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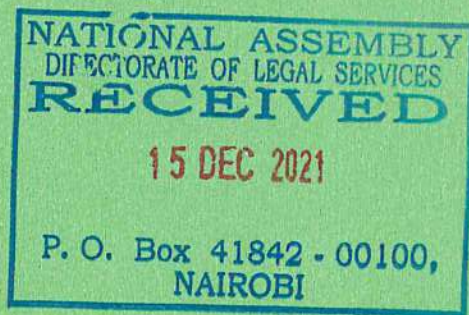
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FIRST SCHEDULE—NIIMS

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THE HUDUMA BILL, 2021

A Bill for —

AN ACT of Parliament to provide a primary law on civil registration and legal identification management; establish the National Integrated Identity Management System; provide for enrolment into the NIIMS, assigning of the Huduma Namba and issuance of legal identity documents; facilitate the registration of births and deaths; promote efficient delivery of public services; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Huduma Act, 2021.

Short title.

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

Interpretation.

“biometric data” includes fingerprints, hand geometry, earlobe geometry, retina and iris patterns, toe impression, voice waves, signatures, blood typing and photograph;

“birth” means the complete expulsion or extraction from a mother of a product of conception after the expiration of the twenty-eighth week of pregnancy, whether alive or dead;

“Cabinet Secretary” means the cabinet secretary responsible for matters relating to registration of persons, immigration and citizen services;

“civil registration” means the continuous, permanent, compulsory and universal recording of the occurrence and characteristic of a vital event on the population including that of birth, adoption, marriage and death;

“Committee” means the NIIMS co-ordination committee established under section 65;

“death” means the permanent disappearance of all evidence of life at any time after a live birth has taken place and without any capability of resuscitation but does not include a still birth;

No. 12 of 2011.

“designated NIIMS officer” in relation to any function under this Act, means the officer responsible for the performance of that function;

“enrolment” means the process of collecting specified particulars from a resident individual for the purpose of assigning the Huduma Namba;

“foundational data” means the basic personal data of a resident individual for attesting the individual’s identity and includes biometric data and biographical data;

“functional data” means the data of a resident individual created in response to a demand of a particular service or transaction;

“foreign national” means any person who is not a citizen of Kenya;

“new-born” means a human infant from the time of birth through the twenty eighth day of life;

“NIIMS” means the National Integrated Identity Management System established under section 4;

“NIIMS officer” means a public officer appointed to carry out duties under—

- (a) this Act;
- (b) the Kenya Citizenship and Immigration Act; or
- (c) any other law relating to civil registration;

“Huduma card” means a digital multipurpose identity card issued to a resident individual who has enrolled into the NIIMS;

“Huduma Namba” means the unique and permanent identification number issued to an individual under this Act;

“institutional household” includes a hotel, hostel, boarding house, orphanage or other similar establishment;

“passport” means a passport issued under this Act or by any lawful authority or government recognized by the Government of Kenya to facilitate international travel;

“personal data” means foundational and functional data collected under this Act as specified under the First Schedule;

“place of birth” includes a health facility or an administrative location where a birth occurs;

“Principal Secretary” means the principal secretary responsible for matters relating to registration of persons, immigration and citizen services; and

“resident individual” means —

- (a) a citizen of Kenya;
- (b) a foreign national who has been granted lawful residency in Kenya; or
- (c) refugee or asylum seeker permitted in Kenya.

3. The object of this Act is to—

Object of the Act.

- (a) consolidate the law on civil registration and legal identity management;
- (b) establish a digital national population database to be the primary source of foundational data for a resident individual;
- (c) provide mechanisms for registration of births, deaths and recognition of a vital events of a resident individual;
- (d) facilitate the assigning of the Huduma Namba and issuance of legal identity documents; and
- (e) promote integrity, confidentiality and security of personal data under the NIIMS database.

PART II—THE NATIONAL INTEGRATED IDENTITY MANAGEMENT SYSTEM

4. There is established the National Integrated Identity Management System (“NIIMS”), which consists of the—

Establishment of NIIMS.

- (a) the NIIMS database;
- (b) the Huduma Namba; and
- (c) the Huduma card.

5. (1) The NIIMS database is an integrated digital population register of resident individuals enrolled under this Act.

NIIMS database.

(2) The NIIMS database shall contain—

- (a) foundational data set out under the First Schedule; and

- (b) functional data generated and linked by any agency responsible for a function requiring the use of the Huduma Namba.
- (3) The NIIMS database shall—
 - (a) operate as the primary source of foundational data for every enrolled resident individual;
 - (b) enable use of biometric data to identify an enrolled individual;
 - (c) facilitate use of personal data under the NIIMS database to—
 - (i) assign the Huduma Namba;
 - (ii) issue the Huduma card;
 - (iii) issue a passport; and
 - (iv) support access and issuance of copies of legal identity documents.

6. (1) There shall be a unique and permanent personal identification number referenced to as the Huduma Namba which shall be assigned to every resident individual enrolled into the NIIMS. Huduma Namba.

(2) The Huduma Namba shall be assigned at birth or upon enrolment under this Act.

7. (1) Subject to this Act, a resident individual who enrolls into the NIIMS shall be issued with a Huduma card. Huduma card.

(2) The Huduma card shall on its face include the following particulars of an individual —

- (a) full name;
- (b) sex;
- (c) date of birth;
- (d) Huduma Namba;
- (e) nationality;
- (f) resident status, where applicable; and
- (g) front facing photograph.

(3) The types of Huduma card to be issued shall include—

- (a) Minors' Huduma card, which shall be issued to a child who has attained the age of six years;
- (b) Adults' Huduma card, which shall be issued to a citizen who has attained the age of eighteen years;
- (c) the Foreign Nationals' Huduma card, which shall be issued to a foreign national; and
- (d) the Refugees' Huduma card, which shall be issued to a refugee.

(4) The issuance of the Huduma card shall continually consider advances in technology and relevant guidelines.

8. The presentation of the Huduma card issued under this Act shall constitute sufficient proof of identity to facilitate access any public service which may require an official identification to conduct private transactions

Proof of identity.

9. Any government agency which requires personal particulars of a resident individual in order to provide a service shall, at the first instance, rely on the NIIMS database to authenticate the foundational data of such individual.

Primacy of the NIIMS database.

PART III—ENROLMENT INTO NIIMS

10. (1) An adult resident individual seeking to enrol into the NIIMS shall appear in person before a NIIMS officer and shall provide—

Enrolment of adults.

- (a) the particulars specified in the First Schedule; and
- (b) such documentary proof as may be required.

No. 24 of 2019.

(2) At the time of enrolling, a resident individual shall be informed of the rights of a data subject as set out under the Data Protection Act.

(3) A citizen residing outside Kenya may enrol into the NIIMS at the Kenyan Embassy in the country of residence or at any other centre designated for that purpose.

(4) The Principal Secretary shall make special administrative arrangements to facilitate the enrolment of persons with disabilities, marginalised communities, persons incapacitated by illness, elderly citizens, and individuals in institutional households.

11. A child shall be enrolled into the NIIMS—

Enrolment of
minors.

- (a) in the case of a new-born, immediately after birth;
or
- (b) in the case of any other child upon appearing before a NIIMS designated officer accompanied by a parent or a guardian and providing the particulars set out in the First Schedule.

12. (1) The Principal Secretary shall, upon examining the information provided by the applicant—

Assigning a
Huduma Namba.

- (a) assign the Huduma Namba to the individual within thirty days of the application; and
- (b) notify the individual of a successful enrolment.

(2) Where an application for enrolment is declined, the Principal Secretary shall communicate the decision in writing to the applicant and provide—

- (a) the reasons for such decision; and
- (b) information on the right of review or appeal available to the applicant.

13. (1) The Huduma Card shall be issued to an individual who has been assigned the Huduma Namba.

Issuance of
Huduma Card.

(2) Despite subsection (1), a child shall only be eligible to be issued with a Huduma card upon—

- (a) attaining the age of six years; and
- (b) providing the required biometric data and updating other particulars.

(3) The initial issue of the Huduma Card to a citizen shall be free of charge.

