THE CLIMATE CHANGE (AMENDMENT) BILL, 2023

A Bill for

AN ACT of Parliament to amend the Climate Change Act, 2016, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

Short title.

1. This Act may be cited as the Climate Change (Amendment) Act, 2023.

Amendment of section 2 of No. 11 of 2016.

2. The Climate Change Act, 2016, in this Act referred to as the "principal Act" is amended in section 2 by inserting the following new definitions in proper alphabetical sequence—

"aggregate earnings" means the total of all income in a carbon project without adjustment for inflation, taxation or types of double counting;

"carbon budget" means the approved quantity of greenhouse gas emission that is acceptable over a specified time and shall be informed by the National Greenhouse Gas Inventory and guide on emission reduction allocation for Nationally Determined Contributions or any other use consistent with the Conference of the Parties serving at the meeting of the Parties to the Paris Agreement guidance, rules, modalities and procedures;

"carbon credits" means a credit created when the equivalent of one metric tonne of carbon dioxide is prevented from entering the atmosphere and is equal to one tonne of carbon dioxide or the equivalent amount of a different greenhouse gas reduced, sequestered, or avoided;

"carbon market" means a mechanism that enables and allows public and private entities to transfer and transact emission reduction units, mitigation outcomes or

offsets generated through carbon initiatives, programmes and projects subject to compliance of national and international laws;

"carbon projects" means carbon reduction, carbon capture, removal or carbon avoidance projects;

"carbon offset" means a reduction or removal of emissions of carbon dioxide or other greenhouse gases made in order to compensate for emissions made elsewhere;

"carbon standards" means a complete set of established rules, procedures, and methodologies that guide on the generation and issuance of certified carbon credits;

"community" means a consciously distinct and organized group of users of community land who are citizens of Kenya and share any of the following attributes—

(a) common ancestry;

(b) similar culture or unique mode of livelihood;

(c) socio-economic or other similar common interest;

(d) geographical space;

(e) ecological space; or

(f) ethnicity.

"corresponding adjustment" means the deduction of verified emission reductions by the Host Party and addition of the corresponding amount of verified emission reductions by the Receiving Party, whereas such reductions will not count against the Host Party's Nationally Determined Contributions and shall count towards the acquiring Party's Nationally Determined

Contributions;

"Designated National Authority" means the entity or organization granted the responsibility to authorize and approve participation in projects under the Paris Agreement on Climate Change;

"Internationally Transferred Mitigation Outcomes" means real, additional and verified reduction in greenhouse gas emissions or removal of greenhouse gases from the atmosphere, measured in tCO2eq and representing one tCO2eq per methodologies approved under the Paris Agreement Rules and generated by a specific mitigation activity from 2021 onwards;

"internationally recognized entity" means any entity that is accredited under an established set of rules as properly constituted to oversee a carbon market

"mitigation outcomes" means reductions in greenhouse gas emissions with global warming potential equivalent to one tonne of carbon dioxide that has been measured and verified in accordance with the Standards;

"National Carbon Registry" means the Carbon Registry established under section 23G;

"nature-based solutions" means actions that protect, sustainably manage, or restore natural ecosystems, that address societal challenges such as climate change, human health, food and water security, and disaster risk reduction effectively and adaptively, simultaneously providing human well-being and biodiversity benefits;

"non-market approaches" means approaches that aim at promoting mitigation and adaptation ambition, enhancing public and private sector participation in the implementation of nationally determined contributions; and enabling opportunities for coordination across instruments and relevant institutional arrangements;

"Paris Agreement" means the Paris Agreement on Climate Change adopted by the Conference of the Parties at its 21st session in Paris in 2015;

project proponent" means an entity legally responsible for carrying out a specific project;

"recognized credible international body" means any entity that is tasked with accreditation of an internationally recognized entity;

"Reduced Emissions from Deforestation and Forest Degradation' means activities in the forest sector that reduces greenhouse gas emissions from deforestation and forest degradation, as well as the sustainable management of forests and the conservation and enhancement of forest carbon stocks at national and sub national levels;

