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*Kenya Gazette Supplement No. 157 (Senate Bills No. 4)*



**REPUBLIC OF KENYA**

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# ***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2017**

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**NAIROBI, 13th October, 2017**

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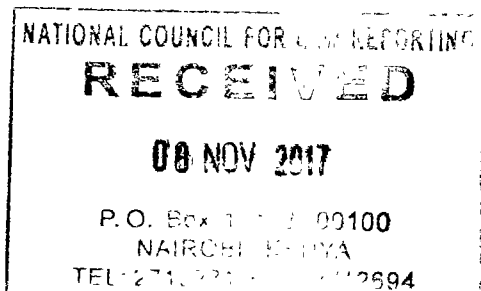
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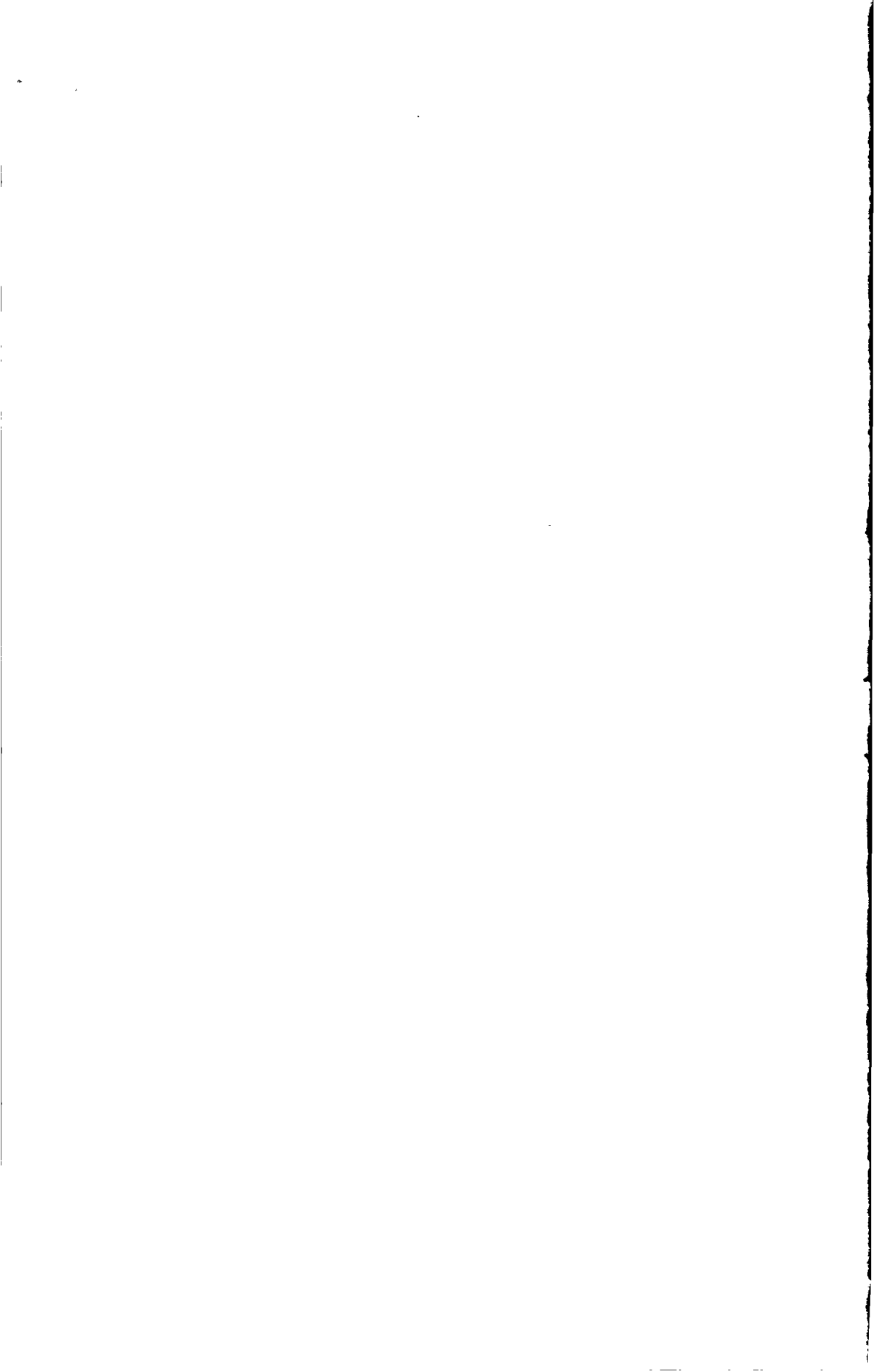
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**URBAN AREAS AND CITIES (AMENDMENT) BILL,  
2017**

**A Bill for**

**AN ACT of Parliament to amend the Urban Areas and  
Cities Act, 2011 and for connected purposes**

**ENACTED** by Parliament of Kenya as follows —

1. This Act may be cited as the Urban Areas and Cities (Amendment) Act, 2017.

Short title.

