

SPECIAL ISSUE

Kenya Gazette Supplement No. 162 (Senate Bills No. 20)

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

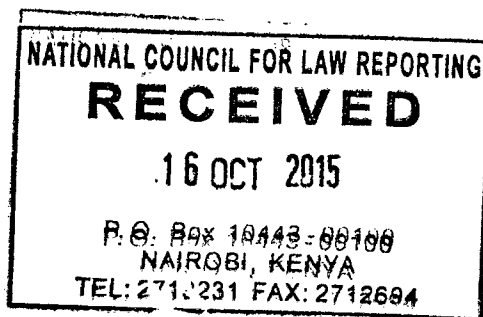
SENATE BILLS, 2015

NAIROBI, 18th September, 2015

CONTENT

Bill for Introduction into the Senate —

	PAGE
The Security Laws (Amendment) Bill, 2015	481



THE SECURITY LAWS (AMENDMENT) BILL, 2015

A Bill for

AN ACT of Parliament to make minor amendments to security laws

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Security Laws (Amendment) Act, 2015.

Citation.

2. The Public Order Act is amended by inserting the following new section immediately after section 5—

Insertion of new section 5A in Cap 56.

Designation of areas.

5A. The Cabinet Secretary may by notice in the Gazette designate the areas where, and times at which public meetings, gatherings or public processions may not be held.

3. The Radiation Protection Act is amended in section 7 by inserting the following new paragraph immediately after paragraph (a)—

Amendment of section 7 of Cap 243.

(aa) regulate the use of nuclear and radioactive material including protection from accidental or intentional diversion.

4. The Rent Restrictions Act is amended by inserting the following new section immediately after section 21—

Amendment of Cap 296.

Record of tenant.

21A. (1) Every landlord of premises shall keep or cause to be kept records of every tenant who rents the premises.

(2) The records to be kept under subsection (1) shall include—

- (a) the name and address;
- (b) the identity card or passport number;
- (c) the email address;
- (d) the telephone number, of the

tenant and such other particulars as may be prescribed by the Cabinet Secretary in Regulations.

(3) A landlord shall produce the information referred to in subsection (1) on demand to law enforcement officers.

(4) Any landlord who contravenes subsection (1) shall be guilty of an offence and liable to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred thousand shillings, or to both such imprisonment and fine.

5. The Kenya Airports Authority Act is amended by inserting the following new sections immediately after section 17C—

Insertion of new sections in Cap 395.

Prohibitions or Restrictions, and Zoning of Land.

17D. The Cabinet Secretary shall, on the recommendations of the Authority by Order published in the Gazette—

- (a) impose prohibitions or restrictions on the use of any area of land or water in the vicinity of its aerodrome as may be necessary to ensure safe, secure and efficient civil aviation;
- (b) provide zoning land adjacent to aerodromes for security purposes by creating two hundred and fifty metres controlled zone from the runway centerline and not less than 50m from the airport's outer perimeter fence.

6. The Traffic Act is amended in section 23 by inserting the following new subsection immediately after subsection (2)—

Amendment of section 23 of Cap.403

(3) A motor vehicle dealer shall maintain a database of vehicle, vehicles stock and vehicles sold

on a monthly basis, and such data shall be submitted to the National Police Service and the Kenya Revenue Authority.

- (c) order the suspension of the driving licence of any person who has been involved in an accident resulting in fatalities where preliminary investigations by police show that that person is responsible for the accident.

7. Section 119 of the Traffic Act is amended by inserting the following new paragraph immediately after paragraph (ga)—

Amendment to
section 119 of
Cap. 403

- (gb) all such matters relating to the regulation and licensing of establishments or persons engaged in selling, hiring or leasing motor vehicles, motor vehicle spare parts dealers, or garages as the Cabinet Secretary may deem necessary for the proper regulation of such establishments or persons, including the grant, revocation or variation of licences and appeals relating thereto, the testing of instructors, the inspection of vehicles and premises, and the fees payable for any of the above matters.

8. The National Police Service Act is amended in section 40 by inserting the following new subsection immediately after subsection (4)-

Amendment to
section 40 of No.
11A of 2011

- (4A) Each Police station established under subsection (1) shall have the function of maintaining security within its area of jurisdiction, and shall for that purpose require that all hotels and other establishments offering accommodation facilities maintain a record of all the guests within their facilities, indicating in respect of each guest the –

- (a) name;
- (b) identity card or passport number;
- (c) gender;

- (d) telephone number;
- (e) e-mail address; and
- (f) any unique character obtaining to such guest, and submit such record to the police station at least once every week.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the objects and reasons of the Bill

The principal object of the Bill is to make minor amendments to security laws.

CLAUSE 1 of the Bill sets out the short title of the proposed Act.

CLAUSE 2 of the Bill proposes to amend the Public Order Act, Cap 56 by inserting a new section after section 5 to give the Cabinet Secretary the authority to Gazette areas where public meetings and gatherings may be held.

CLAUSE 3 of the Bill proposes to amend the Radiation Protection Act, Cap 243, in section 7 to regulate the use of nuclear and radioactive material.

CLAUSE 4 of the Bill proposes to amend the Rent Restrictions Act, Cap 296, by inserting a new section after section 21 requiring every landlord to keep records of tenants who rent their premises.

CLAUSE 5 of the Bill proposes to amend the Kenya Airports Authority Act, Cap 395, by inserting a new section after section 17C to provide for prohibitions, restrictions and zoning of land.