(4) The issuance of a huduma card to a foreign national or a refugee shall be subject to the payment of such fees as may be prescribed.

14. Within ninety days of attaining the age of eighteen years, an individual possessing a Minors' Huduma card shall surrender the card to a NIIMS officer who shall—

Transitioning a minors' Huduma card.

- (a) verify and update the individual's particulars under the First Schedule; and
- (b) issue the individual with relevant Adults' Huduma card.

15. (1) An individual whose Huduma card is lost, worn out, tampered with or otherwise rendered unserviceable may apply for its replacement subject to payment of the prescribed fee.

Replacement of the Huduma card.

(2) A person who finds, or comes into possession of a Huduma Card not belonging to them shall, without charging any fee, return it to the owner, the nearest NIIMS officer, or the nearest police station.

16. (1) An enrolled individual shall notify a NIIMS officer of any change of any of the particulars set out in the First Schedule.

Update of particulars.

(2) Upon the receipt of a notification under subsection (1), the NIIMS officer shall verify the information provided and update the NIIMS database without delay.

(3) The parent or guardian of a child shall update the particulars taken at the registration of the child's birth under the NIIMS upon the child attaining the age of six years.

17. (1) The Principal Secretary shall cancel the enrolment of any individual into the NIIMS—

Cancellation of enrolment.

- (a) if such enrolment is found to have been obtained by fraud, bribery or deceit;
- (b) where there was concealment of material facts; or
- (c) for any other justifiable cause.

No. 4 of 2015.

(2) In taking any of the action under subsection (1), the Principal Secretary shall have regard to the provisions of the Fair Administrative Action Act, 2015.

(3) The Huduma Namba of an individual whose enrolment has been cancelled shall be deleted and the respective Huduma card revoked.

(4) A person aggrieved by a decision under this section may—

- (a) appeal to the High Court; or
- (b) explore any internal review mechanisms as may be provided.

18. Every government agency that relies on foundational data of resident individuals to deliver a public service may be linked to the NIIMS database in a manner that enables that agency to—

Linking functional data into the NIIMS.

- (a) authenticate personal data in their possession with the NIIMS database; and
- (b) transmit, access or retrieve foundational data necessary for proper discharge of the agency's functions.

PART IV – BIRTHS AND DEATHS

A—Registration of births and enrolment of New-born

19. (1) Every birth occurring in the country shall be registered in the prescribed manner through the NIIMS within ninety days of its occurrence.

Universal registration of births.

(2) The registration of a birth is compulsory and shall be free of any charge where done within the stipulated period.

20. (1) A person giving a notification of a birth shall submit the particulars of the birth to a NIIMS officer and attest as to the correctness of the particulars.

Particulars of birth

(2) The particulars referred to under subsection (1) include—

- (a) in regard to the new-born, the sex, date and place of birth, type of delivery, any disability and weight at birth;
- (b) in regard to the mother, the name, age, usual place of residence, nationality, Huduma Namba and previous births, if any; and
- (c) in regard to the father, the name, age, usual place of residence, nationality and Huduma Namba.

(3) Where the person giving information under subsection (1) is not the mother or father of the new born, the person shall provide his or her name, age, usual place of residence and the capacity in which he or she gives such information.

(4) A person giving notice of the occurrence of a birth of a citizen occurring outside Kenya shall produce documentary proof thereof issued by the appropriate authority of the country where the birth occurred.

(2) Persons qualified to give information on particulars of a birth include—

- (a) the mother or father of the new-born;
- (b) the occupier of the house in which the new-born was, to the knowledge of that occupier, born;
- (c) any person present at the birth;
- (d) any person having charge of the new-born; or
- (e) in the case of a foundling who is a new-born, a person finding such infant.

(5) Where a birth occurs in a health facility or any institutional household, the duty to give notice of such birth shall lie with the officer in charge of the establishment which the birth occurs.

21. Where the paternity of a child is disputed or otherwise unclear, the particulars under subsection (20) (2) (c) in relation to the details of the father shall be in accordance with any directions issued through an order of the Court.

Disputed or unclear paternity.

22. (1) Upon receipt of a notice on the occurrence of a birth, the designated NIIMS officer shall register such birth by defining the particulars thereof into the NIIMS database.

Assigning Huduma Namba to a new-born.

(2) The Principal Secretary, shall upon examining the information provided, assign the Huduma Namba to the new-born within thirty days of receipt of the notice and notify the applicant of such assignment.

(3) Where a new-born is not enrolled, the Principal Secretary shall communicate in writing to the new-born's parents or guardian and provide reasons for the decision and information on any right of review or appeal available.

23. (1) A late registration of birth under this section shall be subject to the payment of a late registration penalty in such amount as may be prescribed.

Late enrolment of a child.

(2) The penalty under subsection (1) shall be graduated according to the regulations based on the period of delay computed from the last date stipulated for the registration.

(3) Late registration may be carried out after the expiry of two years from the date or approximate date of the occurrence of a birth subjects to the applicant—

- (a) furnishing such relevant information as may be specified;
- (b) complying with such further requirement as may be imposed; and
- (c) paying a stipulated late registration penalty.

24. (1) The Principal Secretary may designate and facilitate any of the persons referred to in subsection (2) to be responsible for making notifications of the occurrence of births to a NIIMS officer in a specified region.

Agents for notifying occurrence of births.

(2) The categories of persons who may be designated as agents for notifying the occurrence of a birth under subsection (1) include—

- (a) officers of the national or county governments;
- (b) registered health institutions;
- (c) officers in Kenya's missions and embassies abroad;
- (d) clergy from leaders of recognised religious institutions; or
- (e) leaders of community groups.

25. (1) Where any child for whom registration is sought under this Act is a foundling, the person in whose charge such a child is placed shall provide the following information to facilitate the child's registration—

Registering a foundling.

- (a) name of person who finds the child;
- (b) the location where the child was found and the date thereof;

- (c) the sex and approximate age of the child;
- (d) the name and address of the person who has custody of the , given to the child by the person who has custody of the foundling.

(2) Upon being notified of the particulars under subsection (1), the NIIMS officer shall upon confirming the information provided register the child.

26. (1) Upon the enrolment of a new-born or any other child, a certificate of birth shall be generated and issued from the NIIMS database.

Certificate of birth.

(2) A certificate of birth shall include the following particulars of the child—

- (a) name;
- (b) place of birth;
- (c) date of birth;
- (d) sex;
- (e) nationality;
- (f) Huduma Namba; and
- (g) name and Huduma Namba of the parents or guardians.

27. (1) The particulars of the child taken at birth shall be updated on a continuous basis to recognise the child's developmental milestones and other specified vital events.

Update of particulars of a child.

(2) A parent or guardian shall notify the NIIMS officer of any change or error in a particular recorded about the child in the NIIMS database.

(3) The notification under subsection (2) shall be given within thirty days after the change in a circumstance or when a parent or a guardian becomes aware of any error in any particular of the child

28. Where an adoption order is granted in relation to a child after the completion of the adoption process, the NIIMS officer shall —

Adoption Certificate.

- (a) update particulars of the child under the NIIMS in accordance with the adoption order; and

- (b) ensure the adoption certificate is available under the NIIMS database in a manner that makes it accessible.

29. Where a child who has been enrolled under the NIIMS attain the age of six years, a parent or a guardian shall present the child before a NIIMS officer to provide specified biometric data of the child for updating the NIIMS database, after which the child shall be issued with a Minor's Huduma Card.

Biometrics of a child

B— Registration of Deaths and Disenrollment

30. (1) Every death occurring within the country shall be registered through the NIIMS in the prescribed manner within thirty days of its occurrence.

Universal registration of deaths

(2) Registration of the occurrence of a death is compulsory and free of charge where it is done within the period specified under subsection (1).

A death shall not be registered after the expiry of thirty days except on payment of such fee as may be prescribed.

31. (1) A person giving notice of death shall be required to certify in writing to the NIIMS officer as to the correctness and authenticity of the notice or any evidence produced in support of the notification.

Notification of a death

(2) Persons qualified to give information concerning a death include—

- (a) any person present at the death;
- (b) an occupant of the house where the death occurred, who has knowledge of such occurrence;
- (c) a person responsible for the disposal of the body;
- (d) any relative of the deceased with knowledge of any of the particulars required to be registered concerning the death; or
- (e) any person finding or taking charge of the body.