2. The Urban Areas and Cities Act, 2011, in this Act referred to as “the principal Act”, is amended in section 2 (1) —

Amendment of  
section 2 of No.  
13 of 2011

(a) by deleting definition “city county” and substituting therefor the following new definition—

“city county” means a county which is also a city under this Act;

(b) in the definition of the word “urban area”—

(i) by deleting the word “or” appearing between the word “municipality” or “a town” and substituting therefor with a comma;

(ii) by inserting the words “or a market centre” immediately after the word “town”;

(c) by inserting in the proper alphabetical sequence the following new definitions —

“neighbourhood association” means a registered cluster of residents groupings actively representing the interests of a recognised constituency of urban citizens within the defined urban jurisdiction; and

“resident population” means the core urban and peri-urban population of an urban area or city according to the final gazetted results of the last population census carried out by an institution authorized under any written law, preceding the application for grant of any status.

**3. Section 3 of the principal Act is amended by —**

- (a) renumbering section 3 as 3(1); and
- (b) inserting a new subsection immediately after subsection (1) as follows—

Amendment of section 3 of the principal Act.

(2) In implementing this Act, county governments shall comply with the National Urban Development Policy.

**4. The principal Act is amended by inserting the following new sections immediately after section 4 —**

Insertion of new sections after section 4 of the principal Act.

Boundaries of urban areas and cities.

**4A. (1) Delineation of the boundaries of urban areas or cities may be initiated by the Cabinet Secretary or by the relevant county government making a written request to the Cabinet Secretary to appoint the *ad hoc* committee in the manner provided under subsection (2).**

(2) The Cabinet Secretary shall, on receipt of the request under subsection (1) or on considering it necessary, appoint by notice in the *Kenya Gazette* an *ad hoc* committee to delineated the boundaries of an urban area or a city.

(3) The *ad hoc* committee appointed by the Cabinet Secretary under subsection (2) shall comprise—

- (a) a representative of the Independent Electoral and Boundaries Commission, who shall be the chairperson;
- (b) three representatives from the national government drawn from—
  - (i) the Ministry for the time being responsible for urban development;
  - (ii) the Ministry for the time being responsible for Environment;
  - (iii) the Ministry for the time being responsible for Agriculture;

- (c) three representatives from the county government drawn from—
    - (i) the Department for the time being responsible for urban development;
    - (ii) the Department for the time being responsible for Environment;
    - (iii) the Department for the time being responsible for Agriculture; and
  - (d) two representatives from the following Professional Associations—
    - (i) Institute of Surveyors of Kenya; and
    - (ii) Kenya Institute of Planners.
- (4) Where an *ad hoc* committee is to be appointed under sub section (2) –
- (a) the governor shall nominate the three representatives referred to under subsection (3)(c) for appointment by the Cabinet Secretary; and
  - (b) each of the relevant Professional Associations shall nominate its representative referred to under subsection (3)(d) for appointment by the Cabinet Secretary.
- (5) Where the boundaries of an urban area extend in more than one county, membership of the *ad hoc* committee shall include representatives of the relevant counties and the proposal for delineation of the boundaries shall be handled by the Council of Governors.

**5. Section 5(1) of the principal Act is amended—**

- (a) by deleting paragraph (a) and substituting therefor the following new paragraph (a)—

Amendment of section 5 of the principal Act.

- (b) (a) has a resident population of two hundred and fifty residents;
- (c) in paragraph (b) by inserting immediately after the word “Act” the words “and other existing laws”;
- (d) by deleting paragraph (e) and substituting therefor with the following new paragraph—
  - (e) has the capacity to effectively and efficiently deliver its services to its residents and has in existence, the services provided in the First Schedule.
- (e) by deleting paragraphs (g) and (h).

**6. Section 9 of the principal Act is amended by—**

Amendment of section 9 of the principal Act.

- (a) deleting subsection (3) and substituting therefor with the following—

(3) Subject to subsection (4), an urban area may be classified as a municipality under this Act, if the urban area satisfies the following criteria –

- (a) has a resident population of a least fifty thousand residents ;
- (b) has an integrated urban area development plan in accordance with this Act and other existing laws;
- (c) has the capacity to effectively and efficiently deliver its services to its residents and has in existence, the services provided in the First Schedule;
- (d) has demonstrable good system and records of prudent management.

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- (b) by inserting the following new subsection immediately after subsection (3)—

(4) Despite subsection (3), every the headquarters of a county government shall be conferred the status of a municipality, whether or not it meets the criteria for a classification as a municipality.

7. Section 10 of the principal Act is amended by deleting paragraph (d) appearing in subsection (2) and substituting therefor with the following new paragraph —

Amendment of Section 10 of the principal Act.

(d) has the capacity to effectively and efficiently deliver its services to its residents and has in existence, the services provided in the First Schedule.

