

THE SECURITY LAWS (AMENDMENT) BILL, 2014

A Bill for

**AN ACT of Parliament to amend the laws relating to
security**

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Security Laws (Amendment) Act, 2014.

Amendment of
section 2 of Cap.
56.

2. Section 2 of the Public Order Act is amended in paragraph (f) of the definition of the term “excluded meeting” by deleting the word “councillors” and substituting therefor the words “Governors and members of the county assemblies”;

Amendment of
section 3 of Cap.
56.

3. Section 3 of the Public Order Act is amended—

(a) in subsection (1) by deleting the words “one thousand shillings or to imprisonment for a term not exceeding six months” and substituting therefor the term “one hundred thousand shillings or imprisonment for a term not exceeding two years”;

(b) in subsection (2) by deleting the expression “Attorney-General” and substituting therefor the expression “Director of Public Prosecutions”;

(c) in subsection (2) by deleting the expression “Attorney-General” and substituting therefor the expression “Director of Public Prosecutions”.

Insertion of new section in Cap. 56.

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

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 be held.

Amendment of section 6 of Cap. 56.

5. Section 6 of the Public Order Act is amended—

(a) by inserting the following subsections immediately after subsection (1)—

(1A) Any person who unlawfully convenes, organizes or promotes a public rally, meeting or procession or neglects or refuses to comply with any law relating to public meetings commits an offence.

(1B) A person convicted of an offence under subsection (1A) shall, in addition to any other penalty, be held liable for any damage or loss suffered as a result of such public rally, meeting or procession.

(b) in subsection (2) by deleting the expression “or as a servant of a local authority”.

Amendment of section 7 of Cap. 56.

6. Section 7 of the Public Order Act is amended—

(a) in subsection (1) by deleting the expression “Commissioner of Police” and substituting therefor the expression “Inspector-General of National Police Service;

(b) in subsection (6) by deleting the term

“Commissioner of Police” and substituting therefor “Inspector-General of National Police Service”.

Amendment of section 8 of Cap. 56.

7. Section 8 of the Public Order Act is amended—

(a) in subsection (1) by—

- (i) deleting the words “Commissioner of Police or Provincial Commissioner” and substituting therefor the words “Cabinet Secretary, on the advice of the Inspector-General of the National Police Service”;
- (ii) deleting the expression “(being, in the case of a Provincial Commissioner within his province)”;

(b) by deleting subsection (4);

(c) in subsection (6) by deleting the term “one thousand” and substituting therefor the term “ten thousand”.

Amendment of section 9 of Cap. 56.

8. Section 9 of the Public Order Act is amended—

(a) in subsection (1) by deleting the term “province” and substituting therefor the term “county”;

(b) in subsections (3) by deleting the term “Commissioner of Police” and substituting therefor the term “Cabinet Secretary”;

(c) in subsection (6) by deleting the term “one” and substituting therefor the term “ten”.

Amendment of section 11 of Cap. 56.

9. Section 11 of the Public Order Act is amended in subsection (1) by deleting the term “ten” and substituting therefor the term “one hundred”.

Repeal of section 12 of Cap. 56.

10. The Public Order Act is amended by repealing section 12.

Amendment of section 13 of Cap. 56.

11. Section 13 of the Public Order Act is amended in subsection (1) by deleting the expression “47 of the Police Act” and substituting therefor the expression “106 of the National Police Service Act”.

Amendment of section 17 of Cap. 56.

12. Section 17 of the Public Order Act is amended by deleting the term “five thousand” and substituting therefor the term “fifty thousand”.

Amendment of section 19 of Cap. 56.

13. Section 19 of the Public Order Act is amended by deleting the term “Attorney-General” and substituting therefor the term “Director of Public Prosecutions”.

Amendment of section 21 of Cap. 56.

14. Section 21 of the Public Order Act is amended by deleting the words “of the first class”.

Insertion of new section 66A in Cap. 63.

15. The Penal Code is amended by inserting the following new section immediately after section 66—

Publication of obscene, gory or offensive material.

66A. A person who publishes or causes to be published or distributed obscene, gory or offensive material which is likely to cause fear and alarm to the general public or disturb public peace is guilty of a felony and is liable, upon conviction, to a fine not exceeding one million shillings or imprisonment for a term not exceeding three years or both, or, where the offence is committed by a media enterprise, to a fine not exceeding five

million shillings.

Insertion of new section 128A in Cap. 63.

16. The Penal Code is amended by inserting the following new section immediately after section 128—

Offences by public officers.

128A. A public officer who in the cause of his or her employment—

- (a) aids or facilitates the commission of a felony;
- (b) facilitates the entry of a criminal into Kenya; or
- (c) conceals the whereabouts of a criminal

is guilty of a felony and is liable, on conviction, to imprisonment for a term of not less than ten years.

Insertion of new section 251A in Cap. 63.

17. The Penal Code is amended by inserting the following new section immediately after section 251—

Insulting modesty by intruding privacy or stripping.

251A. A person who intentionally insults the modesty of any other person by intruding upon that person's privacy or strips such person, is guilty of a felony and is liable to imprisonment for a term not exceeding twenty years.

Insertion of section
36A of Cap. 75.

18. The Criminal Procedure Code is amended by inserting the following new sections immediately after 36 –

Remand by court.

36A. (1) Pursuant to Article 49(1) (f) and (g) of the Constitution, a police officer shall present a person who has been arrested in court within twenty-four hours after being arrested.

(2) Notwithstanding subsection (1), if a police officer has reasonable grounds to believe that the detention of a person arrested beyond the twenty-four hour period is necessary, the police officer shall—

- (a) produce the suspect before a court; and
- (b) apply in writing to the court for an extension of time for holding the suspect in custody.

(3) In making an application under subsection (1), the police officer shall specify —

- (a) the nature of the offence for which the suspect has been arrested;
- (b) the general nature of

the evidence on which the suspect has been arrested;

(c) the inquiries that have been made by the police in relation to the offence and any further inquiries proposed to be made by the police; and

(d) the reasons necessitating the continued holding of the suspect in custody,

and shall be supported by an affidavit.

(4) In determining an application under subsection (1), the court shall consider any objection that the suspect may have in relation to the application and may—

(a) release the suspect unconditionally;

(b) release the suspect subject to such conditions as the court may impose to ensure that the suspect—

(i) does not, while on release,

commit an offence, interfere with witnesses or the investigations in relation to the offence for which the suspect has been arrested;

(ii) is available for the purpose of facilitating the conduct of investigations and the preparation of any report to be submitted to the court dealing with the matter in respect of which the suspect stands accused; and

(iii) appears at such a time and place as the court may specify for the purpose of conducting preliminary proceedings or the trial or for the purpose of assisting the police with their

inquiries; or

(c) having regard to the circumstances specified under subsection (6), make an order for the remand of the suspect in custody.

(5) A court shall not make an order for the remand in custody of a suspect under subsection (5)(c) unless—

- (a) there are compelling reasons for believing that the suspect shall not appear for trial, may interfere with witnesses or the conduct of investigations, or commit an offence while on release;
 - (b) it is necessary to keep the suspect in custody for his protection, or, where the suspect is a minor, for his welfare;
 - (c) the suspect is serving a custodial sentence; or
 - (d) the suspect, having been arrested in relation to the commission of an offence, has breached a condition for his release.
- (6) The court may, for the

purpose of ensuring the attendance of a suspect under subsection (5)(b)(ii) or (iii), require the suspect—

- (a) to execute a bond for such reasonable amount as the court considers appropriate in the circumstances; and
- (b) to provide one or more suitable sureties for the bond.

(7) Where a court makes an order for the remand of a suspect under subsection (5) (c), the period of remand shall not exceed thirty days.

(8) A police officer who detains a suspect in respect of whom an order has been issued under subsection (5)(c) may, at any time before the expiry of the period of remand specified by the court, apply to the Court for an extension of that period.

(9) The court shall not make an order for the extension of the time for remand under subsection (8) unless it is satisfied that having regard to the circumstances for which an order was issued under subsection (5)(c), it is necessary to grant the order.

(10) Where the court grants an extension under subsection (10), such period shall not, together with the period for which the suspect was first remanded in custody, exceed ninety days.

Insertion of a new section 42A of Cap. 75.

19. The Criminal Procedure Code is amended by inserting the following new sections immediately after 42 –

Disclosure by prosecution.

42A. (1) Pursuant to Article 50(2)(j) of the Constitution, the prosecution shall inform the accused person in advance of the evidence that the prosecution intends to rely on and ensure that the accused person has reasonable access to that evidence.

(2) The prosecution may not disclose certain evidence on which it intends to rely –

- (a) if the evidence may facilitate the commission of other offences;
- (b) if the evidence is sensitive and it is not in the public interest to disclose;
- (c) where there are grounds to believe that disclosing such evidence might lead

to an attempt being improperly made to persuade a witness to make a statement retracting his original statement, to change his story, not to appear in court or otherwise to intimidate him.

(3) Evidence shall be deemed to be in the public interest, if that evidence —

(a) touches on matters of national security;

(b) touches on the identity of an informant where there are good reasons for fearing that disclosure of the informant's identity may place the family of the informant in danger;

(c) discloses the identity of a witness who might be in danger of assault or intimidation if his identity is known;

(d) contains details which, if they became known, might facilitate the commission of other

offences or alert someone not in custody that the person was a suspect;

(e) disclose some unusual form of surveillance or method of detecting crime; and

(f) contains details of a personal nature to the maker or which might create the risk of domestic strife.

Provided that the Court may receive such evidence in Chambers and in confidence.

Insertion of section 118A of Cap. 75.

20. The Criminal Procedure Code is amended by inserting the following new section immediately after section 118—

Ex-parte application for search warrant.

118A. An application for a search warrant under section 118 shall be made ex-parte to a magistrate and the police officer carrying out the search pursuant to such warrant shall not, if acting in good faith, be liable to any legal proceedings.

Insertion of new section 160A of Cap. 75.

21. The Criminal Procedure Code is amended by inserting the following new provision immediately after section 160—

Disclosure of evidence by accused.

160A. An accused person who has been called upon to

enter his defence, shall disclose to the prosecution the nature of his defence including witness statements and documentary evidence.

Amendment of section 200 of Cap. 75.

