



PROPOSED AMENDMENTS BY THE YOUTH SENATE ON THE CLIMATE CHANGE BILL 2023

Following the call for the Ministry of Environment, Climate Change and Forestry for public participation under the Constitution of Kenya 2010 and the Climate Change Act, 2016, as the youth senate we submit our comments, input and memoranda on the Draft Climate Change Amendment Bill 2023.

Part in the amendment bill	Title and Clause in the Amendment Bill	Current Provision in the Amendment Bill	Proposed Recommendations	Justification and Rationale
Section 2	Amendment of section 2 of No. 11 of 2016.	<p>“carbon budget” means the approved quantity of Greenhouse Gases emission that is acceptable over a specified time and shall be informed by the National Greenhouse Gas Inventory and guide on emission allocation for Nationally Determined Contributions and trading;</p> <p>“carbon market” means 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;</p> <p>“whitelist” means</p>	Whitelist has not been defined in the	<p>The definitions need to be updated to the latest definition, Kenya has not submitted its National Green House Inventory.</p> <p>Creates ambiguity and is subject to</p>

			<p>bill.</p> <p>Additional definition on the terms “Indigenous communities” and “marginalised groups”</p>	<p>misinterpretation</p> <p>Indigenous communities should be defined on the basis of a community that lives or operates under a distinct custom or lifestyle.</p> <p>Marginalised groups to include women, youth and PWDs</p>
Section 4	Amendment of section 4 of No. 11 of 2016.	Section 4 of the principal Act is amended in subsection (2) by deleting the words “in accordance with the Schedule” appearing in paragraph	The clause should remain as it is in the act.	The Constitution of Kenya, 2010 envisages public participation and the clause should remain as it is.
Section 6	Amendment of section 6 of No. 11 of 2016.	<p>6. Section 7 of the principal Act is amended–</p> <p>(a) in sub section (2) by–</p> <p>(i) deleting paragraph (c);</p> <p>(ii) inserting the following new paragraph immediately after paragraph (e)–</p> <p>(ea) a representative of the youth;</p> <p>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</p>	<p>There should be definition of Youth in the Climate Change amendment Bill</p> <p>Indigenous should be defined within the context of the bill</p>	<p>There should be a rationale in nominating the youth representative.</p> <p>There's concern that the deletion on some sections diverges from the greater good.</p>

		paragraph (h);		
Section 10	Amendment of section of 13 No. 11 of 2016	Section 13 of the principal Act is amended by— (lc) to set out proposed carbon credit project pipeline based on the white list;	This definition should be compared with other jurisdictions and there should be a definitive term for whitelist	This will avoid misinformation and misinterpretation due to the ambiguity of the term.
Section 23	Carbon markets.	<p>23C. (1) The participation in an initiative authorizing trade in carbon credits shall be--</p> <p>enter into a bilateral or multilateral agreement with another State Party to trade carbon for emission reductions and removals</p> <p>(b) with the approval of the Cabinet, enter into an agreement with a private entity to offset carbon emissions</p> <p>(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, approved by a recognized</p>	<p>enter into a bilateral or multilateral agreement with another State Party to trade carbon for emission reductions and removals</p> <p>With consultation of the Attorney General</p> <p>On *b and *c the cabinet Secretary needs approval from the cabinet but in *a it gives unilateral powers to the Cabinet Secretary when signing bilateral and multilateral agreements.</p>	<p>The Attorney General is responsible for signing bilateral or multilateral agreements of the state.</p> <p>There is need for checks and balances especially in signing of bilateral and multilateral agreements.</p>