8. The principal Act is amended by inserting a new section immediately after section 10 as follows—

Insertion of new section after section 10 of the principal Act.

Eligibility for grant of the status of market centre.

10A. (1) The county governor may, upon approval of the county assembly, confer the status of a market centre on an area that meets the criteria set out in subsection (2).

(2) An area shall be eligible for the grant of the status of a market centre under this Act if it has —

- (a) a resident population of at least two thousand residents; and
- (b) an integrated urban area development plan in accordance with this Act and any other existing law.

Management of a market centre.

10C. A market centre shall be governed and managed by the county government.

9. Section 12 of the principal Act is amended by deleting the marginal note and substituting therefor with the following “Structures and management of cities, municipalities.”

Amendment of Section 12 of the principal Act.

10. Section 13 of the principal Act is amended by—

Amendment of Section 13 of the principal Act.

- (a) deleting the words county executive committee appearing in subsection (1) and substituting therefor with the words “county governor”;
- (b) inserting a new subsection immediately after subsection (1) as follows—

(1A) The members of the Board of a city appointed under subsection (1) shall be constituted

as follows—

- (a) the county executive committee member for the time being responsible for cities and urban areas or his representative;
- (b) six members shall be competitively appointed by the county governor, with the approval of the county assembly;
- (c) four members shall be nominated by the organization specified under subsection(2) and appointed by the county governor, with the approval of the county assembly;
- (d) the Secretary appointed under section 13A, who shall be an ex officio member of the Board.

(c) deleting subsection (2) and substituting therefor with the following new subsection—

(2) The four members of the board of a municipality specified under subsection (1) (c), shall be nominated by—

- (a) an umbrella body representing professional associations in the area;
- (b) an association representing the private sector in the area;
- (c) a cluster representing registered associations of the informal sector in the area; and
- (d) a cluster representing registered neighbourhood associations in the area.

(c) deleting subsection (4) and substituting therefor the following new subsections—

(4) The county governor shall while considering the nominated members identified by the organizations specified under section 13 (2), require the organizations to produce—

- (a) signed minutes as evidence of an accountable process of nomination;
- (b) evidence of compliance with statutory obligations;
- (c) vetting form to establish that the nominee has complied with the prescribed criteria for



appointment as a member of the board.

(5) A person shall be qualified for appointment as a chairperson of the board if that person—

- (a) holds a bachelor's degree from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) holds at least ten years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(6) A person shall be qualified for appointment as a member of the board if that person—

- (a) holds a bachelor's degree from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) holds at least seven years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution.”

(7) A person shall not be appointed a member of the Board if that person—

- (a) is an undischarged bankrupt;
- (b) has been removed from office for contravening the Constitution or any other law;
- (c) is not a citizen of Kenya; or
- (d) has, in the conduct of his or her, affairs not met any statutory obligation.

11. The principal Act is amended by inserting a new section immediately after section 13 as follows—

Insertion of new sections after section 13 of the principal Act.

Appointment of Secretary of the

13A. (1) The County Public Service

**Board of a city**

Board shall, through a competitive process appoint a Secretary to the board on such terms and conditions as the County Public Service Board, in consultation with the city or municipal board shall determine.

(2) A person is qualified to be appointed as the Secretary of the board, if that person —

- (a) has a degree from an institution recognised in Kenya;
- (b) has at least four years' experience in management; and
- (c) satisfies the requirements of Chapter six of the Constitution.

(3) The Secretary shall be—

- (a) responsible for the day to day management of the affairs of the board; and
- (b) perform such other duties as may be assigned by the board.

(4) The Secretary shall hold office for a term of five years.

(5) The provisions of section 16 relating to grounds for vacation of office shall, with necessary modifications, apply to the Secretary of the board appointed under this section.

**12.** Section 14 of the principal Act is repealed and replaced with the following new section —

Repeal and replacement of Section 14 of the principal Act.

**Board of municipalities.**

**14.** (1) A board of a municipality shall consist of nine members appointed by the county governor with the approval of the county assembly.

(2) The members of the board appointed under subsection (1) shall be constituted as follows—

- (a) the county executive member for the time being responsible for cities

and urban areas or his representative;

- (b) four members shall be competitively appointed by the county governor, with the approval of the county assembly;
- (c) four members shall be nominated and appointed by the county governor, with the approval of the county assembly;
- (d) the chief officer responsible for urban development; and
- (e) the municipal manager appointed under section 28 who shall be the secretary of the board and an ex officio member of the board.

(2) The four members of the board of a municipality specified under subsection (2) (c), shall be nominated by—

- (a) an umbrella body representing professional associations in the area;
- (b) an association representing the private sector in the area;
- (c) a cluster representing registered associations of the informal sector in the area; and
- (d) a cluster representing registered neighbourhood associations in the area.

(3) The county governor shall, while appointing the members of the board, ensure gender equity, representation of persons with disability, youth and marginalised groups.