22. The Criminal Procedure Code is amended in section 200 by—

(a) inserting the following new subsection immediately after subsection (1)—

(1A) A recommencement of trial under subsection (1)(b) shall not affect the court's finding that the accused person has a case to answer.

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

(3A) Where an accused person opts to recall a witness in a case where the magistrate intends to recommence a trial, the order to recall the witness shall only be made after the prosecution has been granted an opportunity to address the court.

Insertion of sections 343 – 345 in Cap. 75.

23. The Criminal Procedure Code is amended by inserting the following provisions immediately after section 342 —

POLICE SUPERVISION

Person twice convicted may be subject to police supervision.

343.(1) When a person, having been convicted of an offence punishable with imprisonment for a term of three years or more is again convicted of an offence punishable with imprisonment for a similar term

or of an offence under section 345, the court may, at the time of passing sentence of imprisonment on that person, also order that he shall be subject to police supervision as provided by section 344 for a period not exceeding five years from the date of his release from prison.

(2) If the conviction is set aside on appeal or otherwise, the order shall become void.

(3) An order under this section may be made by the High Court when exercising its powers of revision.

Requirements from persons subject to police supervision.

344. (1) A court may at any time direct that a person shall, whilst subject to police supervision under section 343 and at large in Kenya, comply with all or any of the following requirements, and may vary any such directions at any time—

- (a) to reside within the limits of a specified area;
- (b) not to transfer his residence to another area without the written consent of the police officer in charge of that area;

(c) not to leave the area in which he resides without the written consent of the police officer in charge of that area;

(d) at all times to keep the police officer in charge of the area in which he resides notified of the house or place in which he resides and provide his telephone and other contacts;

(e) to present himself, whenever called upon by the police officer in charge of the area in which he resides, at any place in that area specified by that officer.

(2) The Cabinet Secretary may make rules for carrying out the provisions of this section, and in particular prescribing the manner in which persons may be brought before a court for the purposes of this section.

Automatic police supervision.

344A. (1) A person who is convicted of an offence under section 296(1), 297(1), 308 or 322 of the Penal Code the Prevention of Terrorism Act or the Sexual Offences Act shall be subject to police supervision for a period of five years from the date of his release from prison.

(2) A person who is subject to police supervision under this section shall, whilst he is so subject—

- (a) reside within the limits of such area as the Commissioner of Prisons shall, in each case, specify in writing;
- (b) not transfer his residence to another area without the written consent of the police officer in charge of the specified area;
- (c) not leave the area in which he resides without the written consent of the police officer in charge of that area;
- (d) at all times keep the police officer in charge of the area in

which he resides notified of the house or place in which he resides;

- (e) present himself, whenever called upon by the police officer in charge of the area in which he resides, at any place in that area specified by that officer.

Failure to comply with requirements under section 344.

345.(1) If a person subject to police supervision who is at large in Kenya fails to comply with a requirement placed upon him by or by virtue of section 344 or 344A, he shall, unless he proves to the satisfaction of the court before which he is tried that he did his best to act in conformity with the law, be guilty of an offence and liable to imprisonment for a term not exceeding six months and on a second or subsequent conviction for that offence to imprisonment for a term not exceeding twelve months.

(2) A police officer may arrest without warrant a person whom he suspects upon reasonable grounds of having committed an offence under this section.

Errors and omissions in orders and warrants.

346. The court may at any time amend a defect in substance or in form in an order or warrant, and no omission or error as to the time and place, and no defect in form in an order or warrant given under this Code, shall be held to render void or unlawful an act done or intended to be done by virtue of that order or warrant, provided that it is therein mentioned, or may be inferred there from, that it is founded on a conviction or judgment, and there is a valid conviction or judgment to sustain it.

Amendment of Section 348A of Cap. 75.

24. The Criminal Procedure Code is amended by repealing section 348A and replacing it with the following new section—

Right of appeal against acquittal, order of refusal or order of dismissal.

348A. (1) When an accused person has been acquitted on a trial held by a subordinate court or High Court, or where an order refusing to admit a complaint or formal charge, or an order dismissing a charge, has been made by a subordinate court or High Court, the Director of Public Prosecutions may appeal to the High Court or the Court of Appeal as the case may be, from the acquittal or order on a matter of fact and law.

(2) If the appeal under subsection (1) is successful, the

High Court or Court of Appeal as the case may be, may substitute the acquittal with a conviction and may sentence the accused person appropriately.

Amendment of Section 364 of Cap. 75.

25. Section 364 of the Criminal Procedure Code is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (b) —

- (c) in a matter where the subordinate court has granted bail to an accused person, and the Director of Public Prosecution has indicated his intention to apply for review of the order of the court, the order of the subordinate court shall be stayed for a period of fourteen days pending the filing of the application for revision.

Insertion of section 379A in Cap. 75.

26. The Criminal Procedure Code is amended by inserting the following new section immediately after section 379 —

Appeal to the Court of Appeal on High Court's original jurisdiction.

379A. In a case where the High Court, in exercise of its original jurisdiction, has granted bail or bond to an accused person, the Director of Public Prosecution, may, as of right, appeal against that decision to the court of appeal:

Provided that if the Director of Public Prosecutions has indicated an intention to appeal the order, the order shall be stayed for a period of fourteen days pending the filing of an appeal.

Amendment of
section 2 of Cap. 76.

27. Section 2 of the Extradition (Contiguous and Foreign Countries) Act is amended by inserting the following new definition in proper alphabetical sequence—

“reciprocal backing of warrants” means warrants from contracting nations issued in accordance with the contracting agreement;

Amendment of
section 11 of Cap.
76.

28. Section 11 of the Extradition (Contiguous and Foreign Countries) Act is amended by inserting the following new subsection immediately after subsection (2) —

(3) Where the court is satisfied about the authenticity of the warrants and that the warrant was issued by a proper authority of the foreign country, the court shall proceed to issue a warrant of surrender without holding the proceedings as specified under section 7 of the Act.

Amendment of
section 8 of Cap.
107.

29. Section 8 of the Registration of Persons Act is amended by inserting the following subsection immediately after —

(1A) The Director may establish identification committees or appoint persons as identification agents to assist in the authentication of information furnished by a parent or guardian.

Amendment of
section 14 of Cap.
107.

30. Section 14 of the Registration of Persons Act is amended—

(a) in subsection (1) by deleting the term “fifteen” and substituting therefor the term “two hundred”;

(b) in subsection (2) by deleting the term

“five” and substituting therefor the term
“fifty”;

Amendment of
section 19 of Cap.
107.

31. The Registration of Persons Act is amended
by inserting the following new section immediately after
section 18—

Power to cancel
registration and revoke
an identity card.

18A. (1) The Director may
cancel the registration and revoke
the identity card of any person
issued under this Act if the card
was obtained through—

- (a) misrepresentation of
material facts;
- (b) concealment of material
facts;
- (c) fraudulently;
- (d) forgery;
- (e) multiple registration; or
- (f) any other justifiable
cause.

(2) Before cancellation of the
registration and revocation of the
identity card as provided in sub
section (1), the Director shall notify
the card holder of the intention to
cancel the registration and revoke
the card unless the holder can show
cause within fifteen days why the
cancellation should not be done.

(3) Any person whose
registration has been cancelled and
identity card revoked or whose
citizenship has been otherwise

revoked under an existing law shall be under obligation to surrender the identity card to the registrar.

(4) The Director shall by notice in the Gazette publish the names and identity card number of the person whose registration is cancelled and the identity cards revoked.

Insertion of section 20A in Cap. 80.

32. The Evidence Act is amended by inserting the following new section immediately after section 20 —

Proof of written statement by consent.

20A. (1) If the person who makes a statement cannot read it, the statement shall be read to him before he signs it, and an endorsement shall be made thereof by the person who so read the statement to the effect that it was so read.

(2) A copy of the statement, together with a copy of any document referred to in the statement as an exhibit, or with such information as may be necessary in order to enable the party on whom it is served to inspect such document or a copy thereof, shall, before the date on which the document is to be tendered in evidence, be served on each of the other parties to the proceedings, and any such party may, at least two days before the commencement of the proceedings, object to the statement being tendered in evidence under this section.

(3) If a party objects under subsection (2) that the statement in question be tendered in evidence, the statement shall not, but subject to the provisions of subsection (4), be admissible as evidence under this section.

(4) If a party does not object under subsection (2) or if the parties agree before or during the proceedings in question that the statement may be so tendered in evidence, the statement may, upon the mere production thereof at such proceedings, be admitted as evidence in the proceedings.

(5) When the documents referred to in subsection (3) are served on an accused person, the documents shall be accompanied by a written notification in which the accused person is informed that the statement in question shall be tendered in evidence at his trial in lieu of the State calling as a witness the person who made the statement, but that such statement shall not without the consent of the accused person be so tendered in evidence if he notifies the prosecutor concerned, at least two days before the commencement of the proceedings, that he objects to the statement so being tendered in evidence.

(6) The parties to criminal proceedings may, before or during such proceedings, agree that any written statement referred to in subsections (1) which has not been served in terms of subsection (2) be tendered in evidence at such proceedings, whereupon such statement may, upon the mere production thereof at such proceedings, be admitted as evidence in the proceedings.

(7) Notwithstanding that a written statement made by any person may be admissible as evidence under this section—

- (a) a party by whom or on whose behalf a copy of the statement was served, may call such person to give oral evidence;
- (b) the court may, of its own motion, and shall, upon the application of any party to the proceedings in question, cause the person giving oral evidence to be summoned before the court, or the court may, where the person concerned is resident outside the court's

jurisdiction, issue summons to be effected through the diplomatic channel.

(8) Any document or object referred to as an exhibit and identified in a written statement tendered in evidence under this section, shall be treated as if it had been produced as an exhibit and identified in court by the person who made the statement.

(9) Any person who makes a statement which is admitted as evidence under this section and who in such statement willfully and falsely states anything which, if sworn, would have amounted to the offence of perjury, shall be deemed to have committed the offence of perjury and shall, upon conviction, be liable to the punishment prescribed therefor.

Insertion of section 33(1) in Cap. 80.

33. The Evidence Act is amended in section 33 by inserting the words “or electronically recorded” immediately after the words “written or oral”.

Amendment to section 25A of Cap. 80.

34. The Evidence Act is amended in section 25A of the Act by deleting the expression “Chief Inspector” appearing in subsection (1) and substituting therefor the word “Inspector”.