"share of proceeds" means levies from activities under the Paris Agreement that are used to cover administrative expenses as well as assisting developing country Parties that are vulnerable to the adverse effects of climate change to meet the costs of adaptation;

"stakeholder" means a person, business, or organization that has an interest in or is affected by the activities of carbon projects and the results those actions produce;

"State Party" means a Country that has ratified the Paris Agreement on Climate Change;

"technology" means technologies used to reduce greenhouse gases and to adapt to the adverse impacts of climate change;

"tonnes of carbon dioxide equivalent (tCO2eq)" means an amount of carbon dioxide emission measured in metric tons would cause the same integrated radiative forcing or temperature change, over a given time horizon, as an emitted amount of a greenhouse gas or a mixture of

greenhouse gases;

"voluntary carbon market" means a market where private investors, governments, non-governmental organizations, and businesses voluntarily buy and sell carbon credits that represent certified emissions removals or reductions of greenhouse gases in the atmosphere; and

"whitelist" means a non-binding, non-exhaustive periodic list of activities or technologies that can deliver mitigation outcomes as provided for in the Nationally Determined Contributions and that are preferred by the Government of Kenya for Article 6.2 bilateral cooperation.

Amendment of section 3 of No. 11 of 2016.

3. Section 3 of the principal Act is amended in subsection (2) by—

(a) inserting the following new paragraph immediately after paragraph (g)—

(ga) provide guidance in the development and implementation of carbon markets and non-market approaches in compliance with international obligations;

(b) inserting the words "including carbon market and non-market approaches" immediately after the words "climate change responses" appearing in paragraph (h).

Amendment of section 4 of No. 11 of 2016.

4. Section 4 of the principal Act is amended in subsection (2) by deleting the words "in accordance with the Schedule" appearing in paragraph (f).

Amendment of section 6 of No. 11 of 2016.

5. Section 6 of the principal Act is amended by inserting the following new paragraph immediately after paragraph (f)—

(fa) provide guidance and policy direction on carbon markets to the national and county

governments, the public and other stakeholders.

Amendment of section 7 of No. 11 of 2016.

6. Section 7 of the principal Act is amended−

(a) in subsection (2) by−

(i) deleting paragraph (c);

(ii) deleting the words "nominated by the body representing the largest number of institutions in the private sector" appearing in paragraph (f);

(iii) deleting the words "nominated by the most representative registered national umbrella association of civil societies working on climate change" appearing in paragraph (g);

(iv) inserting the following new paragraph immediately after paragraph (g)−

(ga) a representative of the youth;

(v) deleting the words "within the meaning of Article 260 of the Constitution who has knowledge and experience in matters relating to indigenous knowledge" appearing in paragraph (h);

(vi) deleting the words "nominated by the Commission for University Education" appearing in paragraph (i);

(b) by deleting subsection (7);

(c) in subsection (12) by deleting the words "Except as provided in subsection (7)".

Amendment of section of 8 No. 11 of 2016.

7. Section 8 of the principal Act is amended in subsection (2) by−

(a) deleting the word "biannually" appearing in paragraph (e) and substituting therefor the word "annually";

(b) inserting the following new paragraphs immediately after paragraph (e)—

(f) advise the Council on the carbon budget for trading, based on Kenya's international obligations;

(g) approve international transfers of mitigation outcomes and emission reduction based on advice from the Climate Change Directorate;

(h) approve measurement, reporting and verification of greenhouse gas emissions;

(i) authorize the establishment of the Reduced Emissions from Deforestation and Forest Degradation Registry and other sector registries to feed into the National Carbon Registry;

(c) inserting the following new subsections immediately after subsection (2)—

(2A) The Cabinet Secretary shall appoint the Designated National Authority for market mechanisms and any other mechanisms deriving from Article 6 of the Paris Agreement.

(2B) The Designated National Authority appointed under subsection (2A) shall, in addition to international obligations, maintain the National Carbon Registry established under section 23G.

Amendment of section of 9 No. 11 of 2016.