(4) The county governor shall while considering the nominated members identified by the organizations specified under subsection (2), require the organizations to produce—

- (a) signed minutes as evidence of an accountable process of nomination;

- (b) evidence of compliance with statutory obligations; and
- (c) vetting form to establish that the nominee has complied with the prescribed criteria for appointment as a member of the board.

(5) A person shall be qualified for appointment as a chairperson of the board if that person—

- (a) holds at least a degree from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) holds at least ten years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution;
- (e) is ordinarily resident or has a permanent dwelling in the municipality; and
- (f) carries on business in the municipality or has lived in the municipality for at least five years.

(6) A person shall be qualified for appointment as a member of the board if that person—

- (a) holds at least a diploma from an institution recognized in Kenya;
- (b) has a distinguished career in a medium level management position in either the private or public sector;
- (c) holds at least five years' post-qualification professional experience; and
- (d) satisfies the requirements of Chapter Six of the Constitution;
- (e) is ordinarily resident or has a

permanent dwelling in the municipality; and

(f) carries on business in the municipality or has lived in the municipality for at least five years.

(7) A person shall not be appointed a member of the Board if that person—

(a) is an undischarged bankrupt;

(b) has been removed from office for contravening the Constitution or any other law;

(c) is not a citizen of Kenya; or

(d) has in the conduct of his or her affairs not met any statutory obligations.

**13.** Section 20 of the principal Act is amended by—

Amendment of section 20 of the principal Act.

(a) deleting the marginal note and substituting therefor with the words “Governance and management functions of a board”; and

(b) by deleting subsection (2).

**14.** Section 21(1) of the principal Act is amended in paragraph (f) (g) by inserting the words “as provided in the County Governments Act, 2012 and any other national legislation on public participation” after the words “Second Schedule to this Act”.

Amendment of section 21 of the principal Act.

**15.** Section 22 (1) of the principal Act is amended in paragraph (b) by deleting the word “plan” and substituting thereof the word “formulate”.

Amendment of section 22 of the principal Act.

**16.** Section 27 of the principal Act is amended by inserting the words “in accordance with the County Governments Act, 2012” immediately after the words “as a county government”.

Amendment of section 27 of the principal Act.

**17.** Section 29 of the principal Act is amended by deleting the words “ by an institution responsible for recruiting public servants in the county” and substitution therefor with the words “the county public service board established under section 57 of the County Governments Act, 2012.

Amendment of section 29 of the principal Act.

**18.** Section 30 of the principal Act is amended in

Amendment of

subsection (1) (c) by deleting the word “five” and replacing it with the word “ten”.

section 30 of the principal Act.

**20.** Section 31 of the principal Act is repealed and replaced with the following new sections—

Repeal and replacement of section 31 of the principal Act.

### **Governance and Management of towns.**

Management of towns.

**31.** (1) The management of a town shall be vested in a town committee comprised of five members which shall be constituted as follows—

- (a) the county executive committee member responsible for urban areas and cities or his representative;
- (b) two members appointed competitively by the county governor;
- (c) a cluster representing registered associations of the informal sector; and
- (d) a cluster representing the business community.

(2) The members of the town committee specified under subsection (1) shall be appointed by the county governor with the approval of the county assembly.

(3) A person shall be qualified for appointment as chairperson, vice-chairperson or member of a town committee if that person—

- (a) holds at least a Kenya Certificate of Secondary Education or its equivalent and post-secondary education professional diploma;
- (b) has a distinguished career in a management position in either the private or public sector;
- (c) holds at least three years’ post-qualification professional experience;

(d) satisfies the requirements of Chapter six of the Constitution; and

(e) is ordinarily resident or has a permanent dwelling in the town for at least five years or carries on business in the county.

(4) A person shall not be appointed a member of a town committee if that person—

(a) is an undischarged bankrupt;

(b) has been removed from office for contravening the Constitution or any other law;

(c) is not a citizen of Kenya; or

(d) has in the conduct of his or her affairs not met any statutory obligations.

(5) The provisions of section 16 and 18 relating to vacation of office and removal from office of members of the board of a city or a municipality shall apply, with the necessary modification, to a member of a town committee.

Functions of a town committee

**31A.** The functions performed by the board of a city or a municipality specified under section 20(1) shall be performed by the town committee.

Appointment of an administrator.

**31B.** (1) There shall be an administrator for every town established under this Act who shall be appointed by the County Public Service Board established under section 57 of the County Governments Act, 2012.

No.17 of 2012.

(2) The administrator of a town shall perform such functions as the town committee, appointed under section 31, may determine.

(3) A person shall be qualified to be appointed as an administrator under subsection (1), if that person—

- (a) holds a degree from a university recognised in Kenya or its equivalent;
- (b) has proven experience of at least three years in administration or management either in public or private sector;
- (c) is a citizen of Kenya; and
- (d) satisfies the requirements of chapter six of the Constitution.

