

No.

2014



THE REPUBLIC OF KENYA

PARLIAMENT
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HIS EXCELLENCY THE PRESIDENT

UHURU KENYATTA

I assent

President

26th JUNE.

, 2014

An Act of Parliament to amend the National Police Service Act

**THE NATIONAL POLICE SERVICE (AMENDMENT)
ACT, 2014**

No. of 2014

**AN ACT of Parliament to amend the National
Police Service Act**

ENACTED by Parliament of Kenya, as follows—

1. This Act may be cited as the National Police Service (Amendment) Act, 2014.

Short title

2. The National Police Service Act, 2011, in this Act referred to as “the Principal Act” is amended by inserting the Long Title as follows—

Amendment of
the long title to
No 11A of 2011

“An Act of Parliament to give effect to Articles 243, 244 and 245 of the Constitution; to provide for the operations of the National Police Service; and for connected purposes.”

3. Section 2 of the Principal Act is amended—

Amendment of
section 2 of No
11A of 2011

(a) in the definition of the word “ Administration Police Service” by deleting the word “ section 25” and substituting therefor the following words “ Article 243 (2) (b) of the Constitution”;

(b) in the definition of the word “Deputy- Inspector General” by inserting “(3)” immediately after the words “Article 245;

(c) in the definition of the word “ Gazetted officer” by deleting the word “superintendent” and substituting therefor the word “ Inspector”;

(d) by deleting the definition of the word “Inspector-General” and substituting therefor the following new definition—

“Inspector-General” means the holder of the office of the Inspector-General appointed in accordance with Article 245 (2) (a) of the Constitution and this Act;

(e) in the definition of the National Police Service by deleting the numbers “ (2)(a)” and substituting therefor the number “(1)”;

(f) by inserting the following new definition in the correct alphabetical order—

“Service Board” means the Service Board established under section 21;

- (g) by deleting the definition of the word “Kenya Police Service” and substituting therefor the following new definition—

“Kenya Police Service” means the Service established under Article 243 (2) (a) of the Constitution.

4. Section 4 of the Principal Act is amended in subsection (2) by deleting the words “and Second” appearing after the word “First”.

Amendment of section 4 of No 11A of 2011

5. The Principal Act is amended by repealing section 5 and replacing it with the following new section—

Repeal and replacement of section 5 of No 11A of 2011

“5. The Service shall—

- (a) uphold the principle that not more than two-thirds of the appointments shall be of the same gender; and
- (b) reflect the regional and ethnic diversity of the people of Kenya.”

6. Section 7 of the Principal Act is amended by inserting a new subsection immediately after subsection (3) as follows—

Amendment of section 7 of No 11A of 2011

(4) The Commission shall, in consultation with the Cabinet Secretary, develop criteria and Regulations to guide the exercise of vetting of officers under subsection (1).

7. Section 8 of the Principal Act is amended in subsection (2) by deleting the words “officers” appearing immediately after the word “an” and substituting therefor the word “officer”

Amendment of section 8 of No 11A of 2011

8. The Principal Act is amended by inserting the following new section immediately after section 8—

Inspector General to be responsible for matters relating to command and discipline of the service

8A. (1) Notwithstanding the provisions of any written law, independent command of the Inspector-General in relation to the Service envisioned in Article 245(2)(b) and section 8 of the Act, means that the Inspector-General shall be responsible for

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all matters relating to the command and discipline of the Service subject to disciplinary control of the Commission.

(2) The Inspector-General shall exercise Command over the National Police Service and lawfully administer, control and manage the National Police Service as a disciplined Service.

(3) The Deputy Inspector –General’s of Kenya Police and Administration Police under the direction of the Inspector-General shall command, control and administer the service for which he or she is responsible.

(4) The Inspector-General shall execute command by issuing lawful orders, directives or instructions to and through the Deputy Inspectors General;

(5) The Cabinet Secretary may lawfully give a direction in writing to the Inspector- General with respect to any matter of policy for the National Police Service.