Insertion of section 59A in Cap. 80.

35. The Evidence Act is amended by inserting the following new section immediately after section 59—

59A. (1) If an accused person has appointed an advocate and, at any stage during the proceedings, it appears to a prosecutor that a particular fact or facts which must be proved in a charge against an accused person is or are not in issue or shall not be placed in issue in criminal proceedings against the accused person, the prosecutor may, forward or hand a notice to the accused person or his advocate setting out that fact or those facts and stating that such fact or facts shall be deemed to have been proved at the proceedings unless notice is given that any such fact shall be placed in issue.

(2) The notice by the prosecutor under subsection (1) shall be sent by registered mail or handed to the accused or his advocate personally at least fourteen days before the commencement of the criminal proceedings or the date set for the continuation of such proceedings, or within such shorter period as may be approved by the court or agreed upon by the accused person or his advocate and the prosecutor.

(3) If any fact mentioned in the notice under subsection (2) is intended to be placed in issue at the proceedings, the accused

person or his advocate shall at least five days before the commencement or the date set for the continuation of the proceedings, or within such shorter period as may be approved by the court or agreed upon with the prosecutor, deliver a notice in writing to that effect to the registrar or the clerk of the court, as the case may be, or orally notify the registrar or the clerk of the court to that effect, in which case the registrar or the clerk of the court shall record such notice.

(4) If, after receipt of the notice from the prosecutor under subsection (1), any fact mentioned in that notice is not placed in issue as under subsection (3), the court may deem such fact or facts, subject to subsections (5) and (6), to have been sufficiently proved at the proceedings concerned.

(5) If a notice was forwarded or handed over by a prosecutor under subsection (1), the prosecutor shall notify the court at the commencement of the proceedings of such fact and of the reaction thereto, if any, and the court shall thereupon institute an investigation into those facts which are not disputed and enquire from the accused person whether he

confirms the information given by the prosecutor, and whether he understands his rights and the implications of the procedure and where the advocate of the accused person replies to any question by the court under this section, the accused person shall be required by the court to declare whether he confirms such reply or not.

(6) The court may on its own initiative or at the request of the accused person order oral evidence to be adduced regarding any fact contemplated in subsection (4).

Insertion of section 63A in Cap. 80.

36. The Evidence Act is amended by inserting the following new section immediately after section 63(3) —

Teleconferencing and video conferencing.

63A. (1) A court may receive oral evidence through teleconferencing and video conferencing.

(5) The Chief Justice may develop regulations to govern the use of teleconferencing and video conferencing.

Amendment of Cap. 80.

37. The Evidence Act is amended by inserting the following new section immediately after section 78 —

Admissibility of electronic and digital evidence.

78A. (1) In any legal proceedings, electronic messages and digital material shall be admissible as evidence.

(2) The court shall not deny admissibility of evidence under subsection (1) only on the ground that it is not in its original form.

(3) In estimating the weight, if any, to be attached to electronic and digital evidence, under subsection (1), regard shall be had to—

(a) the reliability of the manner in which the electronic and digital evidence was generated, stored or communicated;

(b) the reliability of the manner in which the integrity of the electronic and digital evidence was maintained;

(c) the manner in which the originator of the electronic and digital evidence was identified; and

(d) any other relevant factor.

(4) Electronic and digital evidence generated by a person in the ordinary course of business, or a copy or printout of or an extract from the electronic

and digital evidence certified to be correct by a person in the service of such person, is on its mere production in any civil, criminal, administrative or disciplinary proceedings under any law, the rules of a self-regulatory organization or any other law or the common law, admissible in evidence against any person and rebuttable proof of the facts contained in such record, copy, printout or extract.

Insertion of section 36A in Cap. 90.

38.The Prisons Act is amended by inserting the following new section immediately after section 36—

Prisoners detained for terrorist activity, etc. to be kept apart.

36A. (1) The Commissioner shall confine persons who are imprisoned for committing an offence under the Prevention of Terrorism Act, 2012 or for committing a serious offence in a separate prison or in separate parts of the same prison in such manner as to prevent, as far as practicable, their seeing or conversing or holding any communication with other prisoners.

Insertion of new section 70A in Cap. 90.

39.The Prisons Act is amended by inserting the following new section immediately after section 70—

Register.

70A. (1) The Commissioner shall maintain records of all prisoners detained in all prisons in Kenya.

(2) The records shall consist

of—

- (a) personal data;
- (b) biometrics;
- (c) physical address;
- (d) postal address;
- (e) reasons for detention;
- (f) number of times detained; and
- (g) such other particulars as may be prescribed by the Cabinet Secretary in Regulations.

(3) The Commissioner shall ensure control and regulation of the information in the register, necessary safeguards for protection and confidentiality of the data or information contained in the registration and data serialization established, developed and maintained under this Act, including any database and networking infrastructure.

(4) The Commissioner shall maintain an integrated biometric system to enable sharing of information within the criminal justice system.

Amendment of
section 2 of Cap.
114.

40.The Firearms Act is amended in section 2—

(a) by inserting the following new definition in proper alphabetical sequence—

“Board” means the Firearms Licensing Board established under section 3;

(b) by inserting the following new paragraph in the definition of the word “firearm” —

(c) telescopes, mufflers, bulletproof gear, night vision devices and other similar accessories.

Repeal of section 3
of Cap. 114.

41.The Firearms Act is amended by repealing section 3 and replacing it with the following new section-

3. (1) There is hereby established the Firearms Licensing Board.

(2) The Board shall be appointed by the Cabinet Secretary and shall consist of a Chairman and—

(a) one representative from the Kenya Defence Forces;

(b) two representatives from the National Police Service one of whom shall be from the Directorate of Criminal Investigation;

(c) one representative from the National Intelligence Service; and

(d) one representative from the National Focal Point.

(3) There shall be a Secretariat of the Board which shall consist of such officers as may be necessary to discharge its duties under this Act.

(4) The persons serving as licensing officers immediately before the commencement of this section shall be deemed to be officers of the Secretariat referred to in subsection (3).

(5) The functions of the Board shall be to—

- (a) certify suitability of applicants and periodically assess proficiency of firearms holders;
- (b) issue, cancel, terminate or vary any licence or permit issued under this Act;
- (c) register civilians firearm holders, dealers and manufactures of firearms under this Act;
- (d) register, supervise, and control all shooting ranges that are registered under this Act;
- (e) establish, maintain and monitor a centralized record management system under this Act;
- (f) perform such other

functions as the Cabinet Secretary may prescribe from time to time.

Amendment of section 4 of Cap. 114.

42.The Firearms Act is amended in section 4 —

(a) by inserting the following new subsection immediately after subsection (1) —

(1A) No person shall manufacture, assemble, purchase, acquire or have in his possession an armoured vehicle unless he holds a certificate of approval issued under this Act.

(b) by inserting the following new paragraph in subsection (2) immediately after paragraph (b) —

(c) manufactures, assembles, purchases, acquires or has in his possession an armoured vehicle without approval under subsection (1A).

Amendment of section 5 of Cap. 243.

43.The Radiation Protection Act is amended in section 5(1)(c) by inserting the following new subparagraphs immediately after subparagraph 5(1)(c)(vi)—

(vi) a public officer nominated by the Minister for the time being responsible for foreign affairs;

(vii) an officer from the Kenya Defence Forces;

(viii) an officer from the National Intelligence Service;

(ix) an officer from the National Police Service; and

(x) an officer from the Kenya Revenue

Authority.

Amendment of
section 7 of Cap.
243.

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

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

Amendment of Cap.
296.

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

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.

Insertion of new sections in Cap. 395.

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

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.

Establishment of Inter-Agency Security Advisory Committee.

17E. There is hereby established an Airports Inter-Agency Security Committee.

(2) The functions of the Committee shall be to —

(a) advise and coordinate security activities between ministries, departments and agencies in the airports; and

(b) recommend and review the effectiveness of security measures and procedures within airports.

(3) The Committee shall consist of the Managing Director or his designate, who shall be the chairperson of the Committee and one member from each of the following departments and agencies—

(a) the Ministry responsible for National Security;

(b) the National Intelligence Service;

(c) the Directorate of

Criminal
Investigations;

- (d) the National Police Service;
- (e) the Kenya Defence Forces;
- (f) the Immigration Service;
- (g) the Communications Authority of Kenya;
- (h) the Kenya Revenue Authority;
- (i) the Kenya Wildlife Services;
- (j) the Ministry responsible for air transport; and
- (k) the Kenya Civil Aviation Authority.

(4) The Committee may co-opt or invite any person to attend and take part in its proceedings, and that person may participate in any discussion at the meeting but shall not have a right to vote at that meeting.

(5) The Committee shall meet for the discharge of its functions as often as is necessary, at a time and place specified by the Chairperson,

and in any case, shall meet at least once in every three months.

(6) The Committee shall submit regular reports to the National Security Advisory Committee.

(7) The Committee may regulate the procedure of its meetings.

Amendment of section 5 of Cap. 403.

47. The Traffic Act is amended in section 5 by inserting the following new subsection immediately after subsection (3) —

(4) The Authority shall create, maintain and update a database of all motor vehicles with diplomatic number plates which are owned or operated by foreign nationals, and shall require such number plates to be surrendered upon the end of the tour of duty, retirement or sale of the motor vehicle.

Amendment to section 12 of Cap. 403.

48. Section 12 of the Traffic Act is amended by inserting the following new subsection immediately after subsection (1)—

(2) A person who contravenes or fails to comply with the provisions of this section commits an offence and is liable on conviction to a fine not exceeding three hundred thousand shillings or imprisonment for a term not exceeding twelve months or both.

Amendment of section 23 of Cap. 403.

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

(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.

Amendment to section 118 of Cap. 403.

50. Section 118 of the Traffic Act is amended in subsection (2) by—

- (a) deleting the words “ten thousand shillings” appearing in paragraph (a) and substituting therefor the words “one hundred thousand shillings”;
- (b) deleting paragraph (b) and substituting therefor the following paragraph—
 - (b) for second or subsequent offence, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months.

Amendment to section 119 of Cap. 403.

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

- (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.

Amendment of section 30 of Cap. 485.

52.The Investment Promotion Act, 2004 is amended in section 30 by deleting subsection (2) and substituting therefor the following new subsection—

(2) Without prejudice to the generality of subsection (1), the Minister may make Regulations for—

- (a) amending the Second Schedule;
- (b) prescribing the categories of employees to be issued with work permits;
- (c) prescribing procedures for the vetting of investors.