8. Section 9 of the principal Act is amended−

(a) in subsection (2) by deleting the words "and shall report to the Cabinet Secretary"'

(b) in subsection (3) by deleting the word "Director" and substituting therefor the word "Secretary";

(c) in subsection (4) by deleting the word "Director" and substituting therefor the word "Secretary";

(d) in subsection (4) by deleting the word "Director" and substituting therefor the word "Secretary";

(e) in subsection (5) by deleting the word "Director" and substituting therefor the word "Secretary";

(f) in subsection (6) by deleting the word "Director" and substituting therefor the word "Secretary".

Amendment of section of 10 No. 11 of 2016.

9. Section 10 of the principal Act is amended−

(a) in subsection (1) by deleting the word "Director" and substituting therefor the word "Secretary";

(b) in subsection (2) by deleting the word "Director" and substituting therefor the word "Secretary".

Amendment of section 13 of No. 11 of 2016.

10. Section 13 of the principal Act is amended—

(a) in subsection (3) by inserting the following new paragraphs immediately after paragraph (n)−

(o) to guide on the description of annual carbon budget for each of the years that make up the five-year cycle;

(p) to identify past, current and projected sector-based greenhouse gases emission profile;

(q) to set out proposed carbon credit project pipeline based on the white list;

(r) to review and recommend the level of compliance with international climate commitments;

(s) to specifically identify, where appropriate, priority actions to explore carbon trading;

(b) in subsection (5) by deleting paragraph (f) and substituting therefor the following new paragraph−

(f) national and international laws and policies relating to climate change and carbon markets.

Amendment of section 15 of No. 11 of 2016.

11. Section 15 of the principal Act is amended in subsection (3) by deleting the word "Council" and substituting therefor the words "Cabinet Secretary".

Amendment of section 16 of No. 11 of 2016.

12. Section 16 of the principal Act is amended in subsection (2) by deleting the word "Council" and substituting therefor the words "Cabinet Secretary".

Amendment of section 24 of No. 11 of 2016.

13. Section 24 of the principal Act is amended in subsection (3) by deleting the words "The Council shall, on the recommendation of the Cabinet Secretary publish" and substituting therefor the words "The Cabinet Secretary shall publish".

Amendment of section 36 of No. 11 of 2016.

14. Section 36 of the principal Act is amended in subsection (1) by deleting the words "in consultation with the Council".

Insertion of new Part to No. 11 of 2016.

15. The principal Act is amended by inserting the following new Part immediately after Part IV—

PART IVA—REGULATION OF CARBON MARKETS

Carbon markets.

23A. The policy direction on carbon markets provided pursuant to section 6(fa), shall apply to all carbon markets and prescribe—

(a) carbon reduction credits that aim to reduce emissions from current sources through projects;

(b) removal or sequestration credits that take carbon dioxide out of the atmosphere and either use or store it via afforestation, reforestation, nature-based solutions or technology-based removal; and

(c) technologies and projects on the whitelist;

(d) emission credits not taken into account, including—

(i) previously used emission credits;

(ii) emission reductions that have been achieved in violation of human rights and without free prior informed consent;

(iii) emission reductions that have had significant negative social or environmental impact;

(iv) emission reductions that were achieved before the 1st January, 2013; and

(v) emission reductions that were registered before the 1st January, 2013.

(2) The Cabinet Secretary shall prescribe additional requirements on the regulation of carbon markets.

Trade in carbon markets.

23B. The trade in carbon market shall ensure that−

(a) transactions in carbon trading as carried out under this Act aim towards a reduction of greenhouse gas emissions as per the prescribed carbon standards;

(b) mitigation outcomes reported under the requirements of this Act shall be accounted for in tonnes of carbon dioxide equivalent;

(c) carbon offset projects emissions are kept out of the atmosphere for a reasonable length of time; and

(d) emission reductions are carefully recorded and documented for every offset scheme, utilizing appropriate accounting terms, corresponding adjustments, and location of offset as required by the United Nations Framework Convention on Climate Change and other standard bodies.

Participation in carbon markets.

23C. (1) The participation in an initiative authorizing trade in carbon credits shall be−

(a) as a result of a bilateral or multilateral trading agreement;

(b) as a result of trading with a private entity; or

(c) in a voluntary carbon market.