9. Section 10 of the Principal Act is amended—

Amendment of
section 10 of No
11A of 2011

- (a) in subsection (1) (g), by deleting the words “Commission and the County Policing Authorities”;
- (b) in subsection (1) (l), by inserting the words “taking into consideration the recommendation of the Service Board” immediately after the words “system of the Service”;
- (c) in subsection (1) (m), by adding the words “including compensation to victims of police misconduct” immediately after the words “Independent Policing Oversight Authority”;
- (d) in subsection (3) by adding the words “on enlistment” immediately after the words “police officer”.

10. Section 11 of the Principal Act is amended in subsection (2) (f) by deleting the word “superintendent”

Amendment of
section 11 of No
11A of 2011

and substituting therefor the words “Assistant Inspector-General”.

11. The Principal Act is amended by repealing section 12 and replacing it with the following new section—

Repeal and
replacement of
section 12 of No
11 A of 2011

“12. (1) Pursuant to Article 245 (2) (a) of the Constitution, the Inspector-General of the Service shall be appointed by the President with the approval of Parliament.

(2) The President shall within fourteen days after a vacancy occurs in the office of the Inspector-General, constitute a selection panel comprising one person from each of the following bodies respectively—

- (a) the Office of the President;
- (b) the public service commission;
- (c) the National Police Service commission;
- (d) the Independent Policing Oversight Authority;
- (e) the Kenya National Commission on Human Rights;
- (f) the National Gender and Equality Commission; and
- (g) the Law Society of Kenya.

(3) The Public Service Commission shall—

- (a) convene the first meeting of the selection panel at which the selection panel shall elect a chairperson from among their numbers; and
- (b) provide the selection panel with such facilities and other support as it may require for the discharge of its functions.

(4) The selection panel shall within seven days of its convening, by advertisement in at least two daily newspapers of national circulation, invite applications from persons who qualify for nomination and appointment as the Inspector-General.

- (5) The selection panel shall—
- (a) consider the applications received under subsection (4) to determine their compliance with the provisions of the Constitution and this Act;
 - (b) shortlist the applicants ;
 - (c) publish the names of the shortlisted applicants and qualified applicants in at least two daily newspapers of national circulation;
 - (d) conduct public interviews of the shortlisted persons;
 - (e) shortlist three qualified applicants; and
 - (f) forward the names of the qualified persons under paragraph (e) to the President.

(6). The President shall, within fourteen days of receipt of the names of successful applicants forwarded under subsection (5) (f), nominate a person for appointment as the Inspector-General and submit the name of the nominee to Parliament.

(7) Parliament shall, within fourteen days after it first meets after receiving the names of the nominee—

- (a) consider the suitability of the nominee;
- (b) either approve or reject the nominee for appointment; and
- (c) the Speaker of the National Assembly shall notify the President of the decision of the Parliament.

(8) If Parliament approves the nominee, the President shall, within seven days after receiving the notification to that effect, appoint the nominee as the Inspector-General.

(9) If Parliament rejects a nominee submitted by the President, Parliament shall request the President to submit a new nominee and the provisions of this section shall apply with necessary modifications with respect to the new nominee.

(10) If, after the expiry of a period of thirty days from the date of the nomination of a person for appointment as a Inspector-General under subsection (2), Parliament has neither approved nor rejected the nomination of the person, the nominee shall be deemed to have been approved by the Parliament.

12. Section 13 of the Principal Act is amended by deleting subsection (7).

Amendment of section 13 of No. 11A of 2011.

13. Section 15 of the Principal Act is amended—

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

(2) A person desiring the removal of the Inspector-General on any ground specified in subsection (1) may present a petition to the National Assembly setting out the alleged facts constituting that ground.

Amendment of section 15 of No. 11A of 2011.

(b) by deleting subsection (3).

14. The Principal Act is amended by repealing section 16 and replacing it with the following new section -

Repeal and replacement of section 16 of No. 11A of 2011.

“**16.** The President, on recommendation of the Commission, may appoint one of the Deputy Inspector-General to act as the Inspector General for a period not exceeding three months.”

15. Section 18 of the Principal Act is amended by—

Amendment of section 18 of No. 11A of 2011.