Amendment of No.12 of 2012.

53.The Labour Institutions Act is amended by inserting the following new sections immediately after section 54—

Establishment of an inter-ministerial committee.

54A. There is established an inter-ministerial Committee consisting of officers from—

- (a) the Ministry responsible for immigration;
- (b) the Ministry responsible for labour;
- (c) the Ministry responsible for security; and
- (d) the Attorney-General.

Functions of the inter-ministerial committee.

54B. The Inter-ministerial committee shall be responsible for overseeing the registration and operations of employment bureaus and agencies.

Requirement for approval by the Inter-Ministerial Committee.

54C. Every employment bureau or agency shall be required to seek and obtain government approval prior to sending Kenyan Citizens for employment outside Kenya.

Amendment to section 26 of No. 33 of 2012.

54. Section 26 of the National Transport Safety Authority Act is amended by deleting subsection(1) and substituting therefor the following subsection—

(1) A person shall not—

- (a) operate any class of vehicle including private vehicles as public service vehicles; or
- (b) operate a commercial service vehicle whose tare weight exceeds three thousand and forty eight kilograms,

unless the vehicle is licensed by the Authority.

Amendment of section 11 of No. 13 of 2006.

55. Section 11 of the Refugees Act is amended in subsection (1) by deleting the words “or in any case within thirty days after his entry”.

Amendment of section 12 of No.13 of 2006.

56. Section 12 of the Refugees Act is a amended by inserting the following new subsection immediately after subsection (2)—

(3) Every person who has applied for recognition of his status as a refugee and every member of his family shall remain in the designated refugee camp until the processing of their status is concluded.

Amendment of section 14 of No.13

57. Section 14 of the Refugees Act is amended by inserting the following new paragraph immediately after

of 2006.

paragraph (b) —

- (c) not leave the designated refugee camp without the permission of the Refugee Camp Officer.

Insertion of new section 16D in No. 13 of 2006.

58. The Refugees Act is amended by inserting the following new section immediately.

Permitted number of refugees and asylum seekers in Kenya.

16A. (1) The number of refugees and asylum seekers permitted to stay in Kenya shall not exceed one hundred and fifty thousand persons.

(2) The National Assembly may vary the number of refugees or asylum seekers permitted to be in Kenya.

(3) Where the National Assembly varies the number of refugees or asylum seekers in Kenya, such a variation shall be applicable for a period not exceeding six months only.

(4) The National Assembly may review the period of variation for a further six months.

Amendment of section 2 of No. 28 of 2012.

59. The National Intelligence Service Act, is amended in section 2 by—

- (a) inserting the words “decision making” immediately after the word “government’s” in the definition of the word “intelligence”;

- (b) inserting the following new definition in proper alphabetical sequence—

“protective and preventive security” means assessment of threats and vulnerabilities, measures and activities conducted to safeguard or protect classified information, critical installations, key government infrastructure and important personalities.

Amendment of section 4 of No. 28 of 2012.

60. Section 4 of the National Intelligence Service Act is amended in subsection (3) by deleting the words “National Security” appearing before the word “Council”.

Amendment of section 5 of No. 28 of 2012.

61. Section 5 of the National Intelligence Service Act is amended by—

- (a) deleting the words “to provide a confidential security report” appearing in subsection (1) (g) and substituting therefor the words “security vetting”;
- (b) inserting the following new paragraph immediately after paragraph (4)(b)—
- (c) members of the Service from performing the functions and exercising powers conferred by this Act or any written law.

Insertion of new sections in No.28 of 2012.

62. The National Intelligence Service Act is amended by inserting the following new section immediately after section 6—

Stoppage and detention.

6A. (1) An officer of the Service may stop and detain any person whom the officer—

- (a) witnesses engaging in a serious offence;
- (b) finds in possession of any object or material that could be used for the commission of a serious offence; or
- (c) suspects of engaging in any act or thing or being in possession of anything which poses a threat to national security.

Repeal of section 10 of No. 28 of 2012

63. The National Intelligence Service Act is amended by repealing section 10. 11C.

Amendment of section 11C of No.28 of 2012.

64. The National Intelligence Service Act, 2012 is amended in Section 11C by deleting the words “in accordance with Section 10(2), (3) and (4)”.

Amendment of section 36 of No. 28 of 2012.

65. Section 36 of the National Intelligence Service Act is amended—

- (a) in subsection (1) by inserting the words “who is subject to investigation by the Service or” immediately after the word “person”;
- (b) by deleting subsection (2).

Repeal of Part V of section 42 of No.28 of 2012.

66. The National Intelligence Service Act is amended by repealing Part V and substituting therefor with the following new Part—

PART V—COVERT OPERATIONS

Authority to undertake covert operations.

42. (1) In this Part “covert operations” means measures, efforts and activities

aimed at neutralizing threats against national security.

(2) Where the Director-General has reasonable grounds to believe that a covert operation is necessary to enable the Service to investigate or deal with any threat to national security or to perform any of its functions, the Director-General may, subject to guidelines approved by the Council, issue written authorization to an officer of the Service to undertake such operation.

(3) The written authorization issued by the Director-General under subsection (2)—

(a) shall be sufficient authorization to conduct the operation;

(b) may be served on any person so required to assist the Service or facilitate the covert operation or investigations required to be undertaken;

(c) may authorize any member of the Service to obtain any information, material, record, document or thing and for that purpose—

(i) enter any place or

obtain access to anything;

(ii) search for or remove or return, examine, take extracts from, make copies of or record in any manner the information, material, record, documents or thing;

(iii) monitor communication;

(iv) install, maintain or remove anything; or

(v) do anything considered necessary to preserve national security; and

(d) shall be specific and shall be valid for a period of one hundred and eighty days unless otherwise extended.

Amendment of section 57 of No. 28 of 2012.

67. Section 57 of the National Intelligence Service Act is amended by deleting the words “engaged in a covert operation” appearing in paragraph (b).

Amendment of section 64 of No. 28 of 2012.

68. Section 64 of the National Intelligence Service Act is amended—

(a) by inserting the following new paragraph immediately after paragraph (d) —

(dd) Head of Public Service.

(b) in subsection (4), by inserting the following new paragraph immediately after paragraph (c) —

(d) to perform such other functions as may be conferred on the Council by this Act or by any other written law.

Amendment of section 65 of No. 28 of 2012.

69. Section 65 of the National Intelligence Service Act is amended by deleting the word “Parliament” and substituting therefor the words “National Assembly”.

Amendment of section 74 of No. 28 of 2012.

70. Section 74 of the National Intelligence Service Act is amended by inserting the following new subsection immediately after subsection (2)—

(3) It shall be the duty of every State Organ, State department, agency or public entity —

(a) that receives intelligence from the Service to act on or otherwise utilize the intelligence; and

(b) to provide information requested for by the Service.

Amendment of section 3 of No. 30 in 2012.

71. Section 3 of the Prevention of Terrorism Act is amended in subsection (2) by inserting the words “as far as practicable” immediately after the words “Inspector-General shall”.

Insertion of section 9A in No. 30 of 2012.

72. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 9—

Facilitation of terrorist acts.

9A. A person, who advocates, glorifies, advises, incites or facilitates the commission of a terrorist act or

any act preparatory to a terrorist act commits an offence and is liable, on conviction to imprisonment for a term not exceeding twenty years.

Insertion of section 10A in No.30 of 2012.

73. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 12—

Possession of weapons for terrorist purposes.

12A. (1) A person who is in possession of a weapon, an improvised explosive device or components of an improvised explosive device for purposes of terrorism commits an offence and is liable, on conviction, to imprisonment for a term of not less than twenty years.

(2) Without prejudice to subsection (1), unlawful possession of improvised explosive devices, assault rifles, rockets propelled grenades or grenades shall be presumed to be for terrorist purposes.

(3) The Cabinet Secretary shall, on recommendation of the National Security Council, by notice in the Gazette, publish a list of components of improvised explosive devices for purposes of subsection (1).

Possession of weapons in places of worship institution or public places.

12B. A person who, in a place of worship institution or a public place, is in unlawful possession of a weapon, an improvised explosive device or components of an improvised explosive device, commits an offence and is liable, on conviction, to imprisonment for a term not exceeding thirty years.

Failure to prevent entry of weapons.

12C. (1) Any person, who, being in charge of any place of worship institution or public place within which illegal weapons are recovered, shall be deemed to be in possession of such weapons and shall be liable to imprisonment for a term not exceeding twenty years.

(2) It shall be a defence if the person referred to in subsection (1) shows that he had no control over the entry of the weapons in the place of worship institution or public place or he took appropriate step to prevent into the place of worship, institution or public place.

Radicalisation.

12D. A person who adopts or promotes an extreme belief system for the purpose of facilitating ideologically based violence to advance political, religious or social change

commits an offence and is liable on conviction, to imprisonment for a term not exceeding thirty years.

Amendment of section 23 in No. 30 of 2012.

74. Section 23 of the Prevention of Terrorism Act is amended by inserting the following subsection immediately after subsection (3)—

(3A) A person who being in Kenya, conspires with another person who is also in Kenya to carry out a terrorist act in Kenya or outside Kenya commits an offence.

Insertion of section 30A in No. 30 of 2012.

75. The Prevention of Terrorism Act is amended by inserting the following new sections immediately after section 30—

Publication of offending material.

30A.(1) A person who publishes or utters a statement that is likely to be understood as directly or indirectly encouraging or inducing another person to commit or prepare to commit an act of terrorism commits an offence and is liable on conviction to imprisonment for a term not exceeding fourteen years.

(2) For purposes of subsection (1), a statement is likely to be understood as directly or indirectly encouraging or inducing another person to commit or prepare to commit an act of terrorism if—

- (a) the circumstances and manner of the publications are such that it can reasonably be inferred that it was so intended; or
- (b) the intention is apparent from the contents of the statement.

(3) For purposes of this section, it is irrelevant whether any person is in fact encouraged or induced to commit or prepare to commit an act of terrorism.

Training or instruction for purposes of terrorism.

