

(a) the person in fact receives the training; or

(b) the instruction is provided for particular acts of terrorism.

Presumption of travelling to a country for purposes of being trained as a terrorist.

30C. (1) A person who travels to a country designated by the Cabinet Secretary to be a terrorist training country without passing through designated immigration entry or exit points shall be presumed to have travelled to that country to receive training in terrorism.

(2) Despite subsection (1), a person who ordinarily resides in Kenya within an area bordering a designated country is exempt from the provisions of subsection (1).

(3) For the purposes of this section, the Cabinet Secretary may, through regulations, designate any country to be a terrorist training country.

Foreign terrorist fighters.

30D. A person who is not a Kenyan citizen who enters or passes through Kenya for purposes of engaging in terrorist activities in Kenya or elsewhere commits an offence and shall on conviction, be liable to imprisonment for a term not exceeding thirty years.

Aiding and abetting.

30E. A person who aids or abets the commission of an offence under this Act commits an offence and shall be liable on

conviction to a term of imprisonment for a term not exceeding twenty years.

Prohibition from broadcasting.

30F. (1) Any person who, without authorization from the National Police Service, broadcasts any information which undermines investigations or security operations relating to terrorism commits an offence and is liable on conviction to a term of imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings, or both.

(2) A person who publishes or broadcasts photographs of victims of a terrorist attack without the consent of the National Police Service and of the victim commits an offence and is liable on conviction to a term of imprisonment for a period not exceed three years or to a fine of five million shillings, or both.

(3) Notwithstanding subsection (2) any person may publish or broadcast factual information of a general nature to the public.

Amendment of section 32 of No. 30 of 2012.

65. Section 32 of the Prevention of Terrorism Act is amended by deleting subsection (3).

Amendment of section 33 of No. 30 of 2012.

66. Section 33 of the Prevention of Terrorism Act is amended—

(a) in subsection (5), by deleting the opening statement and substituting therefor the words “In making an order for remand in custody under subsection (4)(c), the Court shall have due regard to the following factors —”;

(b) in subsection (10) by deleting the words “ninety days” and substituting therefor the words “ three hundred and sixty days.”

Amendment of section 35 of No. 30 of 2012.

67. Section 35 of the Prevention of Terrorism Act is amended by deleting the words “in accordance with section 26” appearing immediately after subsection (3) (b) (iii).

Amendment of section 36 of No. 30 of 2012.

68. The Prevention of Terrorism Act is amended in section 36(1) by inserting the words “to a Chief Magistrate or” immediately before the words “to the High Court”.

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Insertion of section 36A in No. 30 of 2012.

69. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 36-

Interception of communication by the National Security Organs.

36A. (1) The National Security Organs may intercept communication for the purposes of detecting, deterring and disrupting terrorism in accordance with procedures to be prescribed by the Cabinet Secretary.

(2) The Cabinet Secretary shall make regulations to give effect to subsection (1), and such regulations shall only take effect upon approval by the National Assembly.

(3) The right to privacy under Article 31 of the Constitution shall be limited under this section for the purpose of intercepting communication directly relevant in the detecting, deterring and disrupting terrorism.

Amendment of section 38 of No. 30 of 2012.

70. Section 38 of the Prevention of Terrorism Act is amended by deleting the words “Chief Magistrate’s” appearing in subsection (1).

Amendment of section 39 of No. 30 of 2012.

71. Section 39 of the Prevention of Terrorism Act is amended by deleting the words “subject to the provisions of any other written law”.

Insertion of section 39A in No. 30 of 2012.

72. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 39—

Evidence.

39A. The Court shall have due regard to the authenticity and accuracy of the evidence presented before it without undue regard to technicalities of procedure.

Amendment of section 41 of No. 30 of 2012.

73. Section 41 of the Prevention and Terrorism Act is amended by deleting subsection (2) and substituting therefor the following new subsection—

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to imprisonment for a term not exceeding three years.

Insertion of a new Part 48A in No. 30 of 2012.

74. The Prevention of Terrorism Act is amended by inserting the following new Part immediately after section 40—

**PART VI—MECHANISM FOR CO-ORDINATING
COUNTER-TERRORISM MEASURES**

Establishment of a
counter-terrorism
Centre.

40A. (1) There is established a National Counter-Terrorism Centre, hereinafter referred to as the “Centre” which shall be an inter-agency body.