**19.** The First Schedule is repealed and replaced with the following new Schedule.

Repeal and  
replacement of  
the First  
Schedule.



**FIRST SCHEDULE**

**[s. 5(1) (e), 9(1) (e), and 10 (2) (d)]**

**Classification of Urban Areas and Cities and by Services**

In classifying an area as a city, municipality or town, regard shall be had to the ability to provide the following services and also the existence of the services required to be provided by the National Government:

**City — (Population: at least 250,000)**

Planning and Development Control  
City Economic Development Plan  
Traffic Control and Parking  
Water and Sanitation  
Street Lighting  
Outdoor Advertising  
Cemeteries and Crematoria  
Public Transport  
Library services  
Storm Drainage  
Ambulance Services  
Heath Facilities  
Fire Fighting and Disaster Management  
Control of Drugs  
Sports and Cultural Activities  
Electricity and energy provision (gas, kerosene, biomass etc)  
Abattoirs  
Refuse Collection  
Solid waste management  
Pollution (Air, water and soil) control  
Child Care Facilities  
Pre-Primary Education  
Local Distributor Roads  
Conference Facilities  
Community Centres  
County Hospital  
Constituent University Campuses  
Polytechnic  
National School  
Stadium  
Airport  
Airstrip  
Theatre  
Library Service  
Administrative Seat  
Financial Hub

Museum  
Historical Monument  
Fire Station  
Emergency Preparedness  
Postal services  
Funeral Parlour  
Recreational Parks  
Management of Markets  
Animal control and welfare  
Religious Institution  
Organised Public Transport

**Municipality – (Population at least 50,000)**

Planning and Development Control  
Traffic Control and Parking  
Water and Sanitation  
Street Lighting  
Outdoor Advertising  
Cemeteries and Crematoria  
Public Transport  
Libraries  
Storm Drainage  
Ambulance Services  
Heath Facilities  
Fire Fighting and Disaster Management  
Control of Drugs  
Sports and Cultural Activities  
Electricity and Energy provision (gas, kerosene etc.)  
Abattoirs  
Refuse Collection  
Solid waste management  
Pollution (Air, water, soil) control  
Child Care Facilities  
Pre-Primary Education  
Local Distributor Roads  
Community Centres  
County Hospital  
Constituent University Campuses  
Polytechnic  
County School  
Stadium  
Airstrip  
Theatre  
Library/ICT services

Administrative Seat  
Local Economic Development Plan  
Museum/cultural centres  
Fire Station  
Emergency Preparedness  
Telecommunication services /postal services/ICT  
Funeral Parlour  
Cemetery  
Recreational Parks  
Animal control and welfare  
Religious Institution

**Town — (Population at least 10,000)**

Street Lighting  
Cemeteries and Crematoria  
Library Services  
Health Facilities  
Sports and Cultural centers or facilities  
Abattoirs  
Refuse Collection  
Solid waste management  
Pollution (Air, water and soil) control  
Child Care Facilities  
Pre-Primary Education  
Community Centres  
Vocational Institution  
Primary or High school  
Bus park  
Road network, streets, walkways, sideways and cycle ways  
Postal services or telecommunication  
Funeral Parlour or mortuary  
Cemetery  
Recreational parks  
Animal control and welfare  
Religious Institution

**Market Centre — (Population at least 2,000)**

Street Lighting  
Health Facilities  
Sports and Cultural centers/facilities  
Abattoirs/Slaughterhouse  
Refuse Collection

Solid waste management

Child Care Facilities

Pre-Primary Education

Community Centres

Primary school

Bus park

Road network/streets/walkways/sideways/cycle ways

Recreational parks

Animal control and welfare

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of Objects and Reasons**

The Bill proposes to amend the Urban Areas and Cities Act 2011, in order to review the criteria provided for classifying an area as a city, municipality, town or market centre. The review was necessary since the criteria provided in the Act are not achievable by the county governments under the prevailing circumstances, unless the law is amended. The proposed amendments shall enable county governments to also efficiently and effectively deliver services in the areas designated as urban areas and cities.

The Bill proposes to reduce the number of the resident population required for a city from five hundred thousand resident population to two hundred and fifty thousand resident population. In the case of a municipality, the resident population has been reviewed from two hundred and fifty thousand to fifty thousand resident population. The proposed market centres are required to have at least two thousand resident population.

It also provides for the manner in which boundaries of urban areas and cities are to be determined. The existence of an integrated urban area development plan is also a requirement for classifying an area as a market centre.

The Bill has also clarified on the qualification for the Board members of cities and municipalities and those of the town committees, city and municipal managers as well as those of the town administrators.

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

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

### **Statement of how the Bill concerns County Governments**

The Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as the classification of the various designated areas will affect the functions and powers of County Governments set out in the Fourth Schedule, especially in terms of service delivery.