30B. (1) A person who knowingly—

- (a) attends training or receives instructions at any place, whether in Kenya or outside Kenya; or
- (b) receives instruction or training on the use or handling of weapons,

that is wholly or partly intended for purposes connected with the commission or preparation for the commission of terrorist acts, commits an offence and is

liable on conviction to imprisonment for a term not less than ten years.

(2) For purposes of subsection (1), it is irrelevant whether—

- (a) the person in fact receives the training; or
- (b) the instruction is provided for particular acts of terrorism.

Presumption of travelling to a country for purposes of being trained as a terrorist.

30C. (1) A person who travels to a country designated by the Cabinet Secretary to be a terrorist training country without passing through designated immigration entry or exit points shall be presumed to have travelled to that country to receive training in terrorism.

(2) Despite subsection (1), a person who ordinarily resides in Kenya within an area bordering a designated country is exempt from the provisions of subsection (1).

(3) For the purposes of this section, the Cabinet Secretary may, through regulations, designate any country to be a terrorist training country.

Foreign terrorist fighters.

30D. A person who is not a Kenyan citizen who enters or

passes through Kenya for purposes of engaging in terrorist activities in Kenya or elsewhere commits an offence and shall on conviction, be liable to imprisonment for a term not exceeding thirty years.

Aiding and abetting.

30E. A person who aids or abets the commission of an offence under this Act commits an offence and shall be liable on conviction to a term of imprisonment for a term not exceeding twenty years.

Prohibition from broadcasting.

30F. (1) Any person who, without authorization from the National Police Service, broadcasts any information which undermines investigations or security operations relating to terrorism commits an offence and is liable on conviction to a term of imprisonment for a term not exceeding three years or to a fine not exceeding five million shillings, or both.

(2) A person who publishes or broadcasts photographs of victims of a terrorist attack without the consent of the National Police Service and of the victim commits an offence and is liable on conviction to a term of imprisonment for a period

not exceed three years or to a fine of five million shillings, or both.

(3) Notwithstanding subsection (2) any person may publish or broadcast factual information of a general nature to the public.

Amendment of section 32 of No.30 of 2012.

76.Section 32 of the Prevention of Terrorism Act is amended—

(a) in subsection (1), by deleting the term “24” and substituting therefor the term “31”;

(b) by deleting subsection (3).

Amendment of section 33 of No.30 of 2012.

77. Section 33 of the Prevention of Terrorism Act is amended—

(a) by deleting subsection (2);

(b) by deleting subsection (3);

(c) in subsection (5), by deleting the opening statement and substituting therefor the words “In making an order for remand in custody under subsection (4)(c), the Court shall have due regard to the following factors —”;

(d) in subsection (10) by deleting the words “ninety days” and substituting therefor the words “ three hundred and sixty days.”

Amendment of section 35 of No.30 of 2012.

78. Section 35 of the Prevention of Terrorism Act is amended by deleting the words “in accordance with section 26” appearing immediately after subsection (3)

(b) (iii).

Amendment of section 36 of No 30 of 2012.

79. The Prevention of Terrorism Act is amended in section 36(1) by inserting the words “to a Chief Magistrate or” immediately before the words “to the High Court”.

Insertion of section 36A in No.30 of 2012.

80. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 36-

Interception of communication by the National Security Organs.

36A. The National Security Organs may intercept communication for the purposes of detecting, deterring and disrupting terrorism in accordance with procedures to be prescribed by the Cabinet Secretary.

Amendment of section 38 of No.30 of 2012.

81. Section 38 of the Prevention of Terrorism Act is amended by deleting the words “subordinate” appearing in subsection (1).

Amendment of section 39 of No.30 of 2012.

82. Section 39 of the Prevention of Terrorism Act is amended by deleting the words “subject to the provisions of any other written law”.

Insertion of section 39A in No. 30 of 2012.

83. The Prevention of Terrorism Act is amended by inserting the following new section immediately after section 39—

Evidence.

39A. The Court shall have due regard to the authenticity and accuracy of the evidence presented before it without due regard to technicalities of procedure.

Amendment of section 41 of No. 30 of 2012.

84. Section 41 of the Prevention and Terrorism Act is amended by deleting subsection (2) and substituting therefor the following new subsection—

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to

imprisonment for a term not exceeding three years.

Insertion of a new Part 48A in No. 30 of 2012.

85.The Prevention of Terrorism Act is amended by inserting the following new Part immediately after section 40—

PART VI—MECHANISM FOR COORDINATING COUNTER-TERRORISM MEASURES

Establishment of a counter-terrorism Centre.

40A. (1) There is established a National Counter-Terrorism Centre, hereinafter referred to as the “Centre” which shall be an inter-agency body.

(2) The Centre shall consist of offices from the following organisations—

- (a) the Director appointed by the National Security Council;
- (b) the National Intelligence Service;
- (c) the Kenya Defence Forces;
- (d) the National Police Service; and
- (e) such other agencies as may be determined by the National Security Council.

(3) The members of the Centre specified under subsection (2) shall be seconded to the Centre for a period of

three years.

(4) The Director shall be responsible for the management and implementation of the functions of the Centre.

Responsibilities of the Centre.

40B. (1) The Centre shall be responsible for the co-ordination of national counter-terrorism efforts in order to detect, deter and disrupt terrorism acts.

(2) Without prejudice to the provisions of subsection (1) the Centre shall—

- (a) establish a database to assist law enforcement agencies;
- (b) conduct public awareness on prevention of terrorism;
- (c) develop strategies such as counter and de-radicalization;
- (d) facilitate capacity building for counter-terrorism stakeholders;
- (e) co-ordinate with other government agencies to provide security certification for aviation schools.

Responsibility of the public and government bodies.

40C. (1) The Centre may request any person or government body for any information relating to terrorism.

(2) Members of the public have a responsibility to furnish the

Centre with any information relating to terrorism which is within their knowledge.

Insertion of new section 5A in No. 12 of 2011.

86. The Kenya Citizenship and Immigration Act is amended by inserting the following new section immediately after section 5 —

Establishment of Committee.

5A. (1) There is established a Committee to be known as the Border Control and Operations Coordination Committee.

(2) The Committee shall consist of —

- (a) the Principal Secretary to the Ministry responsible for national security who shall be the chairperson;
- (b) the Principal Secretary to the Ministry responsible for health;
- (c) the Commissioner-General of the Kenya Revenue Authority;
- (d) the Director of Immigration;
- (e) the Inspector-General of the National Police Service;
- (f) the Director of the Kenya Airports

Authority;

- (g) the Managing Director of the Kenya Ports Authority;
- (h) the Director-General of the Kenya Maritime Authority;
- (i) the Director-General of the National Intelligence Service;
- (j) the Director of the Kenya Plant Health Inspectorate Service; and
- (k) the Managing Director of the Kenya Bureau of Standards; and

Functions of the Committee

5B. (1) The functions of the Committee shall be to —

- (a) formulate policies and programmes for the management and control of designated entry and exit points;
- (b) co-ordinate the exchange of information between the respective agencies responsible for the security and management of the

borders at the designated entry and exit points;

- (c) ensure compliance with standards by the respective agencies to ensure the effective and efficient management of operations at the designated entry and exit points;
- (d) exercise oversight authority over the operations of the respective agencies at the designated entry and exit points; and
- (e) perform such other functions as may be conferred on it by this Act or any other written law.

(2) The Committee may designate at least three public officers from the respective agencies to coordinate and monitor the operations of the respective agencies at the designated entry and exit points.

Sub-committees of the
Committee.

5C. (1) The Committee may, from time to time, establish such sub-committees as it may consider necessary for the better carrying out of its functions under this Act.

(2) The Committee may co-opt into the sub-committees established under subsection (1) public officers whose participation is necessary for the proper performance of the functions of the Committee.

Report to the National
Security Council.

5D. The Committee shall submit to the National Security Council at the end of every year, a report in respect of that year containing-

(a) a report on its activities and operations during that year; and

(a) Such other information as the Committee may require.

Amendment of
section 7 of No. 12
of 2011.

87. Section 7 of the Kenya Citizenship and Immigration Act is amended by deleting the words “by birth” appearing immediately after the words “was or is a citizen”.

Insertion of a new
paragraph (h) in
section 31(1) of No.
12 of 2011.

88. The Kenya Citizenship and Immigration Act is amended in section 31(1) by inserting the following new paragraph immediately after paragraph (g) —

(h) subject to the Constitution, any other circumstances which in the opinion of the Director would be prejudicial to the interest of the State or holder of the passport.

Insertion of new paragraph (w) in section 33(1) of No. 12 of 2011.

89.The Kenya Citizenship and Immigration Act is amended in section 33 in subsection (1) by inserting the following new paragraph immediately after paragraph (v)—

(w) a person who has been repatriated and or removed from Kenya under any lawful order.

Insertion of new paragraphs (f) (g) (h) (i)(j) in section 39 of No. 12 of 2011.

90.The Kenya Citizenship and Immigration Act is amended in section 39 by inserting the following new paragraphs immediately after paragraph (e) —

(f) the person has violated provisions of this Act;

(g) the person acquired the permanent residence status by fraud, false representation or concealment of any material fact;

(h) the person has during any war in which Kenya was engaged unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was knowingly carried on in such a manner as to assist an enemy in that war;

(i) the person has within five years after acquiring permanent residence status been convicted of an offence and sentenced to imprisonment for a term of three years or longer; and

(j) if the person domiciled outside the country continuously for a period of two years unless they were previously citizens by birth.

Amendment of section 40(1) of No. 12 of 2011.

91. The Kenya Citizenship and Immigration Act is amended in section 40 by—

- (a) deleting subsection (1) and substituting therefor the following new subsection—

“Committee” means the permits determination committee appointed by the Cabinet Secretary”

- (b) in subsection (3) by inserting the words “before entry into Kenya immediately after the words “prescribed manner” appearing in paragraph (a).

Insertion of new paragraphs (d) (e)(f) (g) (h) (i) (j) in section 41(1) of No. 12 of 2011.

92. The Kenya Citizenship and Immigration Act is amended in section 41 in subsection (1) by inserting the following new paragraphs immediately after paragraph (c)—

- (d) has violated any of the terms of his or her stay under the permit;
- (e) has violated any of the provisions of this Act or Regulations made under it;
- (f) has been declared a prohibited immigrant or inadmissible person;
- (g) has become an undesirable immigrant;
- (h) acquired the permit by fraud, false representation or concealment of any material fact;
- (i) has during any war in which Kenya was engaged unlawfully traded or communicated with an enemy or been engaged in or associated with any business that was knowingly carried on in such a manner as to

assist an enemy in that war; and

- (j) the person has after acquiring the permit been convicted of an offence and sentenced to imprisonment for a term of three years or longer

Amendment of section 47 of No. 12 of 2011.