(2) The Cabinet Secretary may−

(a) enter into a bilateral or multilateral agreement with another State Party to trade carbon for emission reductions and removals;

(b) with the approval of the Cabinet, enter into an agreement with a private entity to offset carbon emissions;

(c) with the approval of the Cabinet, enter into any agreement to trade in a carbon market established or overseen by an internationally recognized entity that is approved by a recognized credible international body.

(3) An agreement entered into under this Part shall aim to —

(a) promote the mitigation of greenhouse gas emissions while fostering sustainable development; and

(b) incentivise and facilitate participation in the mitigation of greenhouse gas emissions by authorized public and private entities.

(4) The Cabinet Secretary shall, in the national reporting mechanism to the United Nations Framework Convention on Climate Change, include any emission reduction resulting from agreements entered into under this section.

Environmental impact assessment.

23D. (1) Every carbon trading project authorized under this Act shall be required to undergo an environmental and social impact assessment in accordance with the Environmental Management and Coordination Act, 1999.

No. 8 of 1999.

(2) Notwithstanding subsection (1), reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries projects shall be required to undergo a Reduced Emissions from Deforestation and Forest Degradation safeguard standards assessment.

Provision of social and environmental benefits.

23E. (1) A project undertaken pursuant to this Act shall specify the anticipated environmental, economic or social benefits of the project.

(2) For purposes of subsection (1), the benefits shall include—

(a) removal of greenhouse gases from the atmosphere and avoidance of emission of greenhouse gases in order to meet Kenya's international obligations;

(b) incentives that promote offset

projects;

(c) increase of carbon abatement in a manner that is consistent with protection of Kenya's natural environment;

(d) improved resilience to the effects of climate change; or

(e) achievement of Kenya's greenhouse gases emissions targets.

(3) Every land-based project undertaken pursuant to this Act shall be implemented through a community development agreement which shall outline the relationships and obligations of the proponents of the project in public and community land where the project is under development.

(4) The National Government and the respective county government where the project is situated shall oversee and monitor the negotiation of the community development agreement with project proponents and the stakeholders.

(5) A community development agreement shall include provisions on the following—

(a) the stakeholders of the project including the project proponents, the impacted communities, the National Government and the county government where the project is being undertaken;

(b) the annual social contribution of the aggregate earnings of the previous year to the community, to be managed and disbursed for the benefit of the community;

Provided that—

(i) in land-based projects, the contribution shall be at least forty per centum of the aggregate earnings; and

(ii) in non-land-based projects, the contribution shall be at least twenty-five per centum of the aggregate earnings;

(c) the manner of engagement with local stakeholders, especially the impacted communities;

(d) the sharing of the benefits from the carbon markets and carbon credits between the project proponents and the impacted communities;

(e) the proposed socio-economic development around community priorities; and

(f) the manner of the review or amendment of the agreement, which shall be at least every five years.

(6) A community development agreement entered into pursuant to this

section shall be recorded in the National Carbon Registry.

(7) Every carbon project undertaken pursuant to this Act shall take into consideration and aim to improve the economic, social and cultural wellbeing of the community around the project.

(8) The national government and the respective county government where the project is situated shall enforce the community rights negotiated under a community development agreement negotiated under section 23E.

(9) The Cabinet Secretary may prescribe additional requirements relating to the formulation of the community development agreement.

Share of proceeds and cancellation rates.

23F. The national and county governments shall, in compliance with international obligation, undertake best practices regarding the share of proceeds and cancellation rates for overall global mitigation.

Carbon Registry.

23G. (1) There is established a registry to be known as the National Carbon Registry.

(2) The Designated National Authority appointed under section 8(2A) shall be the custodian of the Registry.

(3) The Registry established under this section shall include registers on the following—

(a) the carbon credit projects and

programmes implemented to reduce greenhouse gas emissions in Kenya;

(b) the Reduced Emissions from Deforestation and Forest Degradation Carbon;

(c) authorisations granted for participation in any initiative, project or programme under this Act;

(d) the carbon budget and the greenhouse gas reduction units;

(e) the amount of carbon credits issued or transferred by Kenya;

(f) the amount of carbon credits issued to emission reduction projects and programs recognized by Kenya from a national greenhouse gas registry account;

(g) the transfer of carbon credits and any carbon credits issued or recognized by Kenya from a national greenhouse gas registry account;

(h) a record of corresponding adjustments where applicable, with respect to carbon credits;

(i) the cancellation of carbon credits and any other carbon credits issued or recognized by Kenya from a national greenhouse gases registry account; and

(j) any other carbon credits issued or recognized by the Kenya from a

national greenhouse gases registry account.