(3) Where a death occurs in a health facility or institutional household, the duty to give notice of the death shall lie on the officer in charge of such establishment.

(4) A person giving notice of the death of a citizen of Kenya that occurs outside Kenya shall provide

documentary proof thereof issued by an appropriate authority in the country in which the death occurred.

32. To facilitate universal registration of deaths occurring in Kenya, the Principal Secretary may designate and facilitate the persons referred to in Section 24 (2) to serve as agents for making notification of the occurrence of a death to a designated NIIMS officer.

Agents for notifying occurrence of death.

33. A NIIMS officer designated to register deaths shall, upon receipt of the notification, register such death by entering the prescribed particulars thereof into the NIIMS database.

Registering a death.

34. A report of death under section 31 shall specify the cause of death—

Particular as to cause of death.

- (a) as ascertained and provided by a registered medical practitioner who attended to the deceased person;
- (b) from a finding of a post-mortem examination of the body of the deceased person by a qualified medical practitioner; or
- (c) as ascertained after an inquest or either investigation under the relevant law.

35. (1) A presumed death shall only be registered under the NIIMS—

Presumed deaths. Cap 80.

- (a) where the death is presumed by an order of court under section 118A of the Evidence Act, or
- (b) where a certificate of presumed death is issued by a Service Commander in accordance with section 298(3) of the Kenya Defence Forces Act.

No. 25 of 2012.

(2) A registration of a presumed death shall serve as a proof of death generally and in every matter that requires proof of death.

36. Notwithstanding any other provision of this Act, the late registration of death may be carried out after expiry of twelve months from the date of its occurrence upon the applicant satisfying such conditions as may be prescribed.

Late registration of death.

37. Immediately upon the registration of a death or presumed death, a NIIMS designated officer shall—

Huduma Namba of a deceased person.

- (a) retire the Huduma Namba of the deceased person;
- (b) revoke the deceased person's Huduma card; and
- (c) revoke any passport or any other legal identity document issued to the deceased.

38. (1) A certificate of death or a certificate of presumed death of a deceased person whose death or presumed death has been registered shall be generated under the NIIMS database.

Certificate of death or presumed death

(2) A certificate of death shall include particulars of a deceased person relating to their name, sex, age, date and place of death, Huduma Namba, nationality, and cause of death where known.

(3) A certificate of presumed death shall include particulars under subsection (2) with necessary modifications.

39. A person who buries, cremates, otherwise disposes, or oversees any disposal of a body of a deceased person whose death has not been notified to a designated NIIMS officer or to any agent appointed for such purposes, commits an offence, and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a period not exceeding six months.

Failure to register death

PART V — ISSUANCE OF PASSPORTS

40. (1) Every citizen is entitled on application to be issued with a passport.

Entitlement to a passport

(2) A design of a passport shall contain features provided under any international treaty to which Kenya is a party and such other details as may be prescribed.

(3) A passport issued shall, on the face of it, serve as evidence of the citizenship or domicile of the holder, as the case may be, and of the holder's entitlement to state protection.

(4) A passport or travel document issued under this Act shall remain the property of the Government of Kenya.

(5) Despite subsection (4), a passport validly issued shall remain in the possession of its holder until such time as there is lawful cause for its withdrawal, suspension or confiscation.

41. (1) An application for a passport shall be made to a designated NIIMS officer in a prescribed manner.

Issuance and replacement of a passport

(2) An application under subsection shall be accompanied by—

- (a) the Huduma Namba;
- (b) the written consent of the parent or guardian where an applicant is a minor; and
- (c) the prescribed fee.

(3) A designated NIIMS officer shall utilise the information under the NIIMS database to issue or replace a Passport to the applicant.

(4) In processing an application for a Passport, the designated NIIMS officer may—

- (a) update, or require an applicant to provide further details required to update any particulars under the First Schedule; and
- (b) make such further verification as may necessary.

42. (1) The types of passports that may be issued shall include—

Types of passports

- (a) an ordinary passport, issued on application to any citizen of Kenya;
- (b) a diplomatic passport, issued to such persons as may be prescribed;
- (c) an East African passport, issued to a citizen of Kenya who intends to travel within the partner states in the East African Community;
- (d) a temporary passport, issued to any citizen of Kenya who for special circumstances cannot travel on an ordinary passport;
- (e) an emergency passport, issued to a citizen of Kenya who is stranded outside Kenya or is being deported;
- (f) a certificate of identity and nationality, issued to a foreign national who cannot obtain a passport from the country of citizenship for the purpose of travelling outside Kenya;

No. 13 of 2006.

- (g) a temporary permit, issued to a citizen of Kenya who intends to travel within the East African Community partner States or to such States as may the Cabinet Secretary may prescribe; and
- (h) any travel document provided for under the Refugee Act or any humanitarian convention.

43. (1) An ordinary or diplomatic passport shall be valid for use in all countries in the world, except for any country specified in the passport and for a period not exceeding ten years from the date of issue or in the case of children, for a period not exceeding five years.

Validity of
passports.

(2) An East African passport shall be valid for use in all partner States in the East African Community or for in such other country as specified therein for a period not exceeding ten years from the date of issue or in the case of children, for a period not exceeding five years.

(3) A temporary passport shall be valid for use in all countries in the world, except for any country specified in therein, for a period not exceeding one year from the date of issue.

(4) An emergency passport shall be valid for travel to Kenya and other countries of transit for a single journey for a stated period.

(5) A certificate of identity and nationality shall be valid for travel to all countries specified thereon and shall be valid for a period not exceeding two years from the date of issue.

(6) A temporary permit shall be valid for travel in all partner States in the East African Community or in such other countries as may be specified by the Cabinet Secretary for a period not exceeding one year from the date of issue.

(7) A travel document issued to a refugee or for other humanitarian purposes shall be valid for travel to all countries except the country of the holder's nationality and shall be valid for a period of five years.

Lost, mutilated or damaged passport.

44. (1) Where a passport is lost or stolen, the holder shall report the loss to a designated NIIMS officer and the nearest police station, or, if outside the country, to the nearest Kenya mission.

(2) Any person whose passport or travel document is lost, mutilated or damaged may apply for replacement in accordance with section 41.

45. (1) A designated NIIMS officer may reject an application for a passport where the applicant—

Rejection of a passport application.

- (a) has not updated the specified particulars under the NIIMS database;
- (b) does not qualify for the type of passport applied; or
- (c) knowingly gives false or misleading material information.

(2) Where an application for a Passport or other travel document has been rejected, the NIIMS officer shall within fourteen days notify the applicant accordingly giving the reasons for the rejection in writing and providing information on the right of review or appeal available to the applicant.

PART VI – DATA PROTECTION SAFEGUARDS

46. The provisions of the Data Protection Act shall apply to the processing of personal data under this Act.

Application of No. 24 of 2019.

47. (1) Every enrolled individual has a right to obtain a copy of particulars of their personal data under the NIIMS database.

Access to information.

(2) The Principal Secretary shall provide technologically efficient means to promote effective access to personal data under the NIIMS database to an enrolled individual.

48. (1) Personal data collected under this Act shall be used solely to facilitate the objects of this Act.

Restriction on data sharing.

(2) The Huduma Namba and any biometric data collected under this Act shall not be published, displayed or publicly posted.

(3) Foundational data of an individual may with the approval of the Principal Secretary be shared with a private entity only for the purpose of verification.

(4) The Principal Secretary may approve the sharing of data under subsection (3) where satisfied that the requesting entity is seeking verification for the purpose of offering services with a lawful basis or in the legitimate interest of an individual and complies with the Data Protection Act, 2019.

No. 24 of 2019.

49. The Principal Secretary shall implement reasonable and appropriate organisational, technical and physical security measures to ensure that data under the NIIMS database is protected against—

Technical security measures.

- (a) unauthorised access, use or disclosure, and
- (b) accidental or intentional loss, destruction or damage.

50. (1) Every enrolled individual has a right to verify their personal data under the NIIMS database and to request for rectification of any error thereon.