### **Statement that the Bill is not 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 6th October, 2017.

**KIPCHUMBA MURKOMEN,**  
*Senator.*

**Section 2 of No. 13 of 2011, which it is proposed to amend—**

“urban area” means a municipality or a town.

**Section 4 of No. 13 of 2011, which it is proposed to amend by inserting a new section—****General classification of urban areas and cities**

An area may be classified as an urban area or city if it satisfies the criteria set out under this Act or any other written law.

**Section 5 of No. 13 of 2011, which it is proposed to amend—****Criteria for classifying an area as city**

(1) Subject to subsection (3), an urban area may be classified as a city under this Act if the urban area satisfies the following criteria—

- (a) has a population of at least five hundred thousand residents according to the final *gazetted* results of the last population census carried out by an institution authorized under any written law, preceding the application for grant of city status;
- (b) has an integrated urban area or city development plan in accordance with this Act;
- (c) has demonstrable capacity to generate sufficient revenue to sustain its operation;
- (d) has demonstrable good system and records of prudent management;
- (e) has the capacity to effectively and efficiently deliver essential services to its residents as provided in the First Schedule;
- (f) has institutionalised active participation by its residents in the management of its affairs;
- (g) has infrastructural facilities, including but not limited to roads, street lighting, markets and fire stations, and an adequate capacity for disaster management; and
- (h) has a capacity for functional and effective waste disposal.

(2) Nothing in this section may preclude an area from being conferred with the status of special purpose city under this Act if it has significant cultural, economic or political importance.

**Section 6 of No. 13 of 2011, which it is proposed to amend the marginal note—****Management and Infrastructure in the capital city**

- (1) The capital city of Kenya is Nairobi.

(2) The capital city shall be governed and managed in the same manner as a county government.

(3) The capital city shall provide infrastructure necessary to sustain the following—

- (a) the seat of the national government;
- (b) offices of diplomatic missions;
- (c) efficient transport network connecting to rural areas, towns and other local, regional and international cities; and
- (d) commerce and industry.

(4) The capital city shall decentralise its functions and the provisions of its services to the extent that it is efficient and practicable to do so.

(5) Subject to subsection (2), the two levels of government shall enter into an agreement regarding the performance of functions and delivery of services by the capital city.

(6) An agreement entered into under subsection (5) may provide for—

- (a) the administrative structure of the capital city, subject to the provisions of this Act;
- (b) funding of operations and activities of the capital city;
- (c) the joint projects to be undertaken by both governments in the capital city;
- (d) dispute resolution mechanisms; and
- (e) such other information as the two levels of government may determine.

**Section 9 of No. 13 of 2011, which it is proposed to amend—**

(3) A town is eligible for the conferment of municipal status under this Act if the town satisfies the following criteria—

- (a) has a population of at least two hundred and fifty thousand residents according to the final *gazetted* results of the last population census carried out by an institution authorized under any written law, preceding the grant;
- (b) has an integrated development plan in accordance with this Act;
- (c) has demonstrable revenue collection or revenue collection potential;

- (d) has demonstrable capacity to generate sufficient revenue to sustain its operations;
- (e) has the capacity to effectively and efficiently deliver essential services to its residents as provided in the First Schedule;
- (f) has institutionalised active participation by its residents in the management of its affairs;
- (g) has sufficient space for expansion;
- (h) has infrastructural facilities, including but not limited to street lighting, markets and fire stations; and
- (i) has a capacity for functional and effective waste disposal.

**Section 10 of No. 13 of 2011, which it is proposed to amend by inserting a new section—**

**Eligibility for grant of a town status**

(1) The county governor may, in consultation with the committee constituted under section 8(2), confer the status of a town on an area that meets the criteria set out in subsection (2) if it has—

- (a) a population of at least ten thousand residents according to the final *gazetted* results of the latest population census carried out by an institution authorized under any written law, preceding the grant;
- (b) demonstrable economic, functional and financial viability;
- (c) the existence of an integrated development plan in accordance with this Act;
- (d) the capacity to effectively and efficiently deliver essential services to its residents as provided in the First Schedule; and
- (e) sufficient space for expansion.

**Section 12 of No. 13 of 2011, which it is proposed to amend by rephrasing the marginal note—**

**Management of cities and municipalities**

(1) The management of a city and municipality shall be vested in the county government and administered on its behalf by—

- (a) a board constituted in accordance with section 13 or 14 of this Act;
- (b) a manager appointed pursuant to section 28; and



(c) such other staff or officers as a the county public service may determine.

(2) The board of an area granted the status of a city or municipality under this Act shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments;
- (d) entering into contracts; and
- (e) doing or performing all other acts or things for the proper performance of its functions in accordance with this Act or any other written law which may lawfully be done or performed by a body corporate.

(3) The governance and management of a city county shall be in accordance with the law relating to county governments.

**Section 13 of No. 13 of 2011, which it is proposed to amend—**

**Boards of cities**

(1) A board of a city shall consist of not more than eleven members, six of whom shall be appointed through a competitive process by the county executive committee, with the approval of the county assembly.