Dispute resolution.

23H. (1) Any dispute arising under a land-based project shall be subjected to the dispute resolution mechanism set out in the Community Development Agreement in the first instance and be resolved within thirty days from the date the dispute is lodged.

(2) Any dispute that is not land based and is not subjected to a community development agreement shall be resolved through Alternative Dispute Resolution in the first instance.

(3) Where the dispute under subsections (1) and (2) is not resolved within thirty days of submission, the dispute shall be referred to the National Environmental Tribunal.

Deletion of Schedule to No. 11 of 2016.

16. The principal Act is amended by deleting the Schedule.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Climate Change Act, 2016.

Clause 2 of the Bill seeks to amend section 2 of the Act in order to provide for the definition of the new terms introduced by the proposed amendments.

Clause 3 of the Bill seeks to amend section 3 of the Act to provide for, as one of the objects of the Act, a legal framework on international market mechanisms on carbon markets.

Clause 4 of the Bill seeks to amend section 4 of the Act to delete reference to the Schedule as the aspects of public participation are provided in section 24 and the Regulations.

Clause 5 of the Bill seeks to amend section 6 of the Act to mandate the Council, as the overarching policy organ on climate change, to provide guidance and policy direction on carbon markets in the country.

Clause 6 of the Bill seeks to amend section 7 of the Act to align the provisions on membership of the Council, for better operations.

Clause 7 of the Bill seeks to amend section 8 of the Act to enhance the powers and duties of the Cabinet Secretary.

Clauses 8 and 9 of the Bill seeks to amend sections 9 and 10 of the Act to rename the head of the Directorate as the Secretary.

Clause 10 of the Bill seeks to amend section 13 of the Act to provide for components relating to carbon markets to be considered in the Action Plan as this is the main planning and mainstreaming document.

Clauses 11, 12, 13 and 14 seek to amend sections 15, 16, 24 and 36 of the Act to empower the Cabinet Secretary to make regulations as the Council's mandate is of a higher level of providing overarching policy and national climate change co-ordination mechanism.

Clause 11 of the Bill seeks to insert a new Part in the Act to provide for the regulation of carbon markets.

Clause 12 of the Bill seeks to delete the Schedule to the Act as section 24 already provides for making of regulations on public participation.

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

The Bill confers on the Cabinet Secretary the powers to make Regulations. It does not limit any fundamental rights or freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments in terms of Article 110 (1)(a) of the Constitution.

Statement of the Bill as a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a Money Bill within Article 114 of the Constitution.

Dated the …….2023.

SOIPAN TUYA,
Cabinet Secretary for Environment, Climate Change and Forestry.

SECTIONS TO BE AMENDED

Section 3 of No 11 of 2016 which it is proposed to amend—

3**. Objects and purpose.**
(1) This Act shall be applied for the development, management, implementation and regulation of mechanisms to enhance climate change resilience and low carbon development for the sustainable development of Kenya.

(2) Without prejudice to subsection (1), this Act shall be applied in all sectors of the economy by the national and county governments to—

(a) mainstream climate change responses into development planning, decision making and implementation;

(b) build resilience and enhance adaptive capacity to the impacts of climate change;

(c) formulate programmes and plans to enhance the resilience and adaptive capacity of human and ecological systems to the impacts of climate change;

(d) mainstream and reinforce climate change disaster risk reduction into strategies and actions of public and private entities;

(e) mainstream intergenerational and gender equity in all aspects of climate change responses;

(f) provide incentives and obligations for private sector contribution in achieving low carbon climate resilient development;

(g) promote low carbon technologies, improve efficiency and reduce emissions intensity by facilitating approaches and uptake of

technologies that support low carbon, and climate resilient development;

(h) facilitate capacity development for public participation in climate change responses through awareness creation, consultation, representation and access to information;

(i) mobilize and transparently manage public and other financial resources for climate change response;

(j) provide mechanisms for, and facilitate climate change research and development, training and capacity building;

(k) mainstream the principle of sustainable development into the planning for and decision making on climate change response; and

(l) integrate climate change into the exercise of power and functions of all levels of governance, and to enhance cooperative climate change governance between the national government and county governments.