(a) by renumbering Section 18 as 18(1); and

(b) inserting the following new subsections—

(2) A Deputy Inspector-General shall be appointed for a term of five years and may be eligible for re-appointment for a further one term, subject to the age of retirement.

(3) Where the term of office specified under subsection (2) ends before the retirement period, the

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Deputy Inspector-General may be redeployed to the public service.

16. The Principal Act is amended by repealing section 21 and replacing it with the following new section—

Repeal and replacement of section 21 of No 11A of 2011

21. (1) There is established a Service Board which shall consist of the Inspector-General, the two Deputy Inspectors-General, the Director of Criminal Investigation Department and the head of human resource of the Service.

(2) The functions of the Service Board shall be to—

- (a) receive and act on reports submitted to the Service Board;
- (b) facilitate the co-ordination of all police operations;
- (c) advise the Inspector –General on the day to day administration of the Service;
- (d) advise the Inspector-General on matters relating to distribution and deployment in the Service; and
- (e) determine the recommendation of the Service on recruitment, promotions, transfers and discipline for submission to the National Police Service Commission.

(3) The Service Board may establish such committees as may be necessary to carry out their functions.

(4) The Service Board or the Committees established under subsection (3) may co-opt any person into their membership whose expertise or knowledge could add value to the Service.

(5) The Service Board shall appoint a secretary of the Board from amongst the officers of the Service.

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17. Section 22 of the Principal Act is amended by deleting subsection (2) and substituting therefor the following new subsections (2) and (3)—

Amendment of
section 22 of No.
11A of 2011.

(2) The Cabinet Secretary may, on the advice of the Inspector General, by order published in the Gazette, amend the First Schedule.

(3) The Cabinet Secretary shall not amend the ranks of the Inspector-General or the Deputy Inspector-General.

18. Section 23(m) is amended by deleting the words “the Commission” appearing between the words “Inspector-General” and the words “ or as may be prescribed”.

Amendment of
section 23 of No.
11A of 2011.

19. Section 25 of the Principal Act is amended in subsection (1) by deleting the words “Second Schedule” and substituting therefor the words “First Schedule”.

Amendment of
section 25 of No.
11A of 2011.

20. Section 26 of the Principal Act is amended by—

Amendment of
section 26 of No.
11A of 2011.

- (a) inserting the word “manage,” immediately before the word “monitor” in paragraph (d) ;
- (b) inserting a new paragraph immediately after paragraph (l) —
- (m) implement policies and directions of the service in relation to the Administration Police Service”; and
- (c) renumbering paragraph (m) as paragraph (n).

21. (1) Section 29 of the Principal Act is amended—

Amendment to
section 29 of No.
11 A of 2011

- (a) by deleting subsection (2) and substituting therefor the following new subsections—

(2) A Director of Criminal Investigations shall be appointed for a term of five years and may be eligible for re-appointment for a further one term, subject to the age of retirement.

(3) Where the term of office specified under subsection (2) ends before the retirement period, the Director of Criminal Investigations may be redeployed to the public service.

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(b) by renumbering subsections (3) to (8) appropriately.

(c) in subsection 9 (b) (i), by adding the words “in respect of the Directorate” immediately after the word “Inspector-General”.

22. Section 30 of the Principal Act is amended by deleting subsection (7).

Amendment of
section 30 of No
11A of 2011

23. Section 31 of the Principal Act is amended by—

Amendment of
section 31 of No
11A of 2011

(a) deleting the words “excluding the person under investigations” appearing before the words “of all the members” in subsection (3) (c);

(b) adding the following new subsection immediately after subsection (6)—

(7) Where the Director of Criminal investigations is suspended, the Commission shall appoint a person not below the rank of senior superintendent to act for a period not exceeding three months.

24. Section 40 of the Principal Act is amended in subsection (8) by inserting the words “by Regulations” immediately after the words “The Inspector-General may”.