CLAUSE 6 of the Bill proposes to amend the Traffic Act, Cap 403, in section 23 to require motor vehicle dealers to maintain a database of vehicle stock and the database to be submitted to the National Police Service and the Kenya Revenue Authority.

CLAUSE 7 of the Bill proposes to amend the Traffic Act, Cap 403, in section 119 authorizing the Cabinet Secretary to make Rules on matters relating to licensing of establishments.

CLAUSE 8 of the Bill proposes to amend the National Police Service Act, No. 11A of 2011, in section 40 providing that every police station established under that section to have the function of maintain security within its area of jurisdiction.

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

This Bill proposes to amend the Kenya Airports Authority Act to delegate to the Cabinet Secretary legislative authority to publish, in consultation with the Authority and by order in the Gazette, restrictions to the use of land and the zoning of land that is adjacent to an aerodrome for safety and security purposes. However the Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill primarily seeks to amend various Act that are related to the preservation of safety and security. In particular, the Bill proposes to amend the Public Order Act to provide for the designation by the Cabinet Secretary responsible for security, of places where public meetings and gatherings shall not be held. This is likely to affect the manner in which public gatherings are held at the county levels of government including the manner in which public fora, for the purposes of public participation, are conducted by the county governments.

In addition, the Bill proposes to amend the Rent Restriction Act and the National Police Service Act to require all tenants and hotels respectively, to keep information relating to tenants who rent the their premises or guests who reside at the facilities. This would affect businesses and hence, the collection of revenue at the county level of government.

The Bill therefore concerns county governments in terms of Article 110(1)(a) of the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution.

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 14th September, 2015.

KITHURE KINDIKI,
Leader of the Majority Party.

Section 23 of Cap 403 which it is proposed to amend

23. (1) The Registrar may issue to a dealer in, or manufacturer or repairer of, motor vehicles, upon application in the prescribed form and upon payment of the prescribed fees, such number of dealer's general licences as the applicant may require, and with each such licence shall issue two identification plates.

Dealer's general licence.

(2) Subject to sections 24, 25, 26 and 27 and to any other conditions which may from time to time be prescribed, the holder of a dealer's general licence shall use the licence only in respect of vehicles in his possession; and shall not use more than one such vehicle under the authority of one licence at any one time.

Section 119 of Cap 403 which it is proposed to amend

119. (1) The Minister may make rules prescribing—

- (a) anything required by this Act to be prescribed;
- (b) the forms to be used for any purposes of this Act;
- (c) the weight of goods and passengers, the number of passengers which vehicles may carry, the method by which seating capacity is to be determined and the gross weight of vehicle;
- (d) the weight and size of vehicles which may be permitted on any class of road and the manner in which, if at all, vehicles whose weight or size is in excess of the prescribed maximum weight or size may be allowed to use any road;
- (da) devices to be fitted to any class or type of vehicle for restricting their speed to a specified speed (and different devices and different speeds may be prescribed for different classes or types of vehicles);
- (db) tachographs or other instruments for recording their speed and other details of their operation to be fitted to any class or type of vehicle;
- (dc) the standards for or inspection, approval, calibration or testing of devices, techographs or other instruments prescribed under paragraphs (da) or (db);

Rules. 39 of 1956, Sch., L.N. 242/1964, 5 of 1971, s. 6, 19 of 1982, Sch., 1 of 1986, s. 32. 7 of 2007.

- (e) the construction of, and equipment to be carried by, any class of vehicle, and in particular the type of tyres lights and warning instruments to be carried by any class of vehicle, and any restriction in the carrying or use of lights, and warning instruments;
- (ea) by reference to shape, construction or any other qualities, types of helmet or head-dress which may or must be worn as affording protection to persons on or in motor-cycles, or motor-cycles of different classes or descriptions, from injury in the event of accident, and prohibiting the manufacture or sale of helmets or head-dresses which do not comply with such rules;
- (eb) subject to such exceptions as may be prescribed, the wearing of seat belts of such description as may be prescribed by persons who are driving or riding in any class or type of vehicle (and different rules may be prescribed for different classes or types of vehicles);
- (ec) the standards for, construction of or approval of seat belts prescribed under paragraph (eb);
- (f) the carrying on any class of vehicle of any special identification plates, and the fees to be charged for such plates;
- (fa) the carrying on any class of vehicle of reflecting triangles for the purpose of section 53 (3) and the construction of, standards for, approval or supply and fees to be charged for such triangles;
- (g) all matters relating to the inspection, registration, licensing, regulation and control of vehicles and to the conditions which may be imposed in regard thereto;
- (ga) all such matters relating to the regulation of establishments or persons engaged in teaching for gain the driving of motor vehicles as the Minister may deem necessary

for the proper control of such establishments or persons, including the grant, revocation or variation of licences and appeals relating thereto, the testing of instructors, the inspection of vehicles and premises, and the fees payable for any of the above matters;

Section 40 of No. 11A of 2011 which it is proposed to amend

40. (1) The Inspector-General may, by a notice in the *Gazette* designate police stations.

Designation of
police stations.

(2) In designating police stations under subsection (1), the Inspector-General shall ensure that such police stations are equitably distributed throughout each County.

(3) The police stations under subsection (1) shall be the unit for police service delivery.

(4) Each police station shall —

- (a) be the centre for the administrative and command functions of all police services under the Service in one station; and
- (b) provide room for operational creativity to the police officers from all the services under the Service.

(5) The Inspector-Generals shall ensure the development of procedures which facilitate uniform keeping of records at all police stations.

(6) Each police station shall register the victims of crime and violence within their areas of jurisdiction and establish support schemes for them.