(2) The Centre shall consist of offices from the following organisations—

- (a) the Director appointed by the National Security Council;
- (b) the National Intelligence Service;
- (c) the Kenya Defence Forces;
- (d) the Attorney-General;
- (e) Directorate of Immigration and Registration; the National Police Service; and
- (f) such other national agencies as may be determined by the National Security Council.

(3) The members of the Centre specified under subsection (2) shall be seconded to the Centre for a period not exceeding three years.

(4) The Director shall be responsible for the management and implementation of the functions of the Centre.

Responsibilities of the
Centre.

40B. (1) The Centre shall be responsible for the co-ordination of national counter-terrorism efforts in order to detect, deter and disrupt terrorism acts.

(2) Without prejudice to the provisions of subsection (1) the Centre shall—

- (a) establish a database to assist law enforcement agencies;
- (b) conduct public awareness on prevention of terrorism;
- (c) develop strategies such as counter and de-radicalization;

- (d) facilitate capacity building for counter-terrorism stakeholders;
- (e) co-ordinate with other government agencies to provide security certification for aviation schools or companies.

Responsibility of the public and government bodies.

40C. (1) The Centre may request any person or government body for any information relating to terrorism.

(2) Members of the public have a responsibility to furnish the Centre with any information relating to terrorism which is within their knowledge.

Insertion of new section 5A in No. 12 of 2011.

75. The Kenya Citizenship and Immigration Act is amended by inserting the following new section immediately after section 5 —

Establishment of Committee.

5A. (1) There is established a Committee to be known as the Border Control and Operations Co-ordination Committee.

(2) The Committee shall consist of —

- (a) the Principal Secretary to the Ministry responsible for national security who shall be the chairperson;
- (b) the Principal Secretary to the Ministry responsible for health;
- (c) the Commissioner-General of the Kenya Revenue Authority;
- (d) the Director of Immigration;
- (e) the Inspector-General of the National Police Service;
- (f) the Director of the Kenya Airports Authority;
- (g) the Managing Director of the Kenya Ports Authority;
- (h) the Director-General of the Kenya Maritime Authority;

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- (i) the Director-General of the National Intelligence Service;
- (j) the Director of the Kenya Plant Health Inspectorate Service; and
- (k) the Managing Director of the Kenya Bureau of Standards; and

Functions of the
Committee

5B. (1) The functions of the Committee shall be to —

- (a) formulate policies and programmes for the management and control of designated entry and exit points;
- (b) co-ordinate the exchange of information between the respective agencies responsible for the security and management of the borders at the designated entry and exit points;
- (c) ensure compliance with standards by the respective agencies to ensure the effective and efficient management of operations at the designated entry and exit points;
- (d) exercise oversight authority over the operations of the respective agencies at the designated entry and exit points; and
- (e) perform such other functions as may be conferred on it by this Act or any other written law.

(2) The Committee may designate at least three public officers from the respective agencies to coordinate and monitor the operations of the respective agencies at the designated entry and exit points.

Sub-committees
of the Committee.

5C. (1) The Committee may, from time to time, establish such sub-committees as it may consider necessary for the better carrying out of its functions under this Act.

(2) The Committee may co-opt into the sub-committees established under subsection (1) public officers whose participation is necessary for the proper performance of the functions of the Committee.

Report to the National Security Council.

5D. The Committee shall submit to the National Security Council at the end of every year, a report in respect of that year containing—

- (a) a report on its activities and operations during that year; and
- (a) Such other information as the Committee may require.

Amendment of section 7 of No. 12 of 2011.

76. Section 7 of the Kenya Citizenship and Immigration Act is amended by deleting the words “by birth” appearing immediately after the words “was or is a citizen”.

Insertion of a new paragraph (h) in section 31(1) of No. 12 of 2011.

77. The Kenya Citizenship and Immigration Act is amended in section 31(1) by inserting the following new paragraph immediately after paragraph (g) —

(h) subject to the Constitution, any other circumstances which in the opinion of the Director would be prejudicial to the interest of the State or holder of the passport.

Insertion of new paragraph (w) in section 33(1) of No. 12 of 2011.

78. The Kenya Citizenship and Immigration Act is amended in section 33 in subsection (1) by inserting the following **new** paragraph immediately after paragraph (v)—

(w) a person who has been repatriated and or removed from Kenya under any lawful order.