93. The Kenya Citizenship and Immigration Act is amended in section 47—

(a) by inserting the words “and shall make weekly returns to the Director” at the end of subsection (2);

(b) by inserting the following new subsection immediately after subsection (2) —

(2A) Notwithstanding the provisions of subsection (2), the Director may at any time request for submission of the records of all customers who are foreign nationals.

Insertion of new paragraph (m) in section 54 of No. 12 of 2011.

94. The Kenya Citizenship and Immigration Act is amended in section 54 in subsection (1) by inserting the following new paragraph immediately after paragraph l—

(m) uses as a passport, entry permit, pass, written authority, consent or approval issued to him, an entry permit, pass, written authority, consent or approval issued to another person.

Amendment of section 56(2) of No. 12 of 2011.

95. The Kenya Citizenship and Immigration Act is amended in section 56 by deleting subsection (2) and substituting therefor the following new subsection—

(2) A foreign national residing in Kenya for a continuous period exceeding three months shall be required to register with an immigration officer and notify change of address, travelling or

otherwise in such manner as may be prescribed.

Amendment of section 10 of No. 11A of 2011. **96.** Section 10 of the National Police Service Act is amended by inserting the following new paragraph immediately after paragraph (n)—

(na) designate in each county the most senior officer from either the Kenya Police Service or the Administration Police Service, who shall have the overall responsibility of the Service in a county;

Amendment of section 12 of No. 11A of 2011. **97.** Section 12 of the National Police Service Act is amended by—

(a) deleting subsection (2) and substituting therefor the following subsection—

(2) The President shall, within fourteen days after a vacancy occurs in the office of the Inspector-General, nominate a person for appointment as an Inspector-General and submit the name of the nominee to the National Assembly.

(b) deleting subsections (3), (4), (5), and (6).

Amendment of section 15 of No. 11A of 2011. **98.** Section 15 of the National Police Service Act is amended by deleting subsections (2), (4), (5), (6), (7) and (8).

Amendment of section 17 of No. 11A of 2011. **99.** Section 17 of the National Police Act is amended by deleting subsections (2), (3), (4), (5) and (6).

Amendment of section 29 of No. 11A of 2011. **100.** Section 29 of the National Police Service Act is amended by deleting subsections (2) and (3).

Amendment of section 94 of No. **101.** Section 94 of the National Police Service Act is amended by—

11A of 2011.

(a) in subsection (1) deleting the expression “twenty one” and substituting therefor “ten”; and

(b) in subsection (3) by deleting the words “or to a fine not exceeding one hundred thousand shillings”

Amendment of section 87 of No. 11A of 2011.

102. Section 87 of the National Police Service Act is amended by inserting the following subsection immediately after subsection (2)—

(2A) Without prejudice to subsection (2), the unit may where necessary investigate and recommend appropriate action in respect of any Found engaging in any unlawful conduct.

Amendment of section 88 of No. 11A of 2011.

103. Section 88 of the National Police Service Act is amended by inserting the following new subsection immediately after subsection (3)—

(3A). A police officer convicted of an offence under subsection (3) shall be liable to imprisonment for a term not exceeding ten years.

Insertion of a new section 76A of No. 11A of 2011.

104. The National Police Service Act is amended by inserting the following section immediately after section 76—

Database on retired and other officers **76A.** The Commission shall keep, maintain and update a database of all officers who retire, desert, are dismissed or otherwise leave the Service.

Insertion of a new section 95A of No. 11A of 2011.

105. The National Police Service Act is amended by inserting the following section immediately after section 95—

National Police Service Disciplinary Board **95A.** (1) There is established the National Police Service Disciplinary Board which shall

consist of—

- (a) a person qualified to be appointed as a judge or magistrate who shall be the presiding officer appointed by the Commission;
- (b) five other members appointed by Commission as follows—
 - (i) two members representing the Kenya Police Service;
 - (ii) two members representing the Administration Police Service;
 - (iii) one member representing the Directorate of Criminal investigations

(2) The Board shall—

- (a) inquire into matters related to discipline for officers of the rank of or above assistant superintendent brought to its attention by an officer of the Service,
- (b) undertake disciplinary proceedings in accordance with the regulations issued by the Commission;
- (c) determine and make recommendations to the Commission, including recommendation for summary dismissal, based on its findings.

(3) In conducting an inquiry

under subsection (2) (a), the Board may engage the services of any person or institution with expert knowledge in the matter to which the inquiry relates.

(4) The Commission may establish such other subordinate Boards to be constituted as and when necessary at the respective Service commands at county, formation, unit and station levels which shall undertake disciplinary proceedings in accordance Service Standing Orders.

(5) A subordinate Board shall inquire into matters related to discipline for officers of the rank of or below chief inspector brought to its attention by an officer of the Service.

Amendment of
Section 40 of
No.11A of 2011.

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

(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) sex;
- (d) telephone number;
- (e) email address, and

any unique character obtaining to such guests and submit such record to the police

Amendment of section 6 of No.18 of 2013.

station at least once every week.

107. Section 6 of the Public Benefits Organizations Act is amended by inserting the following new subsections immediately after subsection (4)—

(4A) A public benefit organization registered under subsection (1) shall be classified by the Authority in the prescribed manner.

(4B) The Authority upon consultation with the Cabinet Secretary, may from time to time review the classification of public benefit organizations.

(4C) The Cabinet Secretary shall, upon consultation with the Authority, make regulations to provide for the manner, conduct and criteria for classification of public benefit organizations.

Amendment to section 2 of No. 21 of 2013.

108. Section 2 of the Civil Aviation Act, is amended in section 2 by inserting the following new definition in its proper alphabetical sequence—

“unmanned aerodrome” means any aerodrome where air traffic services are not provided.

Insertion of a new section 61A in No.21of 2013.

109. The Civil Aviation Act is amended in section 61 by inserting the following new section immediately after section 61—

Prohibition from flying without prior approval.

61A. (1) Where an aircraft is flown from any unmanned aerodrome or point within Kenya to another unmanned aerodrome or point within Kenya, the Pilot-In-Command of such aircraft and the operator of such aerodrome shall be required to provide such information as the Cabinet secretary may prescribe from time to time.

(2) The information under subsection (1) shall include details of the flight and the nature of the operations.

MEMORANDUM OF OBJECTS AND REASONS

The Security Laws (Amendment) Bill, 2014 is in keeping with the practice of making minor amendments which do not merit the publication of a separate Bill and consolidating them into one Bill.

The Bill contains proposed amendments to the following laws.

The Public Order Act (Cap. 56)

At present, the Act makes references to offices and institutions that have been made obsolete in the reorganization of the Government of Kenya undertaken since the promulgation of the Constitution of Kenya on August 27th 2010. This Bill seeks to amend the Act to make specific reference to Governors, members of county assemblies, counties, the Cabinet Secretary for Interior and Co-ordination of National Government, the Director of Public Prosecutions, the Inspector-General of Police, and the National Police Service. The Bill also seeks to enhance the penalties for offences committed under the Act.

The Penal Code (Cap. 63)

The Bill seeks to amend the Act to make provision for the offence of a public officer aiding or facilitating the commission of a felony, the offence of a public officer facilitating the entry of a criminal into Kenya, and the offence of a public officer concealing the whereabouts of a criminal and prescribes the punishment for these offences. The Bill also seeks to make it a felony for any person to intentionally insult the modesty of any person and prescribes a punishment for the same.

The Extradition (Contiguous and Foreign Countries) Act (Cap. 76)

The Bill seeks to harmonise the Act with the offices and institutions created under the Constitution of Kenya. It also seeks to enhance co-operation between Kenya and contracting nations in relation to the speedy extradition of persons from Kenya to those contracting countries. It also seeks to ensure that where a court is satisfied that a warrant of extradition has been properly issued by a contracting party the procedure outlined in section 7 of the Act need not be followed.

The Criminal Procedure Code (Cap. 75)

The Bill seeks to amend the Act by inserting new provisions in relation to the arrest and detention of a person beyond the twenty-four hours stipulated in the Constitution, regarding the –question of bail in relation to certain persons who have been arrested or detained, in relation to the form of evidence that may be disclosed to an accused person before or during the course of a trial, in relation to the execution of search warrants, and the power of the Director of Public Prosecutions to appeal against the acquittal of a person in a trial in a subordinate court or the High Court or the dismissal of charges against that person. The Bill also seeks to provide for the police supervision of certain classes of persons who have been convicted of criminal offences, and the amendment of orders or warrants.

The Registration of Persons Act (Cap. 107)

The Bill seeks to amend the Act by inserting new provisions in relation to the establishment of identification committees or identification agents, the cancellation or revocation of identity cards, and the enhancement of certain penalties under the Act.

The Evidence Act (Cap. 80)

The Bill seeks to amend the Act to provide for the admissibility of electronic and digital evidence, the proving of written statements, the proving of certain facts, and the receiving of oral testimony by teleconferencing or video conferencing.

The Prisons Act (Cap. 90)

The Bill seeks to amend the Act by making provision for the separation of prisoners convicted of terrorism-related offences while in prison, and the creation and maintenance of a database of all prisoners detained in Kenya.

The Firearms Act (Cap. 114)

The Bill seeks to amend the Act by making provision for the establishment of a Firearms Licensing Board and for the regulation of the handling or use of certain new classes or types of weapons and armoured vehicles.

The Radiation Protection Act (Cap. 243)

The Bill seeks to amend the Act by making provisions regarding the membership of the Radiation Protection Board, and the regulation of nuclear and radioactive material.

The Rent Restrictions Act (Cap. 296)

The Bill seeks to amend the Act to make provision for the maintenance and form of records of tenants by landlords.

The Kenya Airports Authority Act (Cap. 395)

The Bill seeks to amend the Act to make provision for prohibitions or restrictions and the zoning of land around aerodromes, and the establishment of an Inter-Agency Security Advisory Committee, its membership, its mandate and connected matters.

