

THE PRIVATIZATION (AMENDMENT) BILL, 2016

A Bill for

AN ACT of Parliament to amend the Privatization Act, 2005

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the Privatization (Amendment) Bill, 2016.

Short title.

2. The Privatization Act, 2005, is amended in section 2—

Amendment of section 2 of No. 2 of 2005.

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

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for finance;

“County Government” means the county government established by Article 176(1) of the Constitution”.

(b) by deleting the definition of the word “Minister” and substituting therefor the following new definition—

“Minister” means Cabinet Secretary.

3. The Privatization Act is amended in section 5(1)(d) by deleting the words “and approved by the relevant committee of Parliament” and substituting therefor the words “through a competitive process”.

Amendment of section 2 of No. 5 of 2005.

4. The Privatization Act, 2005, is amended in section 6—

Amendment of section 6 of No. 2 of 2005.

(a) by re-numbering the provision as subsection (1); and
(b) by inserting the following new subsection—

(2) A member appointed under section 5(1)(d) shall be eligible for reappointment as provided for under subsection (1) subject to favourable performance evaluation.

5. The Privatization Act, 2005, is amended in section 23—

Amendment of section 23 of No. 2 of 2005.

(a) in subsection (1), by inserting the words “to the Cabinet Secretary” immediately after the words “proposal for privatization”; and

(b) by deleting subsection (2) and substituting therefor

the following subsection—

(2) The Cabinet Secretary shall present the privatization proposals specified in subsection (1) to the Cabinet for approval.

6. The First Schedule to the Privatization Act, 2005, is amended in paragraph 2 by deleting subparagraph (3) and substituting therefor the following subparagraph—

Amendment of First
Schedule to No. 2 of
2005.

(3) The quorum for the conduct of business at a meeting of the Commission shall be at least two-thirds of the members of the Commission.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

This Bill has been submitted by the Cabinet Secretary for the National Treasury in line with the proposals announced in the Budget for 2016/2017. The object of this Bill is to amend the Privatization Act, 2005, to address the reappointment of serving members of the Commission upon the expiry of their first term of office, and the challenge of delay in the presentation of privatisation proposals to Parliament following approval by Cabinet.

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

The Bill does not delegate any legislative power nor limit any fundamental right or freedom.

Statement of how the Bill concerns county governments.

The Bill concerns county governments in terms of Article 109(4) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

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

The Bill is a money Bill within the meaning of Article 114 of the Constitution.

Dated the 9th June, 2016.

ADEN DUALE,
Leader of the Majority Party, National Assembly.

Section 5(1)(d) of Act No. 2 of 2005 which is intended to amend—

5. (1) The Commission shall comprise the following members—

- (d) seven members, not being public officers, appointed by the Minister and approved by the relevant committee of Parliament, by virtue of their expertise in such matters as will ensure that the Commission achieves its objectives.

Section 23 of Act No. 2 of 2005 which is intended to amend—

23. (1) For each privatization included in the privatization programme the Commission shall make a specific proposal for privatization.

(2) The Minister shall present a report on the privatization proposals approved by the Cabinet to the relevant committee of Parliament.

Paragraph 2 of the First Schedule to Act No. 2 of 2005 which is intended to amend—

2. (3) The quorum for the conduct of business at a meeting of the Commission shall be eight members of the Commission.