Right of rectification.

(2) A designated NIIMS officer shall rectify an entry of a foundational data in the NIIMS database on the basis of appropriate verification.

(3) Where erroneous functional data is linked to the NIIMS database, the designated NIIMS officer shall cause the agency to which the data relates to rectify their records and submit the rectified data without delay.

51. A designated NIIMS officer or any person who processes any information under this Act shall treat any information that comes to their knowledge as confidential.

Duty of confidentiality.

52. Any data server or a data centre employed for processing of data or any other operation under this Act shall be located in Kenya.

Location of data servers.

53. (1) The Principal Secretary may designate a suitably qualified public officer to serve as a data protection officer for the NIIMS.

Designation of data protection officer.

(2) A person is qualified to be designated as a data protection officer where they possess relevant experience and technical skills in matters relating to data protection.

(3) A data protection officer appointed under this section shall advise on and facilitate compliance with the Data Protection Act and perform any other task assigned by the Principal Secretary.

PART VII—OFFENCES AND PENALTIES

54. (1) The NIIMS shall be a protected computer system within the meaning of section 20 (2) of the Computer Misuse and Cybercrimes Act, 2018.

Offences under
No. 5 of 2018.

(2) The provisions of section 20 of the Computer Misuse and Cybercrimes Act, 2018 shall apply to offences committed under the provisions of this Act.

55. A person commits an offence where the person—

Enrolment
offences.

- (a) knowingly gives false information or makes a false declaration for an entry into the NIIMS database;
- (b) forges a document to facilitate enrolling into the NIIMS;
- (c) impersonates or attempts to impersonate another person, by providing any false demographic or biometric information or
- (d) illegally influences or attempts to influence the decision of a NIIMS officer.

56. (1) A person commits an offence in respect of a huduma card where the person—

Offences relating
Huduma card.

- (a) unlawfully alters or modifies any information available on the Huduma card;
- (b) unlawfully makes, produces, prints, designs, or distributes a Huduma card; or
- (c) permits unauthorised use of their Huduma card by another person.

(2) A person convicted of an offence under subsection (1) shall be liable to a fine not exceeding three million shillings or to imprisonment for a period not exceeding three years.

57. A person, who without lawful authority, intentionally discloses, transmits or disseminates any foundational data collected under this Act to any unauthorised person commits an offence and is liable on

Unauthorised
disclosure .

conviction to a fine not exceeding five million or to imprisonment for a period not exceeding five years.

58. (1) Any person who, without authorisation —

Interference with the NIIMS database.

- (a) accesses or secures access to the NIIMS database;
- (b) damages or causes data in the NIIMS database to be damaged;
- (c) disrupts or causes disruption of the access to the NIIMS database; or
- (d) denies or causes a denial of access to any person who is authorised to access the NIIMS database;

No. 5 of 2018.

commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year.

(2) Any person convicted of an offence under this section is liable on conviction to a penalty imposed under section 20 of the Computer Misuse and Cybercrimes Act.

59. Any person who —

Penalties for failure to give information, etc.

- (a) being required to give information required for a registration of a birth or death, wilfully refuses to provide such information;
- (b) refuses or fails without reasonable excuse to give, deliver or send any information which the person is required by this Act to give, deliver or send;
- (c) being a parent and save as provided under this Act, fails to give information concerning the birth of a child; or
- (d) being a person upon whom a duty to give information concerning a death is imposed, fails to give that information and that information is not given,

commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings.

PART VIII—ADMINISTRATION

60. The Principal Secretary shall be responsible for the efficient administration of this Act, subject to the directions of the Cabinet Secretary.

Responsibility of the Principal Secretary .

61. (1) The Cabinet Secretary shall develop and ensure implementation of administrative measures to address any procedural or social barriers that may limit the enrolment of any individual under this Act.

Measures to ensure inclusion.

(2) An administrative measure developed under subsection (1) shall specifically facilitate the enrolment of any group of persons at risk of exclusion for any reason.

62. The Public Service Commission shall appoint such number of NIIMS officers as may be necessary for the effective implementation of this Act.

Appointment of the NIIMS officers.

63. Any power or function of the Principal Secretary under this Act may be exercised—

Delegation by the Principal Secretary

(a) in person by the Principal Secretary; or

(b) by an officer specifically designated with general or special instructions in that regard.

64. The Principal Secretary shall establish administrative mechanisms to facilitate expeditious handling of complaints by any person aggrieved by any decision made in the implementation of this Act.

Complaints resolution mechanisms.

65. (1) There is established the NIIMS Coordination Committee.

The NIIMS coordination Committee.

(2) The Committee shall comprise of —

(a) the Principal Secretary, who shall be the chairperson;

(b) the Principal Secretary responsible for information, communication and technology;

(c) the Principal Secretary for the National Treasury;

(d) the Principal Secretary responsible for basic education;

(e) the Principal Secretary responsible for matters relating to health;

(f) the Chief Executive Officer of the Independent Electoral and Boundaries Commission;

(g) the Inspector-General of Police;

(h) the Commissioner-General of the Kenya Revenue Authority; and

(i) the Director-General of National Intelligence Service.

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

Functions of the Committee.

- (a) ensure effective co-ordination and implementation of the NIIMS;
- (b) establish a framework for ensuring the compatibility of technology infrastructure among different government agencies to comply with requirements of the NIIMS;
- (c) formulate a framework for coordinating agencies accessing the NIIMS database; and
- (d) perform any other function incidental to the above functions or as may be assigned.

(2) The Committee shall submit a report to the Cabinet at the end of every quarter in respect of its activities and operations.

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

Sub-Committees of the Committee.

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

PART IX—MISCELLANEOUS

68. (1) The Cabinet Secretary may make regulations generally for giving effect to this Act or prescribing anything required or necessary to be prescribed by or under this Act.

Regulations.

(2) Without prejudice to the generality of the foregoing, regulations made under this section may provide for —

- (a) the procedure for registration of births and deaths;
- (b) issuance of Huduma card, Passport, or any other legal identity document;
- (c) data security of the NIIMS; any other particular that may be recorded under the NIIMS database; and
- (d) imposition of fees.

69. The implementation of this Act shall be funded by funds appropriated by Parliament in the annual estimates.

Funding.

70. Upon the commencement of this Act, any agency responsible for a matter set out shall validate foundational data of individuals under their custody with the NIIMS database—

Verification of selected databases.

- (a) registration of adoptions;
- (b) registration of marriages;
- (c) public pension;
- (d) registration of tax payers;
- (e) licensing of drivers;
- (f) national health insurance;
- (g) national social security;
- (h) refugees and asylum seekers;
- (i) public labour records; and
- (j) any other database the Cabinet Secretary may specify.

71. The following Acts are repealed—

- (a) the Births and Deaths Registration Act;
- (b) the Registration of Persons Act; and
- (c) the Kenya Citizens and Foreign Nationals Management Service Act, 2011.

Repeals.
Cap. 149.
Cap. 107.
No. 31 of 2011.

72. (1) Despite section 71, any act or thing done under any of the repealed Acts shall be deemed to have been validly done under this Act and more specifically in relation to—

Savings and transitional provisions

- (a) the issuance of any legal identity document; and
- (b) the mass enrolment of resident individuals into the NIIMS conducted pursuant to section under 9A of the Registration of Persons Act, shall be deemed to have been done this Act.

(2) An identity card issued under the Registration of Persons Act (now repealed) shall continue to be valid up to such time as the Cabinet Secretary may by notice in the *Gazette* specify.

(3) A Passport or any travel document issued under the Kenya Citizenship and Immigration Act prior to the commencement of this Act is deemed to have been validly issued under this Act.

(4) A public officer who immediately before the commencement of this Act, was a member of staff of the entities known as the National Registration Bureau, the Civil Registration Services, the Department of Immigration and the Integrated Population Registration Services, shall upon such commitment be deployed to carry out the functions of their respective office within the NIIMS.

(5) The Principal Secretary shall take charge of the assets, liabilities, and any contracts belonging to or under possession of the agencies referred to under subsection (4) and may deploy such assets for the performance of the relevant activities under this Act.

