

**THE PUBLIC PARTICIPATION BILL, 2024**

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

1. —Short title.
2. —Interpretation.
3. — Object of the Act.

**PART II—PUBLIC PARTICIPATION**

4. — Scope of public participation.
5. — Determination of the responsible authority.

**PART III—GENERAL GUIDELINES FOR PUBLIC PARTICIPATION**

6. — Considerations for public participation.
7. —Notice.
8. —Access to public participation process.
9. —Adequate time.
- 10.—Access to documents.
- 11.—Processing of responses.
- 12.—Conduct in a forum of public participation.

**PART IV—SPECIFIC GUIDELINES FOR PUBLIC PARTICIPATION**

- 13.—Development of specific guidelines for public participation.
- 14.—Publication of specific public participation guidelines.
- 15.—Public participation by Parliament.

**PART V—MISCELLANEOUS PROVISIONS**

- 16.—General penalty.
- 17.—Transitional provision.

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**THE PUBLIC PARTICIPATION BILL, 2024**

**A Bill for**

**AN ACT of Parliament to provide for the conduct of public participation; to give effect to the constitutional principles of democracy and participation of the people under Articles 10(2), 69(1)(d), 118, 184(1)(c), 196, 201(a) and 232(1)(d) of the Constitution; and for connected purposes**

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

**PART I— PRELIMINARY**

Short title.                   **1.** This Act may be cited as the Public Participation Act, 2024.

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

“public office” has the meaning assigned to it under Article 260 of the Constitution;

"responsible authority" means the authority responsible for public participation in the institutions set out under section 6;

“state organ” has the meaning assigned to it under Article 260 of the Constitution; and

“specific guidelines” means the specific public participation guidelines developed by a responsible authority under section 7.

Object of the Act.           **3.** The object of this Act is to enhance, promote and facilitate public participation in governance processes and in particular to—

(a) give effect to the principles of public participation as provided for in Articles 1(2),10(2), 69(1)(d), 118, 184(1)(c), 196, 201(a) and 232(1)(d) of the Constitution;

(b) promote democracy and participation of the people in accordance with Article 10 of the Constitution;

(c) promote transparency and accountability in decision making; and

(d) enhance public awareness and promote public participation in governance processes.

**PART II — PUBLIC PARTICIPATION**

Scope of public participation

**4.** A state organ or public office shall facilitate public participation on matters relating to—

- (a) formulation of policies;
- (b) budgeting and financial management;
- (c) law making processes; or
- (d) any other matter as may be prescribed by law.

Determination of the responsible authority.

**5.** The responsible authority for the purposes of this Act shall be —

- (a) in the case of Parliament, the relevant committee in each House responsible for the matter under consideration;
- (b) in the case of the Judiciary, the Chief Justice;
- (c) in the case of Ministries and state corporations, the relevant Cabinet Secretary;
- (d) in the case of the Office of the Attorney-General, the Attorney-General;
- (e) in the case of the Office of the Director of Public Prosecutions, the Director of Public Prosecutions;
- (f) in the case of a commission or an independent office, the secretary or the chief executive officer;
- (g) in the case of a county assembly, the relevant committee of a county assembly responsible for the matter under consideration; and
- (h) in the case of a county executive committee, the relevant Member of the county executive committee .

**PART III—GENERAL GUIDELINES FOR PUBLIC PARTICIPATION**

Considerations when undertaking public participation.

**6.** A responsible authority shall consider the following when undertaking public participation—

- (a) nature of the matter under consideration;
- (b) urgency of the matter;
- (c) impact of the matter on the public;
- (d) need for inclusive and effective representation;
- (e) number of persons likely to be affected;
- (f) ability of the members of the public to access the necessary information and the public participation forum; and
- (g) integrity and transparency of the process.

Notice.

**7.** (1) A responsible authority shall give the public adequate notice to make their input on the issue.

(2) For purposes of sub-section (1), a responsible authority shall establish mechanisms to enable the widest reach which may include publication of notices in—

- (a) television stations;
- (b) information communication technology centres;
- (c) websites;
- (d) community radio stations;
- (e) public meetings; or
- (f) newspapers.

(3) A public participation programme under sub-section (1) shall clearly identify—

- (a) specific purposes for consultation;
- (b) the community, profession or groups to be consulted;
- (c) the length of the consultations;
- (d) whether submissions should be made orally, in writing or both; and
- (e) the issues or matter for consultation.

Access to public participation processes.

**8.** (1) A responsible authority shall ensure that the public has fair and equal access to the public participation process and the opportunity to give views on the matter under consideration.

(2) A responsible authority shall take reasonable measures to facilitate the participation of women, persons with disabilities, youth, ethnic and other minorities and marginalised communities.

(3) Where the targeted participants are not conversant in the official languages, the responsible authority shall facilitate interpretation for the participants.

Adequate time.

**9.** A responsible authority shall allocate adequate time for consultation during a public participation process.

Access to documents.

**10.** A responsible authority shall facilitate access to documents relating to the matter under consideration.

Processing of responses.

**11.** A responsible authority shall—

- (a) consider and analyse responses received from the public; and
- (b) make available the reasons for the final decision to the public.

Conduct in a forum of public participation.

**12.** (1) A person who attends a forum of public participation shall be courteous, respectful and civil.

(2) The right to freedom of expression set out in Article 33 of the Constitution shall be limited to the extent that it is necessary to facilitate public participation under subsection (1).

(3) A responsible authority may cause the removal of a person who fails to comply with subsection (1) from a forum of public participation.

#### **PART IV—SPECIFIC GUIDELINES FOR PUBLIC PARTICIPATION**

*The Public Participation Bill, 2024*

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Development of specific guidelines for public participation.

**13.** (1) A responsible authority shall develop specific guidelines for undertaking public participation.

(2) The specific guidelines on public participation developed by a responsible authority shall adhere to the standards set out under Part III.

(3) Each House of Parliament and each county assembly shall incorporate guidelines for undertaking public participation in their Standing Orders and ensure that the Standing Orders are accessible to the public.

Publication of specific participation guidelines.

**14.** (1) A responsible authority shall publish the specific guidelines on public participation developed pursuant to section 14 in the *Gazette*.

(2) The provisions of subsection (1) shall not apply to Parliament and the county assemblies.

Public participation by Parliament.

**15.** (1) Pursuant to Article 118(1) of the Constitution, Parliament shall—

- (a) conduct its business in an open manner, and its sittings and those of its committees shall be open to the public; and
- (b) facilitate public participation and involvement in the legislative and other business of Parliament and its committees.

(2) Where a Committee of one House of Parliament has conducted public participation on a Bill, a Committee of the second House of Parliament may—

- (a) rely on the report tabled by the committee of the originating House; or
- (b) seek additional views on the Bill with respect to substantive amendments made to the Bill during its consideration;

(3) A committee of one House may hold a joint public participation exercise with the corresponding committee of the other House with respect to a Bill

*The Public Participation Bill, 2024*

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originating from the Party forming the National Government.

(4) A committee of the second House of Parliament may take steps to avoid duplicating public participation conducted by a committee of the originating House.

**PART V—MISCELLANEOUS PROVISIONS**

General penalty.

**16.** A person who, in conducting public participation, fails to adhere to the principles and obligations set out under this Act commits an offence and shall be liable upon conviction—

(a) in the case of a natural person, to a fine not exceeding three hundred thousand shillings; and

(b) in the case of a juristic person, to a fine not exceeding five hundred thousand shillings.

Transitional provision.

**17.** A public participation exercise in progress at the commencement of this Act shall proceed so far as possible in accordance with this Act.