The Traffic Act (Cap. 403)

The Bill seeks to amend the by providing for the enhancement of certain penalties prescribed under the Act and for the regulation of car-selling establishments and similar establishments by the Cabinet Secretary. The Bill also proposes to amend the Traffic Act in order to provide for an offence for in instances where an owner or general dealer uses a motor vehicle or trailer without the an identification plate. The Bill further requires the suspension of drivers' licence of a driver who has been involved in an accident resulting in fatalities and preliminary investigations by police show that person is responsible for the accident. The Bill also increases the general penalty from ten thousand shilling to one hundred thousand shillings, for any offence committed under the Act and where no penalty has been prescribed. The Bill requires the Cabinet Secretary to make rules relating to licensing of establishments of establishments or persons engaged in selling, hiring or leasing motor vehicles, motor vehicle spare parts dealers and garages.

The Investment Promotion Act (Cap. 485)

The Bill proposes to amend the Investment Promotion Act in order to specify the matters in which the Cabinet Secretary is required to make Regulations on, which *inter alia* includes prescribing the categories of employees to be issued with work permits and prescribing procedures for the vetting of investors.

The Labour Institutions Act (No. 12 of 2012)

The Bill amends the Labour Institutions Act by constituting an inter-ministerial agency from various government ministries which shall be responsible for overseeing the registration and operations of the employment bureaus and agencies. Every employment bureau or agency is required to obtain approval from the government prior to sending Kenyan citizens abroad.

The National Transport Safety Authority Act (No. 33 of 2012)

The Bill amends the National Transport Authority Act by requiring all vehicles including private vehicle to be licenced before being used as public service vehicles. Commercial service vehicle whose tare weight exceeds three thousand and forty eight kilograms are also required to be licensed before being operated.

The Refugees Act (No. 13 of 2006)

The Bill amends the Refugees Act to prescribe the limitation of the number of refugees or asylum seekers permitted to stay in Kenya. The Bill further permits Parliament to vary the limitation provided under the Act. The Refugees are also required to remain in their designated camp until their status has been processed and concluded.

The National Intelligence Service Act (No. 28 of 2012)

The Bill amends the National Intelligence Act by empowering police officers to be able to stop and detain persons whom they witness engaging in serious crimes or are in possession of objects or material that could be used for the commission of a serious crime. The Bill has also provided for the undertaking of covert operations for purposes of neutralizing threats against national security. The Bill further places an obligation on the State Organs, State department agency or public entity that receives intelligence from the Service to act on or utilize the intelligence.

The Prevention of Terrorism Act (No. 30 of 2012)

The Bill amends the Prevention of Terrorism Act to create an offence for possession of weapons for terrorist purposes, possession of weapons in places of worship or public places, possession of weapons by an institution or place of worship and radicalization. Publication of offending material is also prohibited. The Bill has also created an offence for a person who knowingly attends or receives training or instructions at any place of worship. A presumption shall be made regarding a person who travels to a country designated by the Cabinet Secretary to be a terrorist training country, where that person does not pass through the designated

exit points. The Bill also proposes to allow the National Security Organs to intercept communication for the purposes of detecting, deterring and disrupting terrorism. The Bill establishes the Counter-terrorism centre which shall be responsible for the co-ordination of national counter-terrorism efforts in order to detect, deter and disrupt terrorism.

The Kenya Citizenship and Immigration Act (No. 12 of 2011)

The Bill amends the Kenya Citizenship and Immigration Act by establishing a Boarder Control and Operations Coordination Committee which shall be responsible for the formulation of policies and programmes for the management and control of designated entry and exit points and coordination of exchange of information between the respective agencies. The Bill further expounds on the validity and limitations of a Service Passport.

The National Police Service Act (No. 11A of 2011)

The Bill amends the National Police Service Act to give powers to the Inspector-General to designate the most senior officer from either the Kenya Police Service or the Administration Police Service to have the overall responsibility in the county. The Bill permits the arrest of officer including the immigration or any public officer found engaging in any unlawful conduct. The Bill establishes the National Police Service Disciplinary Board which shall be responsible for inquiring into matters related to discipline of officers of the rank of or above the rank of assistant superintendant brought to its attention.

The Civil Aviation Act (No. 21 of 2013)

The Bill amends the Civil Aviation Act in order to prohibit flying in an unmanned aerodome where air traffic services are not provided without prior approval from the Cabinet Secretary.

Dated the, 2014.

ASMAN KAMAMA,
Chairman,
Administration and National Security.

Section 2 of Cap. 56 which it is proposed to amend—

2. In this Act, except where the context otherwise requires—
“excluded meeting” means—

- (a) any meeting convened and held exclusively for the lawful purposes of any public body; or
- (b) any meeting of the members of any registered organisation, whether corporate or unincorporate, convened in accordance with the constitution of the organisation and held exclusively for the lawful purposes of that organisation;
- (c) any meeting of the members of any trade union convened and held exclusively for the lawful purposes of that trade union;
- (d) any meeting convened and held exclusively for social, cultural, charitable, educational, commercial or industrial purposes;
- (e) any meeting of the organs of a political party, convened in accordance with the constitution of the party and held exclusively to discuss the affairs of the party;
- (f) impromptu “meet-the-people” tours by Members of Parliament and councillors;

“Minister” means the Minister for the time being responsible for the administration;

Section 3 of Cap. 56 which it is proposed to amend—

- 3.** (1) If the members or adherents of any association of persons, whether incorporated or not, are—
- (a) organised or trained or equipped for the purpose

of enabling them to be employed in usurping the functions of the police or of the Kenya Military Forces; or

- (b) organised and trained or organised and equipped either for the purpose of enabling them to be employed for the use or display of physical force in promoting any political object, or in such manner as to arouse reasonable apprehension that they are organised and either trained or equipped for that purpose,

then any member or adherent of such association shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment, and any person who promotes or conspires with another to promote or who takes part in the control or management of the association, or in so organising or training or equipping as aforesaid any member or adherent thereof, shall be guilty of an offence and liable to a fine of two thousand shillings or to imprisonment for a term not exceeding three years, or to both such fine and such imprisonment:

Provided that in any proceedings against a person charged with the offence of taking part in the control or management of such an association as aforesaid it shall be a defence to that charge to prove that he neither consented to nor connived at the organisation, training or equipment of members or adherents of the association in contravention of the provisions of this section.

(2) No prosecution under this section shall be instituted without the consent of the Director of Public Prosecutions.

Section 6 of Cap. 56 which it is proposed to amend—

6.(1) Any person who, while present at any public meeting or on the occasion of any public procession, has with him any offensive weapon, otherwise than in pursuance of

lawful authority, shall be guilty of an offence.

(2) For the purposes of this section, a person shall not be deemed to be acting in pursuance of lawful authority unless he is acting in his capacity as a police officer or member of a fire brigade or otherwise in his capacity as a public officer or as a servant of a local authority.

Section 7 of Cap 56 which it is proposed to amend—

7.(1) If at any time it appears to the Commissioner of Police that serious public disorder is likely to arise at or on the occasion of any race-meeting, sporting event or other entertainment of any description, he may, by notice addressed to the promoter, organiser or manager thereof, prohibit the holding or continuance thereof in any area or place or on any particular day.

Section 8 of Cap 56 which it is proposed to amend—

8.(1) The Commissioner of Police or a Provincial Commissioner may, if he considers it necessary in the interests of public order so to do, by order (hereinafter referred to as a curfew order) direct that, within such area (being, in the case of a Provincial Commissioner, within his province) and during such hours as may be specified in the curfew order, every person, or, as the case may be, every member of any class of persons specified in the curfew order, shall, except under and in accordance with the terms and conditions of a written permit granted by an authority or person specified in the curfew order, remain indoors in the premises at which he normally resides, or at such other premises as may be authorised by or under the curfew order.

(3) A curfew order shall be published in such manner as the authority making it may think sufficient to bring it to the notice of all persons affected thereby, and shall come into force on such day, being the day of or a day after the making thereof, as may be specified therein, and shall remain in force for the period specified therein or until

earlier rescinded by the same authority or by the Minister as hereinafter provided:

Provided that no curfew order which imposes a curfew operating during more than ten consecutive hours of daylight shall remain in force for more than three days, and no curfew order which imposes a curfew operating during any lesser number of consecutive hours of daylight shall remain in force for more than seven days.

(4) Every curfew order shall, forthwith on its being made, be reported to the Minister, and the Minister may, if he thinks fit, vary or rescind the curfew order.

(6) Any person who contravenes any of the provisions of a curfew order or any of the terms or conditions of a permit granted to him under subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

Section 9 of Cap 56 which it is proposed to amend—

9.(1) A police officer in charge of the police in a province or a police officer in charge of a police division may, if he considers it necessary in the interests of public order within the area of his responsibility so to do, by order (hereinafter referred to as a curfew restriction order) prohibit, during such hours as may be specified in the curfew restriction order, all persons, or, as the case may be, all members of any class of persons specified in the curfew restriction order, from entering, being or remaining, except under and in accordance with the terms and conditions of a written permit granted by an authority or person specified in the curfew restriction order, in or at any premises specified in the curfew restriction order:

Provided that no person shall, by or in pursuance of a curfew restriction order, be prohibited or prevented from entering, being or remaining in any premises at which he normally resides, or, during reasonable hours of business, work or employment, any premises at which he normally

has his place of business, work or employment.

(4) Every curfew restriction order shall, forthwith on its being made, be reported to the Commissioner of Police, and the Commissioner of Police may, if he thinks fit, vary or rescind the curfew restriction order.

(6) Any person who contravenes any of the provisions of a curfew restriction order or any of the terms or conditions of a permit granted to him under subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

Section 11 of Cap 56 which it is proposed to amend—

11.(1) Any person who, without lawful authority or reasonable excuse, the proof whereof shall lie on him, has with him in any street or public place any offensive weapon shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding ten thousand shillings, or to both such imprisonment and such fine.

(5) (a) This section shall apply to such areas, and during such hours, as the Minister may, by notice in the Gazette, declare.

(b) A notice under this section may apply the section during different hours in respect of different areas.

Section 13 of Cap 56 which it is proposed to amend—

13.(1) If in any area, in regard to which any declaration issued under section 47 of the Police Act is in force, death or grievous harm, or loss of or damage to property has been caused by, or has ensued from, the misconduct of the inhabitants of such area, or of any class or section of such inhabitants, any person who claims to have suffered loss, damage or injury by reason of such misconduct may, within

one month from the date of such loss, damage or injury, make an application for compensation to a magistrate appointed under subsection (5) of the said section 47 or, where no magistrate has been so appointed, to a magistrate having jurisdiction within the district in which the declared area is situated.