73. The laws specified in the first column of the Second Schedule are amended as respectively specified in the second and third columns.

Consequential
amendments.

FIRST SCHEDULE**(S. 5)****NIIMS DATABASE ENTRIES**

The following particulars of a resident individual shall be recorded in the NIIMS database—

1. Foundational data

- (a) full name;
- (b) date of birth;
- (c) place of birth;
- (d) gender;
- (e) photograph of prescribed size;
- (f) required biometric data; and
- (g) nationality.

2. Contacts details

- (a) Primary phone number;
- (b) email address; and
- (c) address of usual place of residence

3. Personal reference numbers

- (a) Huduma Namba;
- (b) birth entry number;
- (c) Kenyan passport number, if any;
- (d) tax payer PIN details;
- (e) Number of a driving licence issued, if any;
- (f) National Hospital Insurance Fund number, if any;
- (g) National Social Security Fund number, if any;
- (h) National Education Management Information System number, where applicable;
- (i) Number of any immigration document issued to an individual;
- (j) Number of any identity detail issued by any authority outside Kenya;

4. Record history

- (a) particulars of changes affecting that information and of changes made to the individual's entry in the database;
- (b) date of the individual's death, where death occurs.

5. Registration history

- (a) date of every application made;
- (b) date of every application by the individual for a modification of any individual's entry;
- (c) date of every application by the individual confirming the contents of the entry or entries made in the database;
- (d) reason for any omission from the information recorded in the individual's entry;
- (e) particulars of every Huduma card issued;
- (f) Any revocation of Huduma card; and
- (g) particulars of every person who has countersigned an application by the individual so far as those particulars were included on the application; and

6. Validation information

- (a) a password or other code to be used for that purpose or particulars of a method of generating such password or code;
- (b) questions and answers to be used for identifying a person seeking to make such an application or to apply for or to make a modification of that entry.

SECOND SCHEDULE (S. 73)
CONSEQUENTIAL AMENDMENTS

Written Law	Section	Amendment
The Interpretation and General Provisions Act (Cap. 2)	2	Insert the following new definition in proper alphabetical sequence— “gender” includes male, female and intersex;”
The Tax Procedures Act (No. 29 of 2015)	8	Insert the following new subsections immediately after subsection (9)— (10) Every resident individual who has enrolled into the NIIMS established under the Huduma Act shall by default be registered as a taxpayer upon attaining the age of eighteen years. (11) On completion of initial enrolment of resident individuals under the Huduma Act, the Commissioner shall activate tax obligation of every resident individual above the age of eighteen years not registered as a taxpayer.
	11	Insert the following new subsection immediately after subsection (1)— (2) The Huduma Namba assigned to an individual under the Huduma Act, 2021 shall serve as PIN for the purpose of tax law.
The Kenya Citizenship and Immigration Act (No. 12 of 2011)	2 (1)	(1) Delete the definitions of the following words— (a) “Board”; (b) “Director”; (c) “Immigration officer”; (d) “Passport”; and (e) “Service”. (2) Insert the following new definitions in proper alphabetical sequence— “NIIMS officer” has the meaning

		<p>assigned to it under the Huduma Act, 2021;</p> <p>“Passport” has the meaning assigned to it under the Huduma Act, 2021; and</p> <p>“Principal Secretary” means the principal secretary responsible for matters relating to registration of persons, immigration and citizen services”.</p>		
	2(2)	Delete.		
	No. 12 of 2011	<p>(1) Delete the words “immigration officer” wherever they appear and substitute therefor the words “NIIMS officer”; and</p> <p>(2) Delete the word “Director” wherever it appears and substitute therefor the words “Principal Secretary”.</p>		
	4(1)	Delete the words “The Service shall appoint a Director to” and substitute therefor the words “The Principal Secretary shall”		
	4 (2)	<p>Delete and substitute therefor the words “The Principal Secretary shall be responsible for”</p> <p>Delete the word “Service” appearing in paragraphs (h) and (j) and substituting therefor the words “Cabinet Secretary”</p>		
	5	<p>Delete and substitute therefor the following new section—</p> <table border="1" data-bbox="532 1367 1071 1599"> <tr> <td>Appointment of NIIMS officers.</td> <td>5. The Public Service Commission shall appoint such NIIMS officers as may be necessary for the carrying out of the provisions of this Act.</td> </tr> </table>	Appointment of NIIMS officers.	5. The Public Service Commission shall appoint such NIIMS officers as may be necessary for the carrying out of the provisions of this Act.
Appointment of NIIMS officers.	5. The Public Service Commission shall appoint such NIIMS officers as may be necessary for the carrying out of the provisions of this Act.			
	24	Repeal		

	25	Repeal
	26	Repeal
	27	Repeal
	28	Repeal
	29	Repeal
	30	Repeal
	32	Repeal
The Refugees Act (No. 13 of 2006)	14(a)	Delete and substitute therefor the following paragraph— (f) be eligible to be assigned with a Huduma Namba and be issued with a Huduma card.
	15 (1) (a)	Delete and substitute therefor the following paragraph— (a) be eligible to be assigned with a Huduma Namba and be issued with a Huduma card
	15 (1) (b)	Delete
The National Hospital Insurance Fund Act (No. 9 of 1998)	21(1)	Delete and substitute therefor the following subsection— (1) The Huduma Namba issued to an individual under the Huduma Act shall be used to access any service under the Fund.
	21(2)	Delete
The Elections Act (No. 24 of 2011)	4	Insert the following new subsection immediately after subsection (3)— (4) The Commission may use the information contained under the NIIMS database to compile, maintain, revise and update the voters' register.
	8	Insert the following new subsection

		<p>immediately after subsection (3)–</p> <p>(3) For purposes of paragraph 2(b), the Commission may utilise the NIIMS database as established under the Huduma Act</p>
	8A (2)	<p>Delete and substitute therefor the following subsection–</p> <p>(2) The Commission may utilise the information under in the NIIMS database for the purpose of conducting an audit under subsection (1).</p>
The Marriage Act, 2014	New provision	<p>Insert the following new section immediately after section 93–</p> <p>Defining a marriage into NIIMS database.</p> <p>93A. (1) The Registrar shall cause the following actions to be defined into the National Integrated Identity System database–</p> <ul style="list-style-type: none"> (b) registration of a marriage; and (c) annulment of a marriage. <p>(2) Upon receipt of information under subsection (1), a NIIMS officer shall –</p> <ul style="list-style-type: none"> (a) update the particulars of parties under the NIIMS database to reflect the new status; and (b) cause the certificate of marriage or decree of annulment of marriage to be accessible

			by parties under the NIIMS database.
The Children Act, No. 8 of 2001	170	Insert the following new subsection immediately after subsection (5)—	“(6) The Registrar shall communicate a successful completion of adoption to a designated NIIMS officer and cause the particulars of the parties to be updated in accordance with the Huduma Act.”
The Traffic Act, Cap. 403	34	Insert the following new subsection immediately after subsection (1)—	“(1A) A licensing officer shall utilise the NIIMS database for personal data of an applicant for the purpose of issuing a licence under subsection (1).”

MEMORANDUM OF OBJECTS AND REASONS

One of the observed shortcomings on Kenya's identity ecosystem is the fact that the two identity modes—the foundational and functional systems—have little interoperability. Foundational systems are civil registrations meant to provide general identification for official purposes, such as a national ID, birth certificate and refugee registrations while functional systems are registrations for a particular service or transaction such as health cards, passports and driving licences, each relating to a particular agency.

The national Identity card, despite having all the personal data details, including biometrics, has very little utility in functional areas. The failure to have linkage between foundational and functional systems has led to duplication in registrations of persons, wastage of resources and diminution of trust in the identity ecosystem

This Bill seeks to reform the identity ecosystem. It adopts the foundational Identity system model. It establishes the National Integrated Identity Management System (NIIMS) that will be a primary database for both foundational and functional data, from which every other database with personal data of residents in Kenya, such as databases of voters, taxes, and social services, will be built. This will create an efficient identity system that will present opportunities for fiscal savings, development of the digital economy and enhanced public and private sector service delivery.

Part I contains preliminaries and sets out the objects of the Act.

