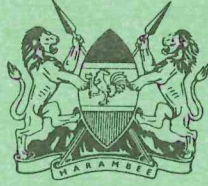


SPECIAL ISSUE

Kenya Gazette Supplement No. 29 (National Assembly Bills No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2024

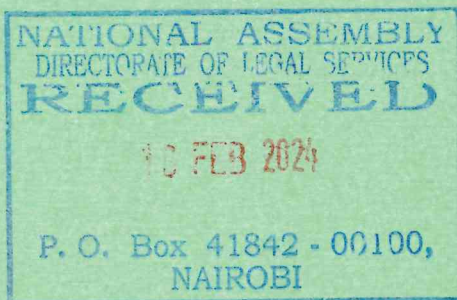
NAIROBI, 2nd February, 2024

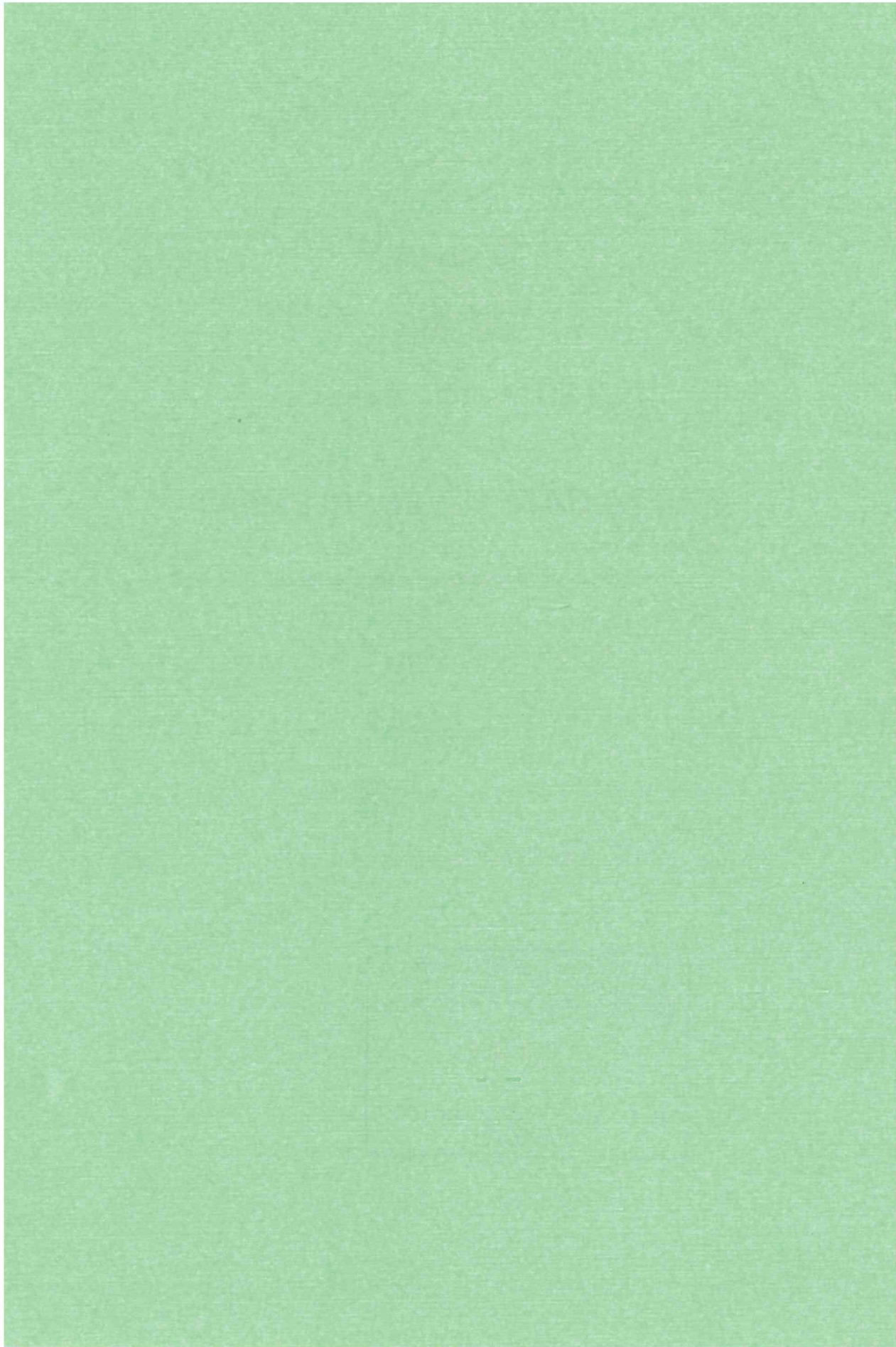
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**THE TREATY MAKING AND RATIFICATION
(AMENDMENT) BILL, 2024**

A Bill for

AN ACT of Parliament to amend the Treaty Making and Ratification Act

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Treaty Making and Ratification (Amendment) Act, 2024.