Amendment of
section 40 of No
11A of 2011

25. Section 41 of the Principal Act is amended—

Amendment of
section 41 of No
11A of 2011

(a) by inserting a new paragraph immediately after subsection (1) (a)—

(b) a representative of the National Intelligence Service;

(b) in subsection (1)(b) by deleting the words “the National Intelligence Service”; and

(c) renumbering paragraph (b), (c), (d) and (e) as paragraph (c),(d),(e) and (f), respectively;

(d) in subsection (8), by deleting the words “The Commission” and substituting therefor the following words “The chairperson of council of governors”;

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(e) by deleting subsection (9) (e) and substituting therefor the following new paragraph—

(e) provide oversight of the budget of the funds of the county policing authority;

(f) in subsection (9)(f) by deleting the words “county police”;

(g) in subsection (9) (g) by deleting the words “to do with county policy and the national police service at county level” and substituting therefor the words “relating to county policing”; and

(h) by deleting subsection (9) (h).

26. Section 42 of the Principal Act is amended in subsection (1) by deleting the word “Policy” appearing before the words “Every County” and substituting therefor the word “Policing”.

Amendment of
section 42 of No
11A of 2011

27. Section 49 of the Principal Act is amended—

Amendment of
section 49 of No
11A of 2011

(a) in subsection (7), by deleting the words “that apply” appearing immediately after the word “regulations”;

(b) in subsection (12), by deleting the word “Police” appearing before the words “No member of the” and substituting the word “Service”.

28. Section 50 of the Principal Act is amended in subsection (1) by inserting the word “relevant” immediately before the words “Deputy Inspector-General”.

Amendment of
section 50 of No
11A of 2011

29. Section 56 of the Principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection (1)—

Amendment of
section 56 of No
11A of 2011

(1) A police officer may stop and detain any person whom he or she—

(a) witnesses doing any act or thing which is unlawful;

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|-------------|---|--|
| | (b) finds in possession of anything contrary to any written law. | |
| 30. | Section 65 of the Principal Act is amended— | Amendment of section 65 of No 11A of 2011 |
| | (a) in subsection (1), by deleting the words “or inspector” appearing before the words “any Gazetted Officer”; | |
| | (b) in subsection (3), by deleting the words “the head of the Kenya Police Service in the county” and substituting therefor the words “the head of the National Police Service”. | |
| 31. | The Principal Act is amended by repealing section 72 and replacing it with the following new section— | Repeal and replacement of section 72 of No 11A of 2011 |
| | <p>“72. (1) If it appears expedient in the interests of public order and safety, the Inspector-General with the approval of the National Security Council may request the National Police Service Commission to appoint persons to be special police officers for such period and within such area as may be considered necessary.</p> <p>(2) Such officer shall, during the period of service as a special police officer, be deemed to be a police officer for the purposes of this Act.</p> <p>(3) Upon request by the Inspector-General, the Commission shall appoint the officers referred to under subsection (1).”</p> | |
| 32. | Section 76 of the Principal Act is amended in subsection (1) by inserting a proviso at the end as follows— | Amendment of section 76 of No 11A of 2011 |
| | “Provided that, retirement from the Service under this section shall be subject to any written law. | |
| 33. | The Principal Act is amended by inserting the following new section immediately after section 80— | Amendment of section 80 of No 11A of 2011 |

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Service Examination
Board

80A. (1) There is established a Service Examination Board, which shall comprise of nine members appointed by the Commission.

(2) The Service Examination Board shall—

(a) set and maintain examination standards of the Service;

(b) evaluation and certification of examination; and

(c) any other function as may be prescribe by Regulations.

(3) The Commission may by regulations make further provisions to give full effect to this section.

34. The Principal Act is amended by repealing section 82 and replacing it with the following new section—

82. Police officers may form Service welfare associations, and such associations shall be recognized by the Inspector-General, the Commission and the Cabinet Secretary as appropriate associations for consultation in respect of any matter specified in section 83 and any other matter concerning police officers.

Repeal and replacement of section 82 of No 11A of 2011

35. Section 83 of the Principal Act is amended in paragraph (b) (i) by deleting the words “employment” appearing after the words “the terms and conditions of” and substituting therefor the word “Service”.

