

THE PUBLIC PARTICIPATION BILL, 2024
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THE PUBLIC PARTICIPATION BILL, 2024

A Bill for

AN ACT of Parliament to provide for the conduct of public participation; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

Short title **1.** This Act may be cited as the Public Participation Act, 2024.

Interpretation. **2.** In this Act, unless the context otherwise requires—

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to public participation;

No. 18 of 2012. “responsible authority” includes a department or agency of the national government and an authority, body or other entity declared to be a national government entity under section 4(1) of the Public Finance Management Act, 2012, and Constitutional Commissions and Independent Offices.

Application. **3.** (1) This Act shall apply to responsible authorities.

(2) Each responsible authority shall comply with the provisions of this Act when it—

- (a) formulates or reviews a public policy;
- (b) formulates a legislative proposal;
- (c) formulates a statutory instrument; or
- (d) initiates a government programme or project.

Objects of this Act. **4.** The objects of this Act shall be to—

- (a) ensure timely public access to information in a language and format that is easy to understand;
- (b) enhance effective public participation in planning, budgeting and implementation of Government plans and budgets;
- (c) ensure effective participation of children, women, youth, persons living with disability,

older persons, minorities and marginalized groups in governance;

(d) establish monitoring, evaluation and learning systems in respect of public participation; and

(e) institutionalize responsive, functional and timely feedback, reporting and dispute resolution mechanisms.

PART II—INSTITUTIONAL ARRANGEMENTS

Policy directions.

5. The Cabinet Secretary shall—

(a) provide the general policy direction on public participation; and

(b) shall publish an annual report on the status of public participation under this Act.

Registrar of Public Participation.

6. (1) There is established the office of the Registrar of Public Participation which shall be an office in the public service.

(2) The Registrar shall be competitively recruited and appointed by the Cabinet Secretary.

Functions of the Registrar.

7. (1) The Registrar shall—

(a) receive and approve public participation plans of responsible authorities;

(b) maintain a register of—

(i) public participation plans; and

(ii) public participation reports;

(c) develop and implement a public participation monitoring, evaluation, assessment and learning framework;

(d) submit to the Cabinet Secretary reports on the status of public participation;

(e) maintain a website of public participation reports;

(f) recommend to responsible authorities measures to be taken to ensure compliance with this Act;

(g) conduct capacity building for responsible authorities; and

- (h) perform such other functions as may be provided for under this Act or any other written legislation.

(2) The Public Service Commission, in consultation with the Cabinet Secretary, shall deploy such public officers or other staff as may be necessary for the proper discharge of functions of the Registrar on such terms of service as the Public Service Commission may, in consultation with the Salaries and Remuneration Commission, determine.

Delegation by the Registrar.

8. (1) The Registrar may, in writing, delegate to an officer or staff deployed under section 7(2) the performance of any function or exercise of any power conferred on the Registrar by this Act or any other written law.

(2) A delegation under subsection (1)—

- (a) shall be subject to any conditions the Registrar may impose;
- (b) shall not relieve the Registrar of responsibility concerning the exercise of the delegated function or exercise of the delegated power; and
- (c) may be withdrawn or varied by the Registrar at any time.

PART III—CONDUCT OF PUBLIC PARTICIPATION

Public participation plans.

9. (1) Where a responsible authority proposes a public participation exercise, the accounting officer of that responsible authority shall submit a public participation plan to the Registrar.

(2) The public participation plan submitted under subsection (1) shall, in the case of a legislative proposal, statutory instrument, policy, programme or project, include—

- (a) a copy of the proposal;
- (b) a summary of the information contained in the proposal;
- (c) a stakeholder analysis of the persons likely to be interested or affected by the proposal;

- (d) proof of funds for the public participation exercise; and
- (e) a notice of the public participation exercise which shall specify —
 - (i) the objects of the proposal;
 - (ii) a description of how the responsible authority shall provide interested or affected persons with an opportunity to present views;
 - (iii) the period within which views on the proposal may be submitted, which shall be at least twenty-one days from the date of the notice; and
 - (iv) information on where and how the proposal may be accessed by the public.

(3) The notice under subsection (2)(e) shall be in the form set out in the Schedule.

Publication of proposals and notices and, receipt of public views.

10. The accounting officer of a responsible authority shall—

- (a) ensure that each proposal and summary of information submitted under section 9 are publicly available in a format that can be easily accessed;
- (b) publicise the notice in a newspaper with nationwide circulation, on the responsible authority's website, and in any other electronic or print medium;
- (c) provide a mechanism for receiving submissions in respect of the proposals from the public; and
- (d) use media and venues that are accessible to persons living with disabilities where public meetings are held in respect of the proposals.

Public participation reports.

11. (1) Within seven days after the completion of a public participation exercise, the accounting officer of a responsible authority shall prepare and submit to the Registrar a report of the exercise.

(2) The report submitted under subsection (1) shall set out—

- (a) the persons who are interested in or are likely to be affected by the proposal;
- (b) in any case where public meetings were held in respect of the proposal, names of the persons who attended the meetings and signed attendance registers containing any such information;
- (c) a description of the mechanism for receiving submissions in respect of the proposal from the public including the language of communication;
- (d) the time allocated for the public to make submissions in respect of the proposal;
- (e) an explanation that of how the responsible authority considered the socioeconomic circumstances, religious beliefs, ethnicity and knowledge levels of the persons interested in or likely to be affected by the proposal;
- (f) the manner by which the responsible authority considered the submissions of the persons interested in or likely to be affected by the proposal; and
- (g) the manner by which the responsible authority ensured inclusivity including demonstrating access and understanding of the public participation exercise by persons living with disability.