(2) Of the members referred to in subsection (1), at least five shall be nominated by—

- (a) an umbrella body representing professional associations in the area;
- (b) an association representing the private sector in the area;
- (c) a cluster representing registered associations of the informal sector in the area;
- (d) a cluster representing registered neighborhood associations in the area; and
- (e) an association of urban areas and cities, and appointed by the county executive committee with the approval of the county assembly.

(3) The executive committee shall, while appointing members of the board, ensure gender equity, representation of persons with disability, youth and marginalized groups.

(4) A person shall not be appointed a member of the board unless that person—

- (a) is a citizen of Kenya;
- (b) is ordinarily resident or has a permanent dwelling in the city;
- (c) carries on business in the city; or
- (d) has lived in the city for at least five years.

**Section 14 of No. 13 of 2011, which it is proposed to amend—**

**Boards of Municipalities**

The provisions of section 13 shall apply with respect to the board of a municipality except that such board shall comprise nine members of whom four shall be appointed and five elected in the prescribed manner.

**Section 20 of No. 13 of 2011, which it is proposed to amend—**

**Functions of a board**

(1) Subject to the provisions of this Act a board of a city or municipality shall—

- (a) oversee the affairs of the city or municipality;
- (b) develop and adopt policies, plans, strategies and programmes, and may set targets for delivery of services;
- (c) formulate and implement an integrated development plan;
- (d) control land use, land sub-division, land development and zoning by public and private sectors for any purpose, including industry, commerce, markets, shopping and other employment centres, residential areas, recreational areas, parks, entertainment, passenger transport, agriculture, and freight and transit stations within the framework of the spatial and master plans for the city or municipality as may be delegated by the county government;
- (e) as may be delegated by the county government, promote and undertake infrastructural development and services within the city or municipality;
- (f) develop and manage schemes, including site development in collaboration with the relevant national and county agencies;
- (g) maintain a comprehensive database and information system of the administration and provide public access thereto upon payment of a nominal fee to be determined by the board;
- (h) administer and regulate its internal affairs;

- (i) implement applicable national and county legislation;
- (j) enter into such contracts, partnerships or joint ventures as it may consider necessary for the discharge of its functions under this Act or other written law;
- (k) monitor and, where appropriate, regulate city and municipal services where those services are provided by service providers other than the board of the city or municipality;
- (l) prepare and submit its annual budget estimates to the relevant County Treasury for consideration and submission to the County Assembly for approval as part of the annual County Appropriation Bill;
- (m) as may be delegated by the county government, collect rates, taxes levies, duties, fees and surcharges on fees;
- (n) settle and implement tariff, rates and tax and debt collection policies as delegated by the county government;
- (o) monitor the impact and effectiveness of any services, policies, programmes or plans;
- (p) establish, implement and monitor performance management systems;
- (q) promote a safe and healthy environment;
- (r) facilitate and regulate public transport; and
- (s) perform such other functions as may be delegated to it by the county government or as may be provided for by any written law.

(2) The functions performed by the board of a city or municipality under this Act shall, in the case of a town, be performed by a committee appointed by the county governor and approved by the county assembly.

**Section 21 of No. 13 of 2011, which it is proposed to amend—**

**Powers of boards of cities and municipalities**

(1) Subject to the Constitution and any other written law, the board of a city or municipality shall, within its area of jurisdiction—

- (a) exercise executive authority as delegated by the county executive;
- (b) ensure provision of services to its residents;
- (c) impose such fees, levies and charges as may be authorised by the county government for delivery of services by the municipality or the city;
- (d) promote constitutional values and principles;

- (e) ensure the implementation and compliance with policies formulated by both the national and county government;
- (f) make bye-laws or make recommendations for issues to be included in bye-laws;
- (g) ensure participation of the residents in decision making, its activities and programmes in accordance with the Schedule to this Act; and
- (h) exercise such other powers as may be delegated by the county executive committee.

**Section 22 of No. 13 of 2011, which it is proposed to amend—**

**Citizen Fora**

(1) Subject to the Second Schedule, residents of a city, municipality or town may—

- (a) deliberate and make proposals to the relevant bodies or institutions on—
  - (i) the provision of services;
  - (ii) proposed issues for inclusion in county policies and county legislation;
  - (iii) proposed national policies and national legislation;
  - (iv) the proposed annual budget estimates of the county and of the national government;
  - (v) the proposed development plans of the county and of the national government; and
  - (vi) any other matter of concern to the citizens;
- (b) plan strategies for engaging the various levels and units of government on matters of concern to citizens;
- (c) monitor the activities of elected and appointed officials of the urban areas and cities, including members of the board of an urban area or city; and
- (d) receive representations, including feedback on issues raised by the county citizens, from elected and appointed officials.

**Section 27 of No. 13 of 2011, which it is proposed to amend—**

**Management of city county**

A city county shall be governed and managed in the same manner as a county government.