Section 4(2) of No 11 of 2016 which it is proposed to amend—

4. Guiding values and principles

(2) In discharging their functions and duties under this Act the Council, the Cabinet Secretary, county government, any state officer and state organ shall be guided by the following—

(a) national values and principles of governance in Article 10 of the Constitution and the values and principles of public service in Article 232 of the Constitution;

(b) be guided by the provisions of Articles 42 and 69 of the Constitution;

(c) ensure promotion of sustainable development under changing climatic conditions;

(d) ensure equity and social inclusion in allocation of effort, costs and benefits to cater for special needs, vulnerabilities, capabilities, disparities and responsibilities;

(e) ensure integrity and transparency;

(f) ensure participation and consultation with stakeholders in accordance with the Schedule.

Section 6 of No 11 of 2016 which it is proposed to amend—

6. Functions of the Council

The Council shall provide an overarching national climate change coordination mechanism and shall—

(a) ensure the mainstreaming of the climate change function by the national and county governments;

(b) approve and oversee implementation of the National Climate Change Action Plan;

(c) advise the national and county governments on legislative, policy and other measures necessary for climate change response and attaining low carbon climate change resilient development;

(d) approve a national gender and intergenerational responsive public education awareness strategy and implementation programme;

(e) provide policy direction on research and training on climate change including on the collation and dissemination of information relating to climate change to the national and county governments, the public and other stakeholders;

(f) provide guidance on review, amendment and harmonization of sectoral laws and policies in order to achieve the objectives of this Act;

(g) administer the Climate Change Fund established under this Act; and

(h) set the targets for the regulation of greenhouse gas emissions.

Section 8(2) of No 11 of 2016 which it is proposed to amend—

8. Powers and duties of the Cabinet Secretary

(2) The Cabinet Secretary shall—

(a) formulate and periodically review the climate change policy, strategy and the National Climate Change Action Plan and submit to the Council for approval;

(b) co-ordinate negotiations on climate change related issues in consultation with the Cabinet Secretary responsible for foreign affairs;

(c) formulate a national gender and intergenerational responsive public education and awareness strategy on climate change and implementation programme;

(d) provide through the Directorate, technical assistance on climate change actions and responses to county governments, based on mutual agreement and needs cited by the county governments; and

(e) report biannually to Parliament on the status of implementation of international and national obligations to respond to climate change, and progress towards attainment of low carbon climate resilient development.

(3) The Cabinet Secretary in discharge of the duties and functions under this Act shall be assisted by the Climate Change Directorate established under this Act.

Section 9 of No 11 of 2016 which it is proposed to amend—

9. Climate Change Directorate

(1) There is established the Climate Change Directorate, as a Directorate in the state Department for the time being responsible for climate change.

(2) The Directorate shall be the lead agency of the government on national climate change plans and actions to deliver operational co-ordination and shall report to the Cabinet Secretary.

(3) The Directorate shall be headed by a Director of Climate Change who shall be recruited competitively and appointed by the Public Service Commission.

(4) A person shall be qualified for appointment as a Director of Climate Change if the person—

(a) is a citizen of Kenya;

(b) has a postgraduate degree, knowledge and experience in any of the following fields

(c) has at least ten years' experience at senior management level in the relevant field; and

(d) meets the requirements of Chapter Six of the Constitution.

(5) The Director appointed under subsection (4) shall be responsible for the performance of specific duties and functions of the Directorate as set out in this Act.

(6) The Director shall advise the Cabinet Secretary on matters relating to legislation, policy, co-ordination, regulation and monitoring of climate change governance.

Section 10 of No 11 of 2016 which it is proposed to amend—

10. Seal of the Council

(1) The seal of the Council shall be such device as may be determined by the Council and shall be kept by the Director of Climate Change.