Insertion of new paragraphs (f) (g) (h) (i)(j) in section 39 of No. 12 of 2011.

79. The Kenya Citizenship and Immigration Act is amended in section 39 by inserting the following new paragraphs immediately after paragraph (e) —

- (f) the person has violated provisions of this Act;
- (g) the person acquired the permanent residence status by fraud, false representation or concealment of any material fact;
- (h) the person has during any war in which Kenya was engaged unlawfully traded or communicated

with an enemy or been engaged in or associated with any business that was knowingly carried on in such a manner as to assist an enemy in that war;

- (i) the person has within five years after acquiring permanent residence status been convicted of an offence and sentenced to imprisonment for a term of three years or longer; and
- (j) if the person domiciled outside the country continuously for a period of two years unless they were previously citizens by birth.

Amendment of section 40(1) of No. 12 of 2011.

80. The Kenya Citizenship and Immigration Act is amended in section 40 by—

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

“Committee” means the permits determination committee appointed by the Cabinet Secretary”

- (b) in subsection (3) by inserting the words “before entry into Kenya immediately after the words “prescribed manner” appearing in paragraph (a).

Insertion of new paragraphs (d) (e)(f) (g) (h) (i) (j) in section 41(1) of No. 12 of 2011.

81. The Kenya Citizenship and Immigration Act is amended in section 41 in subsection (1) by inserting the following new paragraphs immediately after paragraph (c)—

- (d) has violated any of the terms of his or her stay under the permit;
- (e) has violated any of the provisions of this Act or Regulations made under it;
- (f) has been declared a prohibited immigrant or inadmissible person;
- (g) has become an undesirable immigrant;
- (h) acquired the permit by fraud, false representation or concealment of any material fact;
- (i) has during any war in which Kenya was engaged unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was knowingly carried on in such a manner as to assist an enemy in that war; and

- (j) the person has after acquiring the permit been convicted of an offence and sentenced to imprisonment for a term of three years or longer

Amendment of section 47 of No. 12 of 2011.

82. The Kenya Citizenship and Immigration Act is amended in section 47—

- (a) by inserting the words “and shall make weekly returns to the Director” at the end of subsection (2);
- (b) by inserting the following new subsection immediately after subsection (2) —

(2A) Notwithstanding the provisions of subsection (2), the Director may at any time request for submission of the records of all customers who are foreign nationals.

Insertion of new paragraph (m) in section 54 of No. 12 of 2011.

83. The Kenya Citizenship and Immigration Act is amended in section 54 in subsection (1) by inserting the following new paragraph immediately after paragraph l—

(m) uses as a passport, entry permit, pass, written authority, consent or approval issued to him, an entry permit, pass, written authority, consent or approval issued to another person.

Amendment of section 56(2) of No. 12 of 2011.

84. The Kenya Citizenship and Immigration Act is amended in section 56 by deleting subsection (2) and substituting therefor the following new subsection—

(2) A foreign national residing in Kenya for a continuous period exceeding three months shall be required to register with an immigration officer and notify change of address, travelling or otherwise in such manner as may be prescribed.

Amendment of section 10 of No. 11A of 2011.

85. Section 10 of the National Police Service Act is amended by inserting the following new paragraph immediately after paragraph (n)—

(na) designate from among the county commanders in each county the most Senior Officer from either the Kenya Police Service or the Administration Police Service, who shall coordinate in consultation with the two Deputy Inspector-Generals, the operational command and control of the county, and the officer so

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designated shall, with respect to coordination, execute operational command and control in a manner that respects the command structure set out in Article 245(3) of the Constitution.

Amendment of section 12 of No. 11A of 2011.

86. Section 12 of the National Police Service Act is amended by—

(a) deleting subsection (2) and substituting therefor the following subsection—

(2) The President shall, within fourteen days after a vacancy occurs in the office of the Inspector-General, nominate a person for appointment as an Inspector-General and submit the name of the nominee to Parliament.

(b) deleting subsections (3), (4), (5), and (6).

Amendment of section 15 of No. 11A of 2011.

87. Section 15 of the National Police Service Act is amended by deleting subsections (2), (3), (4), (5), (6), (7) and (8).