Amendment of section 83 of No 11A of 2011

36. Section 87 of the Principal Act is amended by—

(a) in subsection (6) by deleting the words “Commission” and substituting therefor the words “Inspector General,

Amendment of section 87 of No 11A of 2011

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- (b) renumbering subsections (9), (9) and (10) as subsections (9), (10) and (11), respectively;
- (c) inserting a new subsection immediately after subsection (6)—

(6A). Where the Unit recommends disciplinary action, it shall submit a copy of the recommendations to the Commission.

37. Section 88 of the Principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection (1)—

Amendment of
section 88 of No
11A of 2011

(1) A police officer in the Service shall be subject to the law and regulations from time to time in force relating to the Service.

38. Section 89 of the Principal Act is amended—

Amendment of
section 89 of No
11A of 2011

- (a) in subsection (1), by—

(i) by inserting the following new paragraphs immediately after paragraph (g)—

(h) confinement to barracks or police residential quarters;

(i) reduction of salary by not more than one third of the basic salary for a period not exceeding for three months; and

(j) a fine not exceeding a third of basic salary.

(ii) by renumbering paragraphs (a) to (j);

(b) in subsection (3), by deleting the words “internal disciplinary procedures” and substituting therefor the words “Standing Orders”;

(c) in subsection (4) by inserting a proviso at the end as follows—

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Provided that such an officer is not of a senior rank to the presiding officer;

(d) by deleting subsection (5) and substituting therefor the following new subsection —

(5) A member of the Service aggrieved by a decision made under this section may appeal to the Commission in accordance with the procedure laid out by Regulations made by the Commission in consultation with the Inspector-General.

39. Section 93 of the Principal Act is amended in subsection (1) by deleting the words “Part VIII” and substituting therefor the words “Part IX”.

Amendment of
section 93 of No
11A of 2011

40. Section 109 of the Principal Act is amended by inserting a new subsection immediately after subsection (2)—

Amendment of
section 109 of
No 11A of 2011

“(3) The Inspector-General shall make Regulations on the use of firearms or security equipment of foreign police services in Kenya”.

41. Section 110 of the Principal Act is amended—

Amendment of
section 110 of
No 11A of 2011

(a) in subsection (2), by deleting the words “Commission” and substituting therefor the words “National Security Council”;

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

(3A) The police reserve officers shall—

(a) be provided with proper uniform, service identity cards and weapons;

(b) be deployed in specific areas, with defined commands and supervision structures; and

(c) undergo vetting and training before deployment.

(c) by deleting subsection (7) and substituting therefor the following new subsection —

(7) The Inspector-General shall, undertake the training of police reserve officers to ensure that they are conversant with the relevant provisions of the Constitution and this Act.

42. The Principal Act is amended by inserting the following new sections immediately after section 110—

Amendment of
section 110 of
No 11A of 2011

110A. The Inspector-General shall on the advice of the Service Board from time to time determine the command structure of the police reserve in a particular area.

110B. The Inspector-General may, by regulations, make further provision on any matter related to the command of the police reserve and in particular, specify how the reserve police officers shall relate with regular Service personnel on normal and on joint Service operation.

110C. Police reserve officers shall be—

- (a) recruited by the Commission upon recommendation and in consultation with the Inspector-General; and
- (b) deployed in such areas as the Inspector-General in consultation with the National Security Council may deem necessary.

43. Section 111 of the Principal Act is amended—

Amendment of
section 111 of
No 11A of 2011

- (a) in subsection (2) by deleting the words “enlisted and trained”;
- (b) by adding a new subsection immediately after subsection (2) as follows—

(3) A Reserve officer shall be enlisted and trained by the Inspector-General.

44. Section 112 of the Principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection —

Amendment of section 112 of No 11A of 2011

(1) A police reserve officer shall serve for a period of two years and may be eligible for re-engagement after every two years.

45. Section 113 of the Principal Act is amended in subsection (1) by deleting the words “Any officer for the time being in charge of the Service in a county” and substitute therefor the words “the head of the National Police Service in the county

Amendment of section 113 of No 11A of 2011

46. The Principal Act is amended by repealing section 114 and replacing it with the following new section —

Repeal and replacement of section 114 of No 11A of 2011

114. A police reserve officer shall be subject to discipline in accordance with standing orders, rules and regulations of the Service.