Part II establishes NIIMS, which will operate as a single source of personal data for all citizens and resident individuals in Kenya. The set up of NIIMS is guided by the principles of Digital Object Architecture. It includes three components namely: NIIMS database, Huduma Namba, and Huduma Card.

Part III sets out procedure on the enrolment into NIIMS of the stock population. The first enrolment is for mass registration of resident individual, with the other being continuous enrolment. The part further offers guidance on continuous update of personal data, assignment of Huduma Namba and issuance of Huduma Card.

Part IV provides for registration of births and enrollment of newborns where the Huduma Namba shall be issued at birth. Upon death, the Huduma Namba of a deceased person is retired and Huduma Card revoked.

Part V contains provisions on issuance of passports. The part consolidates and restates the law on issuance of passports and provides

that only Huduma Namba and data contained under the NIIMS database would be utilized to issue a passport and consequently scraps other onerous requirements.

Part VI sets out data protection safeguards accorded to NIIMS. The part adopts international best principles of data protections. The Principal Secretary is designated as the data controller for the NIIMS, with a mandate to ensure data privacy rights of enrolled persons is observed. The part specifically incorporates the Data Protection Act to apply for data protection under the Act.

Part VII outlines offences for various acts of contravening the Act. The part designates NIIMS as a protected computer system within the meaning of section 20(2) of the Computer Misuse and Cybercrimes Act, 2018. For clarity, the penalties for offences are provided for under the schedule.

Part VIII provides for the administration of the Act. It designates the constitutional office of the Principal Secretary to be responsible for proper administration of the Act. It further establishes a co-ordination committee to provide a seamless collaboration between various government agencies.

Part IX has provisions empowering the Cabinet Secretary to further make regulations to implement the Act.

Part X contain general provisions, which include repeal of various laws dealing with activities collapsed under NIIMS and transition of staff conducting activities under those laws.

Schedules The First Schedule of foundational and functional data to be contained under the NIIMS database. The Second Schedule sets out consequential amendments on various laws to align them with this Act.

Statement on the delegation of legislative powers

The Bill delegates legislative powers. It confers on the Cabinet Secretary the powers to make regulations under the Act in order to implement its objectives.

Statement on limitation of fundamental rights and freedoms

The Bill does not limit any fundamental right or freedoms.

Statement on whether the Bill concerns County Governments

The Bill does not deal with any matter concerning the County Governments in terms of Article 110(1) (a) and does not contain any matter affecting any function of county governments as outlined under the Fourth Schedule to the Constitution.

Statement on whether the Bill is a money bill

The enactment of this Bill may occasion additional expenditure of public funds. It is a money bill within the meaning of Article 114 of the Constitution.

Dated the 1st December, 2021.

AMOS KIMUNYA,
Leader of Majority Party.

Section 34 of Cap 403 which it is proposed to amend—

Form of Application

34. (1) Applications for driving licences and provisional licences shall be made to a licensing officer in the prescribed form, accompanied by the prescribed fee, and the particulars required in such form shall be signed by the applicant.

(2) Subject to subsection (3) of section 30, any person holding a driving licence endorsed in respect of any class of motor vehicle who wishes his licence endorsed in respect of another class or classes of motor vehicles shall apply to a licensing officer in the prescribed form and pay the prescribed fee, and the particulars and declaration in such form shall be signed by the applicant.

Section 21 of No. 9 of 1998 which it is proposed to amend—

Cards and Evidence of Payment of Contributions

21(1) Subject to the provisions of this section and to such other terms or conditions as the Board may prescribe, there shall, upon application, be issued to every person who is liable as a contributor to the Fund in any financial year, a National Hospital Insurance Card for that year, and there shall be inscribed on that card, at such time and in such manner as may be prescribed, the full name of the contributor and such other particulars as may be prescribed.

(2) Before a card is issued to any person under this section, the Board may require the person—

- (a) to produce evidence that he is likely to be liable as a contributor in that year;
- (b) to produce evidence that he has in that year and in the immediately preceding year paid every standard contribution that he was liable to pay; and
- (c) to surrender any card issued to or in respect of that person for the immediately preceding financial year.

(3) For the purposes of ascertaining whether the standard contribution for any month has been paid by any person, any officer duly authorised by the Board may put such questions, whether orally or in writing, to that person, or require that person to furnish such information or particulars or to produce such documents or other papers as, in his opinion, are necessary for that purpose.

(4) Any person who—

- (a) knowingly makes any false statement, whether orally or in writing, relating to any matter affecting his liability to pay any standard contribution; or

- (b) being required under sub-section (3) to answer any question, furnish information or particulars or produce any document or paper, refuses or neglects to do so without reasonable cause, commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(5) For the purposes of this section, the following shall constitute conclusive evidence that a contribution for any month in any financial year has been paid by a person—

- (a) a stamp duly affixed to a card issued to that person for that month, and duly cancelled, in accordance with the provisions of this Act;
- (b) a receipt issued under section 23(2);
- (c) a record of payment in the register of contributors to the Fund kept in accordance with section 23(1) of this Act;
- (d) in the case of a standard contribution, a record in the contributor's monthly pay-slip that the contribution has been deducted from his salary for the month or months at issue.

(6) Any person who knowingly uses a card which does not belong to him, or which is not validly issued, to claim a benefit from the Fund, commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding eighteen months, or to both.

Section 170 of No. 8 of 2001 which it is proposed to amend—

Registration of Adoption Orders

170. (1) Every adoption order made by the court shall contain a direction to the Registrar-General to make an entry in the Adopted Children Register in the prescribed form.

(2) For the purposes of compliance with the requirements of subsection (1)—

- (a) where the precise date of the child's birth is not proved to the satisfaction of the court, the court shall determine the probable date of his birth and the date so determined shall be specified in the order as the date of his birth; and
- (b) where the country of birth of the child is not proved to the satisfaction of the court, the particulars of that country may, notwithstanding anything in that subsection, be omitted from the order and from the entry in the Adopted Children Register.

(3) Where upon an application to the court for an adoption order in respect of a child not being a child who has previously been the subject of an adoption order made by the court under this Act or the Adoption Act (Cap. 143) (now repealed), there is proof to the satisfaction of the court of the identity of the child to whom an entry in the Register of Births relates, any adoption order made in pursuance of the application shall contain a direction to the Registrar-General to cause the entry in the Register of Births to be marked with the word “Adopted”.

(4) Where an adoption order is made by the court in respect of a child who has previously been the subject of an adoption order made by such court under this Act or the Adoption Act (Cap. 143) (now repealed), the order shall contain a direction to the Registrar-General to be marked with the word “Re-adopted”.

(5) Where an adoption order is made by the court, the court shall cause the order to be communicated in the prescribed manner to the Registrar-General, and upon receipt of such communication, the Registrar-General shall cause compliance to be made with the directions contained in the order both with regard to marking an entry in the Register of Births with the word “Adopted” and in regard to making the appropriate entry in the Adopted Children Register.

Section 14 of No. 13 of 2006 which it is proposed to amend—

Residence in Kenya

14. Every refugee and asylum seeker shall— (a) be issued with a refugee identity card or pass in the prescribed form; (b) be permitted to remain in Kenya in accordance with the provisions of this Act; and (c) not leave the designated refugee camp without the permission of the Refugee Camp Officer.

Section 15 of No. 13 of 2006 which it is proposed to amend—

Provisions Relating to the Families of Refugees

15. (1) A member of the family of a refugee who has entered Kenya shall, subject to subsection (3) and any other provisions of this Act—

- (a) be issued with a refugee identity card in the prescribed form on attaining the age of eighteen years;
- (b) be issued with a refugee identification pass if below the age of eighteen years; and
- (c) subject to subsections (2) and (3), be permitted to remain within Kenya for as long as the refugee concerned is permitted to so remain: Provided that such member of the family has not been excluded under section 3(3).

(2) The Commissioner may grant permission to a dependent member of the family of a refugee upon application to enter and reside in Kenya and such a member shall be entitled to the rights and privileges specified in section 15 for such period as the refugee is entitled to remain in Kenya.