Amendment of section 18 of No. 11A of 2011

88. The National Police Service Act is amended in section 18 by inserting the words “but may be removed before expiry of his term subject to the provisions of Article 245(7) of the Constitution” immediately after the words “four years”.

Amendment of section 17 of No. 11A of 2011.

89. Section 17 of the National Police Act is amended by deleting subsections (2), (3), (4), (5) and (6).

Amendment of section 29 of No. 11A of 2011.

90. Section 29 of the National Police Service Act is amended by deleting subsections (2) and (3).

Amendment of section 94 of No. 11A of 2011.

91. Section 94 of the National Police Service Act is amended by—

(a) in subsection (1) deleting the expression “twenty one” and substituting therefor “ten”; and

(b) in subsection (3) by deleting the words “or to a fine not exceeding one hundred thousand shillings”

Amendment of section 87 of No. 11A of 2011.

92. Section 87 of the National Police Service Act is amended by inserting the following subsection immediately after subsection (2)—

(2A) Without prejudice to subsection (2), the unit may where necessary investigate and

recommend appropriate action in respect of any Found engaging in any unlawful conduct.

Amendment of section 88 of No. 11A of 2011.

93. Section 88 of the National Police Service Act is amended by inserting the following new subsection immediately after subsection (3)—

“(3A). A police officer convicted of an offence under subsection (3) shall be liable to imprisonment for a term not less than ten years and not more than twenty years”.

Insertion of a new section 76A of No. 11A of 2011

94. The National Police Service Act is amended by inserting the following section immediately after section 76—

Database on retired and other officers

76A. The Commission shall keep, maintain and update a database of all officers who retire, desert, are dismissed or otherwise leave the Service.

Insertion of a new section 95A of No. 11A of 2011.

95. The National Police Service Act is amended by inserting the following section immediately after section 95—

National Police Service Disciplinary Board

95A. (1) There is established the National Police Service Disciplinary Board which shall consist of—

- (a) a person qualified to be appointed as a judge who shall be the presiding officer appointed by the Commission;
- (b) five other members appointed by Commission as follows—
 - (i) two members representing the Kenya Police Service;
 - (ii) two members representing the Administration Police Service;
 - (iii) one member representing the Directorate of Criminal investigations

(2) The Board shall—

- (a) inquire into matters related to discipline for officers of the rank of or above assistant superintendent brought to its attention by an officer of the Service,
- (b) undertake disciplinary proceedings in accordance with the regulations issued by the Commission;
- (c) determine and make recommendations to the Commission, including recommendation for summary dismissal, based on its findings.

(3) In conducting an inquiry under subsection (2) (a), the Board may engage the services of any person or institution with expert knowledge in the matter to which the inquiry relates.

(4) The Commission may establish such other subordinate Boards to be constituted as and when necessary at the respective Service commands at county, formation, unit and station levels which shall undertake disciplinary proceedings in accordance Service Standing Orders.

(5) A subordinate Board shall inquire into matters related to discipline for officers of the rank of or below chief inspector brought to its attention by an officer of the Service.

Amendment of
section 6 of No. 18 of
2013

96. Section 6 of the Public Benefits Organizations Act is amended by inserting the following new subsections immediately after subsection (4)—

(4A) A public benefit organization registered under subsection (1) shall be classified by the Authority in the prescribed manner.

(4B) The Authority upon consultation with the Cabinet Secretary, may from time to time review the classification of public benefit organizations.

(4C) The Cabinet Secretary shall, upon consultation with the Authority, make regulations to provide for the manner, conduct and criteria for classification of public benefit organizations.

Amendment to section 2 of No. 21 of 2013.

97. Section 2 of the Civil Aviation Act, is amended in section 2 by inserting the following new definition in its proper alphabetical sequence—

“unmanned aerodrome” means any aerodrome where air traffic services are not provided.

Insertion of a new section 61A in No. 21 of 2013.

98. The Civil Aviation Act is amended in section 61 by inserting the following new section immediately after section 61—

Prohibition from flying without prior approval.

61A. (1) Where an aircraft is flown from any unmanned aerodrome or point within Kenya to another unmanned aerodrome or point within Kenya, the Pilot-In-Command of such aircraft and the operator of such aerodrome shall be required to provide such information as the Cabinet secretary may prescribe from time to time.

(2) The information under subsection (1) shall include details of the flight and the nature of the operations.