Short title.

2. Section 7 of the Treaty Making and Ratification Act, 2012 (hereinafter referred to as the principal Act) is amended by inserting the word “draft” immediately after the words “submit to the Cabinet Secretary the”.

Amendment of section 7 of No. 45 of 2012

3. The principal Act is amended by deleting section 8 and substituting therefor the following new section—

Deletion of section 8 of No. 45 of 2012.

Consideration by the National Assembly.

8. (1) Where the Cabinet approves the ratification of a draft treaty, the Cabinet Secretary shall submit the draft treaty and a memorandum on the draft treaty to the National Assembly outlining—

- (a) rights that are likely to be affected or promoted by the treaty;
- (b) national interests which may be affected by the treaty;
- (c) obligations imposed on Kenya by the treaty;
- (d) requirements for implementation of the treaty;
- (e) policy and legislative considerations;
- (f) financial implications;
- (g) the social and environmental impact of the treaty; and
- (h) the nature and evidence of any public participation conducted on the treaty.

(2) The relevant National Assembly committee shall, during its consideration of

the draft treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures.

(3) The National Assembly may—

- (a) approve the ratification of a draft treaty;
- (b) approve the ratification of a draft treaty with reservations; or
- (c) reject the ratification of the draft treaty.

(4) In approving ratification of a draft treaty with reservations, the House shall specify the affected provisions of the treaty and the proposed amendment.

(5) In considering a draft treaty under subsection (3), the House shall make a resolution on a draft treaty supported by at least one-half of the members.

(6) Upon a decision of the House under subsection (3), the Clerk of the National Assembly shall, within seven days, notify the Cabinet Secretary of the decision of the House by way of a certificate of treaty and such certificate shall be entered in the register of treaties.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Treaty Making and Ratification Act, to enable National Assembly to consider and propose amendments to treaties before ratification.

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

The Bill does not delegate legislative powers. It does not limit fundamental rights and freedoms.

Statement that the Bill concerns county governments

The Bill does not affect the functions of the county governments and is not a Bill concerning counties for purposes of the Standing Orders.

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

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

Dated the 29th June, 2023.

MARTHA WANGARI,
Member of Parliament.

Section 7 of the Treaty Making and Ratification Act which it is proposed to amend—**7. Approval by Cabinet**

Where the Government intends to ratify a treaty, the Cabinet Secretary of the relevant State department shall, in consultation with the Attorney-General, submit to the Cabinet the treaty, together with a memorandum outlining—

- (a) the objects and subject matter of the treaty;
- (b) any constitutional implications including—
 - (i) any proposed amendment to the Constitution; and
 - (ii) that the treaty is consistent with the Constitution and promotes constitutional values and objectives
- (c) the national interests which may be affected by the ratification of the treaty;
- (d) obligations imposed on Kenya by the treaty;
- (e) requirements for implementation of the treaty;
- (f) policy and legislative considerations;
- (g) financial implications;
- (h) ministerial responsibility;
- (i) implications on matters relating to counties;
- (j) the summary of the process leading to the adoption of the treaty;
- (k) the date of signature;
- (l) the number of states that are party to the treaty;
- (m) the views of the public on the ratification of the treaty;
- (n) whether the treaty sought to be ratified permits reservations and any recommendations on reservations and declarations;
- (o) the proposed text of any reservations that should be entered when ratifying the treaty in order to protect or advance national interests or ensure conformity with the Constitution; and;
- (p) whether expenditure of public funds will be incurred in implementing the treaty and an estimate, where possible, of the expenditure.

Section 8 of the Treaty Making and Ratification Act which it is proposed to amend—

8. Consideration by Parliament

(1) Where the Cabinet approves the ratification of a treaty, the Cabinet Secretary shall submit the treaty and a memorandum on the treaty to the Speaker of National Assembly.

(2) Deleted by Act No. 18 of 2014, Sch.

(3) The relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures.

(4) National Assembly may approve the ratification of a treaty with or without reservations to specific provisions of the treaty.

(5) A proposed reservation shall be introduced as a provision into the treaty in accordance with the procedure set out in the Standing Orders.

(6) Deleted by Act No. 18 of 2014, Sch.

(7) Where the National Assembly refuses to approve the ratification of a treaty, the Clerk of the National Assembly shall submit the resolution of the House to the relevant Cabinet Secretary within fourteen days of the resolution.

(8) Deleted by Act No. 18 of 2014, Sch.

(9) National Assembly shall not approve the ratification of a treaty or part of it if its provisions are contrary to Constitution, nor shall the House approve a reservation to a treaty or part of it if that reservation negates any of the provisions of the Constitution even if the reservation is permitted under the relevant treaty.

