

SPECIAL ISSUE

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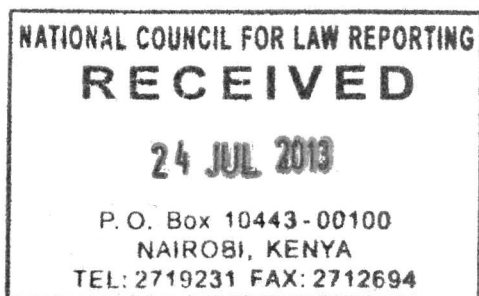
NATIONAL ASSEMBLY BILLS, 2013

NAIROBI, 12th July, 2013

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**THE CONSTITUTION OF KENYA (AMENDMENT)
BILL, 2013**

A Bill for

**AN ACT of Parliament to amend the Constitution
of Kenya**

ENACTED by the Parliament of Kenya, as follows—

1. This Bill may be cited as the Constitution of Kenya (Amendment) Bill, 2013.

Short title.

2. Article 260 of the Constitution is amended in the definition of “State office”—

Amendment of
Article 260 of the
Constitution of
Kenya.

- (a) by deleting paragraph (d);
- (b) by deleting paragraph (e);
- (c) by deleting the words “member of a county assembly” appearing in paragraph (h)

MEMORANDUM OF OBJECTS AND REASONS

The principal objective of this Bill is to amend Articles 260 of the Constitution of Kenya in order to remove the office of Members of Parliament, Members of County Assemblies, Judges and Magistrates from the list of designated State offices.

This Bill is informed by the need to uphold the doctrine of separation of powers between the various arms of government. The Constitution through various provisions establishes the Judiciary, the Executive and the Legislature level. By including all the officers of these three arms of government under the definition of State office, it compromises their independence.

This Bill also seeks to strengthen the governance of public institutions by ensuring that there is an efficient system of checks and balances between the different arms of government.

The Bill does not delegate legislative power nor does it limit fundamental rights and freedoms

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

Dated the 27th June, 2013.

SAMUEL CHEPKONGA,
*Chairperson,
Committee on Justice and Legal Affairs.*

The definition of "State office in Article 260" of the Constitution of Kenya which it is proposed to amend—

"State office" means any of the following offices—

- (a) President;
- (b) Deputy President;
- (c) Cabinet Secretary;
- (d) Member of Parliament;
- (e) Judges and Magistrates;
- (f) member of a commission to which Chapter Fifteen applies;
- (g) holder of an independent office to which Chapter Fifteen applies;
- (h) member of a county assembly, governor or deputy governor of a county, or other member of the executive committee of a county government;
- (i) Attorney-General;
- (j) Director of Public Prosecutions;
- (k) Secretary to the Cabinet;
- (l) Principal Secretary;
- (m) Chief of the Kenya Defence Forces;
- (n) commander of a service of the Kenya Defence Forces;
- (o) Director-General of the National Intelligence Service;
- (p) Inspector-General, and the Deputy Inspectors-General, of the National Police Service; or
- (q) an office established and designated as a State office by national legislation;