(3) Upon the death of a refugee or upon the refugee's divorce or legal separation from the refugee's spouse, every person who, immediately before such death, divorce or legal separation was within Kenya as a member of the family of such refugee shall be permitted to continue to remain in Kenya in accordance with the provisions of this Act.

(4) Nothing in this section shall prevent a member of the family of a refugee or a person who has under subsection (2) been permitted to continue to remain in Kenya from applying for recognition as a refugee under section 11.

Section 2 of No. 12 of 2011 which it is proposed to amend—

Interpretation

2.(1) In this Act, unless the context otherwise requires—

“application” means a request in a prescribed form made under this Act;

“Board” means the Kenya Citizens and Foreign Nationals Management Service Board established under section 5 of the Kenya Citizens and Foreign Nationals Management Service Act;

“border” means the national borders of Kenya and includes the ports of entry, the coastlines and the outer margin of territorial waters;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to citizenship and the management of foreign nationals;

“carrier” includes any ship, boat, aircraft, wagon, truck, or any other vessel of conveyance;

“certificate of registration” means a certificate of registration issued under section 18; “child” means any human being under the age of eighteen years;

“dependant” means a person who by reason of age, disability or any status of incapacity is unable to maintain himself or herself adequately and relies on another person for his maintenance;

“deportation” means the action or procedure aimed at causing an illegal foreign national to leave the country either voluntarily or compulsorily, or under detention in terms of this Act and the verb ‘to deport’ has a corresponding meaning;

“director” means any person appointed as a director under section 16 of the Kenya Citizens and Foreign Nationals Management Service Act, 2011;

“entry” means admission into Kenya at a designated port of entry on the basis of the authority to do so validly granted under this Act;

“exit” means departing Kenya from a designated port of entry in compliance with this Act;

“foreign national” means any person who is not a citizen of Kenya;

“foreign nationals order” means an order made by the Cabinet Secretary under section 56;

“foreign national registration certificate” means a registration certificate issued under section 56;

“habitual residence” means stable, factual residence of a person, in Kenya;

“holding facility” means any place designated as a holding facility under section 50 of this Act;

“human smuggling” means the procurement, in order to obtain, directly or indirectly a financial or other material benefit, of the illegal entry (and exit) of a foreign national into and outside Kenya;

“immigration officer” means the Director and any of the persons appointed as an immigration officer under section 16 of the Kenya Citizens and Foreign Nationals Management Service Act (No. 31 of 2011);

“inadmissible person” means a person declared under section 33(2) as an inadmissible person;

“Kenya mission” includes an office of a consular officer of the Government of Kenya and where there is no such office, such other office as may be prescribed;

“marriage” means a legally sanctioned conjugal relationship between a man and a woman intended to be permanent and recognized under the laws of Kenya;

“pass” means a pass issued pursuant section 36;

“passport” means a passport issued under this Act or issued by any lawful authority or government recognized by the Government of Kenya;

“permit” means a permit issued under section 40;

“permanent resident” means a person who has acquired permanent residence status under section 38 and has not subsequently lost that status;

“permanent residence” means a status granted to a person under section 37;

“piracy” has the meaning assigned under section 369 of the Merchant Shipping Act, 2009 (No. 4 of 2009);

“premises” means any building, structure, enclosure or tent together with or without the land on which it is situated and the adjoining land used in connection with it and includes any land without any building structure or tent and any vehicle, conveyance, vessel or ship;

“prohibited immigrant” means a person declared as a prohibited immigrant under section 33(1);

“port” means a designated place where a person has to report before he or she may move, sojourn, enter, exit or remain within the country;

“Service” means the Kenya Citizens and Foreign Nationals Management Service established under the Kenya Citizens and Foreign Nationals Management Service Act, 2011;

“stateless person” means a person who is not recognized as a citizen by any state under the operation of the laws of any state;

“travel document” means a document issued under this Act or issued by any lawful authority or government recognized by the Government of Kenya for the purpose of travel;

“trafficking in persons” has the meaning assigned to it by section 3 of the Counter Trafficking in Persons Act, 2010 (No. 8 of 2010);

“visa” means a visa issued under this Act or issued by any lawful authority or government recognized by the Government of Kenya.

(2) Despite subsection (1), until after the first elections under the Constitution, references in this Act to the expression “Cabinet Secretary” shall be construed to mean “Minister”.

Section 4 of No. 12 of 2011 which it is proposed to amend—

Appointment and Functions of Director

4.(1) The Service shall appoint a Director to be in charge of citizenship and immigration matters.

(2) The Director shall subject to such directions as may from time to time be given by the board perform the following functions—

- (a) advising the Cabinet Secretary on matters relating to grant and loss of citizenship;
- (b) the issuance of passports and other travel documents;
- (c) designating ports and points of entry and exit;
- (d) border management including the control and regulation of entry and exit of all persons at ports and points of entry and exit;
- (e) the control and regulation of residency;
- (f) advising the Cabinet Secretary on declaration and removal of prohibited immigrants and inadmissible persons;
- (g) provision of consular services at missions abroad;
- (h) advising the Service on citizenship and immigration matters;
- (i) conducting research, collection and analysis of data and management of records; and
- (j) performing any other functions as may be directed by the Service.

(2) The Director and all immigration officers under his or her charge shall perform their duties in accordance with the values and principles prescribed in the Constitution.

Section 5 of No. 12 of 2011 which it is proposed to amend—

Appointment of Immigration Officers

5. The Service shall appoint such immigration officers as may be necessary for the carrying out of the provisions of this Act.

Section 24 of No. 12 of 2011 which it is proposed to amend—

Persons Entitled to Passports and Other Travel Documents

24. (1) Every citizen is, subject to this Act, entitled upon application, in the prescribed manner, to be issued with a passport or other travel documents to facilitate international travel.

(2) A passport or travel document issued under this Act shall remain the property of the Government of Kenya.

(3) Notwithstanding subsection (2), a passport validly issued under this Act must remain in the possession of its holder until such time as there is lawful cause for its withdrawal, suspension or confiscation.

(4) The Cabinet Secretary may subject to the Constitution and subject subsection (1), prescribe the information to be provided in a passport or travel document.

Section 25 of No. 12 of 2011 which it is proposed to amend—

Types of Passports and other Travel Documents

25. (1) The following types of passports and travel documents may be issued under this Act—

- (a) Ordinary passport, issued on application to any citizen of Kenya;
- (b) Diplomatic passport, issued to such persons as may be prescribed in Regulations;
- (c) East African Passport, issued to a citizen of Kenya who intends to travel within the Partner States in East African Community;
- (d) Temporary passport, issued to any citizen of Kenya who for special circumstances cannot travel on an ordinary passport;
- (e) Emergency Travel Document, issued to a citizen of Kenya who is stranded outside Kenya or is being deported;
- (f) Certificate of Identity and Nationality, issued to a person other than a citizen of Kenya who cannot obtain a passport from the country of citizenship for the purpose of traveling outside Kenya;
- (g) Temporary Permit, issued to a citizen of Kenya who intends to travel within the East African Community Partner States or to such States as may be prescribed by the Cabinet Secretary; and
- (h) Travel Document issued subject to the provisions of the Refugee Act, 2006 (No. 13 of 2006), and any other Humanitarian Convention.

(2) The Cabinet Secretary may make regulations prescribing the form of passport and other travel documents.

(3) Notwithstanding the provisions of subsection (1), the Cabinet Secretary may after consultations with relevant agencies, by order, in the Gazette, declare any other document to be a travel document for the purpose of this Act.

Section 26 of No. 12 of 2011 which it is proposed to amend—

Validity of Passports and other Travel Documents

26. (1) An Ordinary or Diplomatic passport shall be valid —

- (a) for use in all countries in the world, except for any countries specified in the passport; and
- (b) for a period that does not exceed ten years from the date of issue, and in the case of children for a period not exceeding five years.