**Section 29 of No. 13 of 2011, which it is proposed to amend—**

**Appointment of city or municipal manager**

A city or municipal manager shall be competitively recruited and appointed by an institution responsible for recruiting public servants in the county.

**Section 30 of No. 13 of 2011, which it is proposed to amend—**

**Qualifications for appointment of city or municipal manager**

(1) Subject to Article 232 of the Constitution, a person shall qualify to be appointed as city or municipal manager if the person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognised in Kenya or its equivalent; and
- (c) has proven experience of not less than five years in administration or management either in the public or private sector.

(2) In appointing a manager under subsection (1) the body responsible for county public service shall ensure—

- (a) gender equity;
- (b) the inclusion of minorities and marginalised communities; and
- (c) the person satisfies the requirements of Chapter six of the Constitution.

**Section 31 of No. 13 of 2011, which it is proposed to repeal and replace—**

**Governance and management of towns**

(1) An area granted the status of a town under this Act shall not be a body corporate.

(2) There shall be an administrator for every town established under this Act.

(3) The administrator of a town shall perform such functions as the committee appointed under section 20 (2) may determine.

(4) Section 29 and 30 of this Act shall apply to the appointment of an administrator.

**First Schedule of No.13 of 2011, which it is proposed to repeal and replace —**

**FIRST SCHEDULE**

(s. 5)

**Classification of Cities and Towns by Services**

In classifying an area as a city, municipality or town, regard shall be had to the ability to provide the following services:

**City — (Population at least 500,000)**

Planning and Development Control  
 Traffic Control and Parking  
 Water and Sanitation  
 Street Lighting  
 Outdoor Advertising  
 Cemeteries and Crematoria  
 Public Transport  
 Libraries  
 Storm Drainage  
 Ambulance Services  
 Heath Facilities  
 Fire Fighting and Disaster Management  
 Control of Drugs  
 Sports and Cultural Activities  
 Electricity and Gas Reticulation  
 Abattoirs  
 Refuse Collection  
 Solid waste management  
 Air pollution  
 Child Care Facilities  
 Pre-Primary Education  
 Local Distributor Roads  
 Conference Facilities  
 Community Centres  
 Five Star Hotel  
 Guest Houses  
 National Hospital  
 Referral hospital  
 County Hospital  
 University  
 Constituent University Campuses  
 Polytechnic  
 Training Institution  
 National School  
 County School

Stadium  
National Stadium  
International Airport  
Airport  
Airstrip  
National Theatre  
Theatre  
Library Service  
Administrative Seat  
Financial Hub  
Diplomatic Hub  
Consulate  
Museum  
Historical Monument  
Fire Station  
Emergency Postal services  
National TV station  
National Radio Station  
Regional Radio Station  
Community Radio  
Casinos  
Funeral Parlour  
Cemetery  
Recreational Parks  
Management of Markets  
Marine Water front  
Animal control and welfare  
Religious Institution

**Municipality – (Population at least 250,000)**

Planning and Development Control  
Traffic Control and Parking  
Water and Sanitation  
Street Lighting  
Outdoor Advertising  
Cemeteries and Crematoria  
Public Transport  
Libraries  
Storm Drainage  
Ambulance Services  
Heath Facilities  
Fire Fighting and Disaster Management  
Control of Drugs  
Sports and Cultural Activities  
Electricity and Gas Reticulation

Abattoirs  
Refuse Collection  
Solid waste management  
Air noise  
Child Care Facilities  
Pre-Primary Education  
Local Distributor Roads  
Conference Facilities  
Community Centres  
Hotel Homestays  
Guest Houses  
County Hospital  
Constituent University Campuses  
Polytechnic  
Training Institution  
National School  
County School  
Municipal Stadium  
Stadium  
Airport  
Airstrip  
National Theatre  
Theatre  
Library Service  
Administrative Seat  
Financial Hub  
Museum  
Historical Monument  
Fire Station  
Emergency Preparedness  
Postal services  
National TV station  
National Radio Station  
Regional Radio Station  
Community Radio  
Casinos  
Funeral Parlour  
Cemetery  
Recreational Parks  
Management of Markets  
Marine Water front  
Animal control and welfare  
Religious Institution  
Organised Public Transport



**Town—(Population at least 10,000)**

Street Lighting  
Cemeteries and Crematoria  
Libraries  
Heath Facilities  
Sports and Cultural Activities  
Abattoirs  
Refuse Collection  
Solid waste management  
Air noise  
Child Care Facilities  
Pre-Primary Education  
Community Centres  
Guest Houses  
Homestays  
Polytechnic  
Training Institution  
County School  
Airstrip  
Unclassified roads  
Museum  
Historical Monument  
Postal services  
Regional Radio Station  
Community Radio  
Funeral Parlour  
Cemetery  
Recreational Parks  
Management of Markets  
Marine Water front  
Animal control and welfare  
Religious Institution