(2) The affixing of the seal shall be authenticated by the chairperson of the Council and the Director of Climate Change.

Section 13(3) of No 11 of 2016 which it is proposed to amend—

13. Cabinet Secretary to coordinate the preparation of climate change action plans, strategies and policies

(3) The National Climate Change Action Plan shall prescribe measures and mechanisms—

(a) to guide the county toward the achievement of low carbon climate resilient sustainable development;

(b) to set out actions for mainstreaming climate change responses into sector functions;

(c) for adaptation to climate change;

(d) for mitigation against climate change;

(e) to specifically identify all actions required as enablers to climate change response;

(f) to mainstream climate change disaster risk reduction actions in development programmes;

(g) to set out a structure for public awareness and engagement in climate change response and disaster reduction;

(h) to identify strategic areas of national infrastructure requiring climate proofing;

(i) to review and determine mechanisms for climate change knowledge management and access to information;

(j) to enhance energy conservation, efficiency and use of renewable energy in industrial, commercial, transport, domestic and other uses;

(k) to strengthen approaches to climate change research and development training and technology transfer;

(l) to review and recommend duties of public and private bodies on climate change;

(m) to review levels and trends of greenhouse gas emissions; and

(n) to identify outputs, overall budget estimates and timeframes to realize expected results.

Section 15(3) of No 11 of 2016 which it is proposed to amend—

(3) The duties shall be imposed and may be varied or revoked through regulations made by the Council.

Section 16(2) of No 11 of 2016 which it is proposed to amend—

(2) The Council shall make regulations governing the nature and procedure for reporting on performance by private entities, including the authority to monitor and evaluate compliance.

Section 24(3) of No 11 of 2016 which it is proposed to amend—

(3) The Council shall, on recommendation of the Cabinet Secretary publish regulations on design and procedure to ensure efficacy of public consultations to ensure that they make an impact on the threshold of decision making on climate change at all levels of government.

Section 36(1) of No 11 of 2016 which it is proposed to amend—

(1) The Cabinet Secretary shall, in consultation with the Council, make Regulations for the better carrying into effect of the provisions of this Act.
The Schedule to No 11 of 2016 which it is proposed to amend—

SCHEDULE

PROVISIONS ON PUBLIC CONSULTATION

[section 4(2)(f).]

1. (1) Where this Act imposes a requirement for public consultation in matters relating to climate change policy, strategy, programme, plan or

action, the Council or respective public or private entity shall publish a notice—

(a) in the Gazette;

(b) in at least two newspapers with national circulation;

(c) in at least one newspaper circulating in the locality to which the climate change policy, strategy, programme, plan or action relates; and

(d) in at least one Kenyan radio station broadcasting in that locality.

(2) The notice shall in each case—

(a) set out a summary of the policy, strategy, programme, plan or activity;

(b) state the premises at which the details of the policy, strategy, programme, plan or action may be inspected;

(c) invite written comments on or objections to the policy, strategy, programme, plan or action;

(d) specify the person or body to which the comments are to be submitted; and

(e) specify a date by which the comments or objections are required to be received, not being a date earlier than sixty days after publication of the notice.

2. The Council or public or private entity shall make arrangements for the public to obtain copies, at a reasonable cost, of documents relating to the policy, strategy, programme, plan or action which are in the possession of the respective entities.

3. The Council or the respective public or private entity shall consider the—

(a) written comments or objections received on or before the date specified under paragraph 1(2)(e); and

(b) comments, whether in writing or not, received at a public meeting held in relation to the policy, strategy, programme, plan or action at which the Council or respective public or private entity was represented, or by any other invitation, to comment.

4. The Council or the respective public or private entity shall publish, in accordance with paragraph 1 of this Schedule, notice of the fact that a copy of the written decision of the Council or the respective public or private entity relating to the policy, strategy, programme, plan or action, and the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 1(2)(b).

5. Where regulations made under this Act so require, the Council or respective public or private entity shall cause a public meeting relating to a policy, strategy, programme, plan or action to be held before the Council or the respective public or private entity makes its decision on the policy, strategy, programme, plan or action.