

Our Ref: NJ/Statute Law Miscellaneous Amendment Bill 2020/SB/20/1

6.7.2020

Your Ref: TBA

Clerk of the National Assembly,  
P.O. Box 41842-00100,  
**Nairobi, Kenya**

Copy advanced via e-mail: [clerk@parliament.go.ke](mailto:clerk@parliament.go.ke)

Dear Sir/ Madam,

REF: SUBMISSIONS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS)  
BILL, 2020

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We write in response to your call for submissions on the Statute Law (Miscellaneous Amendments) Bill 2020 through the Daily Nation Newspaper advertisement dated **30.06.2020**.

Attached to this letter please find our detailed comments and proposals which we hope will provide valuable insights.

We look forward to hearing back on the same.

Sincerely,

Mark Odaga  
Senior Program Officer  
[mark@naturaljustice.org](mailto:mark@naturaljustice.org)

COMMENTS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL,  
2020

The Statute Law (Miscellaneous Amendments) Bill, 2020 (The ‘Bill’) proposes amendments to several laws including the Energy Act, No. 1 of 2019. Although most of the amendments relating to the Energy Act correct typographical errors, the Bill makes the following significant amendments;

1. Deletion of Section 12 (1) (f) and removal of the County Executive Committee Member nominated by the Council of Governors from the Board of the Energy Petroleum Regulatory Authority.
2. Deletion of Section 45 (1) (f) and removal of four members appointed by the Council of Governors from the Board of the Rural Electrification and Renewable Energy Corporation.

We propose the inclusion of members appointed by the Council of Governors on the following reasons:

- a) Part 1 of the Fourth Schedule of the Constitution outlines the functions of the national government to include formulation of energy policies including electrical and gas reticulation and energy regulation. Part 2 of the Schedule similarly provides for the functions of the county government to include county planning and development including electrical and gas reticulation and energy regulation.
- b) The aim of the Energy Act is to consolidate laws relating to energy and provide for functions of the national and county governments in relation to energy. Under Section 7(2) the obligation to provide energy is shared between the national and county governments. The Act is therefore one concerning county governments.
- c) Section 44 (1) of the Act outlines the functions and powers of the Rural Electrification and Renewable Energy Corporation to include developing rural electrification master plans in consultation with county governments, developing the renewable energy master plan taking into account county specific needs and the principle of equity in the development of renewable energy resources, establishing a framework for collaboration with County Governments in the discharge of its mandate and providing technical and other capacity building support to County Governments in the discharge of the function of electricity reticulation and energy regulation.
- d) Section 85 (3) provides for division of royalties from geothermal energy production between the national and county government.
- e) Sections 193 to 196 of the Act highlight functions and powers of county governments in relation to ensuring efficient use and conservation of energy, establishing a fund for the purposes of promotion of efficient use of energy and its conservation within the County, conducting inspections of equipment or appliances to ensure compliance with minimum energy efficiency performance standards set out in the Act; and to issue directions and enforce regulations of norms for process and energy consumption standards in any industry or building complex and regulations of the energy consumption standards for equipment and appliances.

- f) The Fifth Schedule of the Act outlines functions of the county government in relation to energy to include county energy planning, county energy regulation and county operations and development.