(3) Where the Registrar is satisfied that the public participation exercise was conducted in accordance with this Act, the Registrar shall issue a certificate of compliance.

PART IV—MISCELLANEOUS PROVISIONS

12. Where a person interested in or likely to be affected by a proposal elects to attend a public meeting at which the proposal is considered, that person shall have the right to—

- (a) make submissions orally or in writing to the relevant responsible authority;

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- (b) be accorded adequate time to make his or her submissions; and
- (c) make submissions without interruption, intimidation, coercion or undue influence by—
 - (i) an officer of the responsible authority; or
 - (ii) any other person attending the public meeting.

Dispute resolution.

13. (1) Where a person interested in or likely to be affected by a proposal claims that the provisions of section 12 have been contravened by an officer of the responsible authority or any other person in respect of the consideration of a proposal, that person may lodge a complaint with the Registrar.

(2) A complaint lodged under subsection (1) may be made in writing or orally but any complaint made orally shall be reduced into writing by the Registrar or a person authorized in that regard by the Registrar as soon as practicable.

- (3) A complaint lodged under subsection (1) shall—
- (a) be in writing;
 - (b) be in English or Kiswahili;
 - (c) be written in respectful, decorous and temperate language
 - (d) be addressed to the Registrar;
 - (e) indicate whether any effort has been made to have the matter addressed by the responsible authority and whether there has been any response from that responsible authority or whether the response has been unsatisfactory;
 - (f) indicate whether the issue in respect of which the complaint has been made is pending before any court of law or other constitutional or legal body;
 - (g) conclude with a clear, proper and respectful prayer in regard to the matter to which it relates;
 - (h) contain the name, address, identification number, signature or a thumb impression of the person

making the complaint or every person, where there is more than one person;

- (i) be signed by the person or, if the person is unable to sign, by a witness in whose presence the person shall make his or her mark on the complaint.

(4) The Registrar shall, within seven days after receipt of the complaint, review the complaint to ascertain whether it complies with the requirements of this Act.

(5) Where the Registrar determines that the complaint does not comply with the requirements of this Act, the Registrar may give such directions as may be necessary to ensure that the complaint is revised or amended to comply with the requirements of this Act.

(6) The Registrar shall, if satisfied that the complaint meets the requirements of this Act, and is within the mandate of the Registrar, liaise with the responsible authority to ensure that the issues set out in the complaint are resolved.

(7) The Registrar shall notify in writing the complainant of the decision in respect of the complaint.

(8) The Registrar shall keep and maintain a register in which shall be recorded all complaints, supporting documents, and decisions thereto.

(9) The register of complaints under subsection (8) shall be accessible to the public during normal working hours.

Sanctions.

14. Where the Registrar determines that an accounting officer has contravened the provisions of this Act, the Registrar may recommend the initiation of disciplinary proceedings against that accounting officer including surcharge where public funds have been wasted

Regulations.

15. The Cabinet Secretary, in consultation with the Registrar, may make Regulations for the better carrying out of the provisions of this Act.

SCHEDULE

[section 9(3)]

PUBLIC NOTICE

**PUBLIC PARTICIPATION AND REQUEST FOR COMMENTS ON
THE (NAME OF LEGISLATIVE PROPOSAL, PROPOSED
STATUTORY INSTRUMENT, PROPOSED POLICY OR
PROPOSED PROGRAMME OR PROPOSED PROJECT)**

PURSUANT to section 9 of the Public Participation Act, the (Responsible Authority) hereby notifies the general public that the (Responsible Authority) has developed the (a legislative proposal, proposed statutory instrument, proposed policy or proposed programme or proposed project (hereinafter referred to as “Proposed *****”).

The main objective of the proposed ***** is to *****.
Specifically, the proposed ***** seeks to —

- (a)
- (b)
- (c)
- (d)
- (e)

This is to request the public and all persons likely to be interested or affected by the proposed ***** to submit written comments on the proposed ***** so as to reach the undersigned not later than twenty-one (21) days from the date of publication of this notice.

The proposed *****are available on the responsible authority’s website: (www.) The proposed ***** are also available on request at the responsible authority offices at *****, during working hours.

Any person with comments on the proposed *****is welcome to make their comments by way of email to the responsible authority email address or submission of a written memorandum within the specified period to the nearest responsible authority offices.

Due to the prevailing global health concerns, we are encouraging members of the public to submit their comments through the above email address or through written submissions or memorandum.

Any stakeholder who would prefer a virtual interaction on the subject matter should notify the responsible authority through email in order for the responsible authority to prepare for such meetings. The virtual meetings will

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be scheduled as a public forum between ... and 20** starting from 9.00 a.m. to 5.00 p.m. to discuss the proposed ***** and comments received.

Please send your written comments to:

The Principal Secretary
Responsible Authority
NAIROBI

or
Chief Executive Officer
Responsible Authority

RESPONSIBLE AUTHORITY