- (2) An East African passport shall be valid for—
- (a) use in all Partner States in the East African Community or for such other countries as may be prescribed by the Cabinet Secretary;
 - (b) a period not exceeding ten years from the date of issue, and in the case of children for a period not exceeding five years.
- (3) A temporary passport shall be valid for—
- (a) use in all countries in the world, except for any countries specified in the temporary passport in respect of which it is stated not to be valid; and
 - (b) a period not exceeding one year from the date of issue.
- (4) An emergency travel document shall be valid for—
- (a) travel to Kenya and other countries of transit; and
 - (b) a single journey for a period stated therein;
- (5) A Certificate of Identity and Nationality is valid for travel to all countries stated therein and shall be valid for a period not exceeding two years from the date of issue.
- (6) A Temporary Permit shall be valid for—
- (a) travel in all partner states in the East African Community or for such other countries as may be prescribed by the Cabinet Secretary; and
 - (b) a period not exceeding one year from the date of issue.
- (7) Travel Document issued to a refugee shall be valid for travel to all countries except the country of the holder's nationality and shall be valid for a period of five years.

Section 27 of No. 12 of 2011 which it is proposed to amend—

Application for and Issuance of Passports and other Travel Documents

27. (1) An application for issuance or replacement of a passport or other travel document shall be in the prescribed form.

(2) A person who wishes to apply for a passport shall appear in person before an immigration officer and make an application in the prescribed manner: Provided that in special circumstance the Director may use his discretion to dispense with personal appearance.

(3) An application made under subsection (1) shall be accompanied by—

- (a) the birth certificate or adoption certificate of the applicant;
- (b) the national identity card of the applicant; or
- (c) a certificate of registration or naturalization, where applicable; or
- (d) service identity cards for members of the Defence Force;
- (e) passport size photographs as may be determined in Regulations;
- (f) in case of an applicant who is a child or with a disability that renders them dependent, the parent's or legal guardian's written consent;
- (g) the prescribed fee; and
- (h) such other documentation or information as the Director may require to ascertain the citizenship status of the applicant.

(4) An immigration officer shall, subject to this Act, issue or replace passports and other travel documents to any applicant.

(5) A passport or a travel document issued under this Act shall contain information prescribed by the Cabinet Secretary.

Section 28 of No. 12 of 2011 which it is proposed to amend—

Application for Replacement of a Passport and other Travel Document

28. (1) Where the holder of a passport or other travel document requires a replacement of the passport or travel document or wishes to change the particulars in the passport or travel document, the holder shall apply in the prescribed manner.

(2) An application made under subsection (1) shall not be considered unless accompanied by the passport or travel document that is being held by the applicant.

(3) Upon issuance of a new passport or travel document the previously issued passport or travel document shall be cancelled.

Section 29 of No. 12 of 2011 which it is proposed to amend—

Lost, Stolen Mutilated or Damaged Passport

29. (1) Where a passport or travel document is lost or stolen, the holder shall report the loss or theft to the nearest police station and immigration office or if outside the country, to the nearest Kenya mission.

(2) The immigration officer shall upon receiving information of the loss or theft of the passport or travel document, notify all immigration offices, Kenya missions abroad and other relevant authorities, of the loss or theft of the passport or travel document.

(3) Any person whose passport or travel document is lost, stolen, mutilated or damaged may apply for replacement, in the prescribed form and pay the prescribed fee.

(4) An application under subsection (3) shall be accompanied by a statutory declaration or a sworn affidavit of the circumstances surrounding the loss, theft, mutilation or damage of the passport or travel document.

(5) The immigration officer may, where a passport or travel document is lost, stolen, mutilated or damaged outside Kenya, issue or cause to be issued a passport or travel document upon the applicant complying with the provisions of subsections (3) and (4) as far as is reasonably possible.

Section 30 of No. 12 of 2011 which it is proposed to amend—

Rejection of an Application for a Passport or other Travel Document

30. (1) An immigration officer shall reject an application for a passport or other travel document where the applicant—

- (a) is not a citizen in the case of an application for passport;
- (b) does not qualify under the provision of this Act in the case of other Travel Documents;
- (c) gives false material information for the purpose of obtaining a passport or other travel document; or
- (d) submits an incomplete application.

(2) Where an application for passport or other travel document has been rejected, the immigration officer shall within fourteen days give the reasons for rejection to an applicant, in writing.

Section 32 of No. 12 of 2011 which it is proposed to amend—

Passports and Travel Documents to be Evidence of Citizenship and Domicile.

32. (1) A passport shall be prima-facie evidence of the citizenship or domicile of the holder, as the case may be, and of their entitlement to state protection.

(2) Notwithstanding subsection (1), possession of a passport or travel document does not bar inquiry, investigation or judicial proceedings pertaining to the validity of the passport.

Section 4 of No. 24 of 2011 which it is proposed to amend—

Register of Voters

4. (1) There shall be a register to be known as the Register of Voters which shall comprise of—

- (a) a poll register in respect of every polling station;
- (b) a ward register in respect of every ward;
- (c) a constituency register in respect of every constituency;
- (d) a county register in respect of every county; and
- (e) a register of voters residing outside Kenya.

(2) The Commission shall compile and maintain the Register of Voters referred to in subsection (1).

(3) The Register of Voters shall contain such information as shall be prescribed by the Commission.

Section 8 of No. 24 of 2011 which it is proposed to amend—

Updating of the Register of Voters

8. (1) The Commission shall maintain an updated Register of Voters.

(2) For purposes of maintaining an updated register of voters, the Commission shall—

- (a) regularly revise the Register of Voters;
- (b) update the Register of Voters by deleting the names of deceased voters and rectifying the particulars therein;
- (c) conduct a fresh voter registration, if necessary, at intervals of not less than eight years, and not more than twelve years, immediately after the Commission reviews the names and boundaries of the constituencies in accordance with Article 89(2) of the Constitution;
- (d) review the number, names and boundaries of wards whenever a review of the names and boundaries of counties necessitates a review; and
- (e) revise the Register of Voters whenever county boundaries are altered in accordance with Article 94(3) of the Constitution.

Section 8A of No. 24 of 2011 which it is proposed to amend—

Audit of the Register of Votes

8A (1) The Commission may, at least six months before a general election, engage a professional reputable firm to conduct an audit of the Register of Voters for the purpose of—

- (a) verifying the accuracy of the Register;
- (b) recommending mechanisms of enhancing the accuracy of the Register; and
- (c) updating the register.

(2) The Kenya Citizens and Foreign Nationals Management Service established under section 3 of the Kenya Citizens and Foreign Nationals Management Service Act (No. 3 of 2011) shall make available to the Commission the information held by it in the national population register for the purpose of the conduct of an audit under subsection (1).

Section 8 of No. 29 of 2015 which it is proposed to amend—

Registration of Taxpayers

8. (1) A person who—

- (a) has accrued a tax liability or who expects to accrue a tax liability under the Income Tax Act or the Value Added Tax Act, 2013;
- (b) expects to manufacture or import excisable goods; or
- (c) expects to supply excisable services; shall apply to the Commissioner to be registered.

(2) An application for registration under subsection (1) shall be—

- (a) made in the prescribed form;
- (b) accompanied by documents that the Commissioner may require, including documents of identity; and
- (c) made within thirty days of the applicant becoming liable for that tax.

(3) Where a person liable for a tax under a tax law is required or has the option to register under that tax law, that person shall comply with the provisions of that tax law and this Act regarding registration.

(4) The Commissioner shall register a person who has applied for registration if the Commissioner is satisfied that the person is liable for tax under a tax law.

(5) When the Commissioner refuses to register a person who has applied for registration, the Commissioner shall inform that person in writing within fourteen days of the decision not to register that person.

(6) The Commissioner may use the information obtained under subsection (2) to register or license the applicant under the provisions of any other tax law without requiring that applicant to separately apply to be registered or licensed under that other tax law.

(7) If the Commissioner decides to register or license an applicant under subsection (6), the Commissioner may require the applicant to provide additional information or documents for the purposes of that other registration or licensing.

(8) The Commissioner may, on his or her own motion, register a person who was required to apply for registration under subsection (1) but who has not applied for registration.

(9) The Commissioner shall notify in writing a person registered under subsection (8) of that person's registration.

Section 11 of No. 29 of 2015 which it is proposed to amend—

Personal Identification Number

11. The Commissioner shall issue a number, to be known as a personal identification number ("PIN"), to a person registered for the purposes of a tax law and that person shall use the PIN as may be required under this Act.