Section 17 of Cap 56 which it is proposed to amend—

17. Every person who is guilty of an offence under this Act, or under any regulations made thereunder, in respect of which no special penalty is provided shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Section 19 of Cap 56 which it is proposed to amend—

19. All offences under this Act shall be cognisable to the police; and, where it is provided in this Act that a prosecution for an offence thereunder shall not be instituted without the consent of the Attorney-General, a person may be arrested for and charged with such an offence, and may be remanded in custody or on bail, notwithstanding that the consent of the Attorney-General to the institution of a prosecution for the offence has not been obtained, but no further or other proceedings shall be taken until such consent has been obtained:

Provided that no person shall be arrested for or charged with an offence under section 3 of this Act save with the consent of the Attorney-General first had and obtained.

Section 21 of Cap 56 which it is proposed to amend—

21. Notwithstanding anything contained in any other written law, a subordinate court of the first class may try any offence under this Act or under any regulations made thereunder and—

- (a) if presided over by a Senior Resident Magistrate, or by any Resident Magistrate upon whom such power has, by

notice in the Gazette, been conferred, may pass any sentence authorised for such offence other than a sentence of imprisonment for a term exceeding ten years;

(b) if presided over by a Resident Magistrate, may pass any such sentence other than a sentence of imprisonment for a term exceeding seven years; and

(c) in any other case, may pass any such sentence other than a sentence of imprisonment for a term exceeding five years.

Section 11 of Cap 76 which it is proposed to amend—

11. (1) Where the Minister is satisfied that reciprocal provision has been or will be made by or under the law of any contiguous country other than a designated Commonwealth country within the meaning of the Extradition (Commonwealth Countries) Act (Cap. 77), for the backing of warrants issued in Kenya and their execution in that country and that it is appropriate to do so, he may, by order published in the Gazette, declare that this Part of this Act shall apply in the case of that country subject to such conditions, exceptions and qualifications as may be specified in the order, and this Part shall apply accordingly.

(2) Every order made under this section shall be laid before the House of Representatives.

Section 348A of Cap 75 which it is proposed to amend—

348A. When an accused person has been acquitted on a trial held by a subordinate court, or where an order refusing to admit a complaint or formal charge, or an order dismissing a charge, has been made by a subordinate court, the Director of Public Prosecutions may appeal to the High Court from the acquittal or order on a matter of law.

Section 25A of Cap 80 which it is proposed to amend—

25A.(1) A confession or any admission of a fact tending to the proof of guilt made by an accused person is not admissible and shall not be proved as against such person unless it is made in court before a judge, a magistrate or before a police officer (other than the investigating officer), being an officer not below the rank of Chief Inspector of Police, and a third party of the person's choice.

(2) The Attorney-General shall in consultation with the Law Society of Kenya, Kenya National Commission on Human Rights and other suitable bodies make rules governing the making of a confession in all instances where the confession is not made in court.

Section 33 of Cap 80 which it is proposed to amend—

33. Statements, written or oral, of admissible facts made by a person who is dead, or who cannot be found, or who has become incapable of giving evidence or whose attendance cannot be procured, or whose attendance cannot be procured, without an amount of delay or expense which in the circumstances of the case appears to the court unreasonable, are themselves admissible in the following cases—

(a) *relating to cause of death*

when the statement is made by a person as to the cause of his death, or as to any of the circumstances of the transaction which resulted in his death, in cases in which the cause of that person's death comes into question. Such statements are admissible whether the person who made them was or was not, at the time when they were made, under expectation of death, and whatever may be the nature of the proceeding in which the cause of his death comes into question;

(b) *made in the course of business*

when the statement was made by such person in the ordinary course of business, and in particular when it consists of an entry or memorandum made by him in books or records kept in the

ordinary course of business or in the discharge of professional duty; or of an acknowledgement written or signed by him of the receipt of money, goods, securities or property of any kind; or of a document used in commerce, written or signed by him, or of the date of a letter or other document usually dated, written or signed by him;

(c) *against the interest of maker*

when the statement is against the pecuniary or proprietary interest of the person making it, or when, if true, it would expose him or would have exposed him to a criminal prosecution or to a suit for damages;

(d) *an opinion as to public right or custom*

when the statement gives the opinion of any such person as to the existence of any public right or custom or matter of public or general interest, of the existence of which, if it existed, he would have been likely to be aware, and when such statement was made before any controversy as to such right, custom or matter had arisen;

(e) *relating to existence of relationship*

when the statement relates to the existence of any relationship by blood, marriage, or adoption between persons at whose relationship by blood, marriage or adoption the person making the statement had special means of knowledge, and when the statement was made before the question in dispute was raised;

(f) *relating to family affairs*

when the statement relates to the existence of any relationship by blood, marriage or adoption between persons deceased, and is made in any will or deed relating to the affairs of the family to which any such deceased person belonged, or in any family pedigree or upon any tombstone, family portrait or other thing on which such

statements are usually made, and when such statement was made before the question in dispute was raised;

(g) *relating to a transaction creating or asserting, etc., a custom*

when the statement is contained in any deed or other document which relates to any such transaction as is mentioned in section 13(a);

(h) *made by several persons and expressing feelings*

when the statement was made by a number of persons, and expressed feelings or impressions on their part relevant to the matter in question.

Section 14 of Cap 107 which it is proposed to amend—

14.(1) Any person who—

- (a) fails to apply to be registered in accordance with the provisions of this Act; or
- (b) in giving any information for the purposes of this Act, knowingly or recklessly makes any statement which is false in a material particular; or
- (c) unlawfully deprives any person of an identity card issued to him under this Act; or
- (d) unlawfully makes an entry, alteration or erasure on any identity card or on any registration document; or
- (e) unlawfully issues an identity card or laminates or prints an identity card or any of its component parts; or
- (f) is in unlawful possession of or makes use of an identity card belonging to any other person; or
- (g) falsely states that he has not previously been

- registered or commits any act or makes any false representation or omission with the object of deceiving a registration officer; or
- (h) is knowingly in possession of an identity card containing any false entry, alteration or erasure; or
- (i) having previously had issued to him an identity card under this Act, obtains or attempts to obtain another identity card without disclosing to the registration officer the fact of the previous issue and the loss, mutilation or destruction of any identity card previously issued; or
- (j) with intent to deceive—
- (i) makes a false representation that he or any other person is the person to whom an identity card relates; or
- (ii) except in such cases as may be prescribed permits any other person to be in possession of an identity card issued to him; or
- (iii) forges or mutilates an identity card, or makes or has in his possession any document so closely resembling an identity card as to be calculated to deceive; or
- (k) being a person employed for the purposes of this Act, publishes or communicates to any person otherwise than in the ordinary course of his employment, any information acquired by him in the course of the employment; or
- (l) having, under subsection (2) of section 5, inspected the register and made extracts therefrom, publishes or communicates to any person, otherwise than in the ordinary course of his employment, any information so acquired; or
- (m) having possession of any information which to his

knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person; or

- (n) without the written authority of the Principal Registrar, charges fees for the delivery of lost and found identity cards,

shall be guilty of an offence and liable to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding eighteen months or to both:

Provided that nothing in Paragraphs (k), (l) and (m) shall apply to any publication or communication of information made for the purpose of any proceedings before a competent court.

(2) If any person contravenes any of the provisions of this Act or of any rules made thereunder or with any lawful demand or requirement made under this Act or under such rules, he shall be guilty of an offence and where no other penalty is specifically provided liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two months or to both, and in any case where a person has been convicted of an offence involving failure to register under this Act the court may, in addition to or in substitution for any sentence which it may impose upon that person under this section, order him to register himself within such period as it may specify.

Section 3 of Cap 114 which it is proposed to amend—

3. The Commissioner of Police shall, by notice in the Gazette, appoint a chief licensing officer to perform the duties and exercise the powers imposed and conferred by this Act, and may appoint any number of licensing officers who shall be subject to the directions of the chief licensing officer.

Section 118 of Cap 403 which it is proposed to amend—

118.(1) Any person who acts in contravention of or fails to comply with the provisions of this Act, or who acts in contravention of or who fails to comply with the conditions of any licence, order, demand, requirement or direction issued under or in pursuance of this Act, shall be guilty of an offence.

(2) Any person who is guilty of an offence under this Act for which no penalty is otherwise provided shall be liable—

(a) for a first offence, to a fine not exceeding ten thousand shillings;

(b) for a second or subsequent offence, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both.

(3) All offences under this Act shall be cognizable to the police.

Section 30 of No. 6 of 2004 which it is proposed to amend—

30.(1) The Minister may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without limiting the generality of subsection (1), the Minister may make regulations amending the Second Schedule.

Section 4 of No. 33 of 2012 which it is proposed to amend—

4. (1) The functions of the Authority shall be to—

(a) advise and make recommendations to the Cabinet Secretary on matters relating to road transport and safety;

(b) implement policies relating to road transport and safety;

(c) plan, manage and regulate the road transport

- system in accordance with the provisions of this Act;
- (d) ensure the provision of safe, reliable and efficient road transport services; and
- (e) administer the Act of Parliament set out in the First Schedule and any other written law.

Section 26 of No. 33 of 2012 which it is proposed to amend—

26. (1) A person shall not operate a motor vehicle whose tare weight exceeds three thousand and forty eight kilogrammes for the carriage of goods or passengers for hire or reward unless the vehicle is licensed by the Authority in accordance with this Part and in such manner as the Cabinet Secretary may prescribe.

Section 34 of No. 33 of 2012 which it is proposed to amend—

34. (1) The Authority may revoke or suspend a licence issued under this Act where the licensee fails to—

- (a) comply with a condition for the issuance of the licence; or
- (b) fails to operate the motor vehicle with respect to which the licence is issued for a period of three months during the period for which the licence is issued.

Section 11 of No. 13 of 2012 which it is proposed to amend—

11. (1) Any person who has entered Kenya, whether lawfully or otherwise and wishes to remain within Kenya as a refugee in terms of this Act shall make his intentions known by appearing in person before the Commissioner immediately upon his entry or, in any case, within thirty days after his entry into Kenya.