47. The principal Act is amended in section 115, by deleting subsection (1) and substituting therefor the following new subsection—

Amendment of section 115 of No 11A of 2011

(1) Without prejudice to subsection (2), a reserve police officer shall be paid such remuneration and allowances as the Commission shall, in consultation with the Salaries and Remuneration Commission, determine.

48. Section 125 of the Principal Act is amended by inserting the following new paragraph immediately after paragraph (c)—

Amendment of section 125 of No 11A of 2011

(d) the structure of the command of the Service.

49. Section 126 of the Principal Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph(f)—

Amendment of section 126 of No 11A of 2011

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(g) developing Regulations relating to the setting of standards of recruitment, training of police and use of police services.

50. Section 128 of the Principal Act is amended —

Amendment of
section 128 of
No 11A of 2011

(a) by deleting the words “standing order” appearing immediately after the word “rules,”;

(b) by renumbering section 128 as 128(1);

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

(2) Notwithstanding subsection (1), the Cabinet Secretary may make regulations generally to provide for classification of information held by the Service including any regulations, rules or any other form of subsidiary regulations made under this Act.

(3) The categories of classified information referred to under subsection (2) may include—

(a) “top secret” which means information whose unauthorized disclosure would cause exceptionally grave damage to the interests of the State;

(b) “secret” which means information whose unauthorized disclosure would cause serious injury to the interests of the State;

(c) “confidential” which means information whose unauthorized disclosure would be prejudicial to the interests of the State; and

(d) “restricted” which means information whose unauthorized disclosure would be undesirable in the interests of the State.

51. The Principal Act is amended by repealing the First Schedule and replacing it with the following new Schedule—

Repeal and
replacement to
the First
Schedule of No
11A of 2011

FIRST SCHEDULE (s.22)

RANKING STRUCTURE OF THE NATIONAL
POLICE SERVICE

1. Inspector-General.
2. Deputy Inspector-General.
3. Senior Assistant Inspector-General
4. Assistant Inspector-General.
5. Senior Superintendent.
6. Superintendent.
7. Assistant Superintendent.
8. Chief Inspector.
9. Inspector.
10. Senior Sergeant.
11. Sergeant.
12. Corporal.
13. Constable.

52. The Principal Act is amended by repealing the Second Schedule. Repeal of the Second Schedule of No 11A of 2011
53. The Principal Act is amended by repealing the Third Schedule. Repeal of the Third Schedule of No 11A of 2011
54. The Sixth Schedule to the Principal Act is amended in paragraph (1) of Part B by inserting the following new sub paragraphs— — Amendment to the Sixth Schedule of No 11A of 2011
- (c) protection of life and property through justifiable use of force;
 - (d) preventing a person charged with a felony from escaping lawful custody; and
 - (e) preventing a person who attempts to rescue or rescues a person charged with a felony from escaping lawful custody.
55. The Eighth Schedule to the Principal Act is amended by inserting the following new paragraphs Amendment to the Eighth Schedule of No 11A of 2011
- (ee) without lawful excuse break out of police barracks, quarters, lines or camp;

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- (ff) make or sign any false statement in any document or official record; or
- (gg) act or behave in a manner that constitute cowardice under the Standing Orders;
- (hh) willfully disobey, whether in hospital or elsewhere, any order and so cause or aggravate any disease or infirmity; or delay its cure;
- (ii) knowingly make a false statement affecting the character of such police officer or other person or willfully suppress any material fact;
- (jj) be engaged in any other gainful employment or office without the authority of the Commission;
- (kk) block or interfere with police communication;
- (ll) commit an act which amounts to hate speech under section 13 and 62 of the National Cohesion and Integration Commission Act.

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I certify that this printed impression is a true copy of the Bill passed by the National Assembly on the 19th June, 2014, pursuant to Article 115 (4) of the Constitution, incorporating the President's reservations.



Clerk of the National Assembly.

Presented for assent in accordance with the provisions of the Constitution of Kenya on the 26th June, 2014 at the hour of 12:30 p.m.



Speaker of the National Assembly.