		<p>credible international body.</p> <p>An agreement entered into under this Part shall aim to —</p> <p>(a) promote the mitigation of greenhouse gas emissions while fostering sustainable development; and</p>	<p>An agreement entered into under this Part shall aim to —</p> <p>(a) promote the mitigation of greenhouse gas emissions while fostering sustainable development and poverty eradication</p>	<p>This an additional of the sustainable development goals and Vision 2030</p>
Section 23E	Provision of social and environmental benefits.	<p>(1) A project undertaken pursuant to this Act shall specify the anticipated environmental, economic or social of benefits the project.</p> <p>(4) The National Government and the respective county government where the project is situated shall oversee and monitor the negotiation of the community development agreements with project proponents and the stakeholders</p> <p>(5) A community development agreement shall provide—</p> <p>(a) a list of</p>	<p>(1) A project undertaken pursuant to this Act shall specify the anticipated environmental, economic or of social benefits the project.</p> <p>(4) The National Government and the respective county government where the project is situated shall oversee and monitor the negotiation of the community development agreements with project proponents and the stakeholders and monitor the excesses of the government.</p>	<p>Typo on the “social of” rather “of social”</p> <p>Monitoring the national government for control to avoid excesses.</p>

		<p>stakeholders of the project including: project proponents, the impacted communities, the National Government and the county government where the project is being undertaken;</p> <p>6) community development agreement entered into pursuant to this section shall be recorded in the National Carbon Registry.</p> <p>9)The Cabinet Secretary may prescribe additional requirements relating to the formulation of the community development agreement</p>	<p>Definition of national carbon registry in the Kenyan context.</p> <p>The Cabinet Secretary may prescribe additional requirements relating to the formulation of the community development agreement In consultation with the community involved</p>	<p>The national carbon registry is unknown to the general public.</p> <p>This ensures accountability, the communities affected will be cognizant on any agreements made by the Cabinet Secretary/</p>
Section 23F	Share of proceeds and cancellation rates.	The Government of Kenya shall, in compliance with international obligation, undertake best practices regarding share of proceeds and cancellation rates for overall global mitigation.	Need to further explain on the share proceeds and cancellation rates.	The clause is ambiguous

Section 23I	Dispute resolution.	2)Where the dispute referred to the Principal Secretary under subsection (1) is not resolved within thirty day of submission,	Addition Upon dispute, the matter should be referred to arbitration between the stakeholders concerned	Arbitration the decision is binding between the stakeholders and it will avoid lengthy court processes
Section 23I	Deletion of Schedule to No. 11 of 2016	12)The principal Act is amended by deleting the Schedule.	The schedule should be left as it is	This schedule emancipates public participation

GENERAL COMMENTS TO THE CLIMATE CHANGE BILL 2023

- Lack of enforcement mechanisms? The bill does not explicitly mention any penalties or legal actions for non-compliance with the regulations, which could weaken the effectiveness of the bill.
- Complexities of carbon accounting? Measuring the carbon emissions and reductions of various projects can be challenging, and there is potential for inaccurate reporting or fraud.
- Dependence on international standards? The bill relies on international standards and agreements, which may be subject to changes or challenges in the future.
- The National Climate Action Plan , Climate Change act and the NDCs should align.

YOUTH ENGAGEMENT AND EMPOWERMENT

(1) The State recognizes the critical role that the youth play in mitigating and adapting to climate change and shall therefore ensure that they are actively engaged and empowered in the implementation of this Act.

(2) The Council shall, in consultation with relevant stakeholders, develop and implement programs and initiatives to promote the participation and leadership of the youth in climate action, including but not limited to:

(a) Establishing a Youth Climate Change Advisory Committee to advise the Council on matters related to youth engagement and empowerment in climate action;

(b) Providing funding and technical support for youth-led climate change projects, research and innovation;

(c) Developing and implementing a national climate change education and awareness program for the youth;

(d) Creating opportunities for the youth to participate in decision-making processes on climate change at all levels of government;

(e) Providing incentives for private sector organizations to engage with youth-led climate action initiatives;

(f) Developing and implementing strategies to ensure the inclusion of marginalized and vulnerable youth populations in climate action programs and initiatives.

- (3) The Cabinet Secretary shall, in consultation with the Council, ensure that the Climate Change Directorate has a dedicated unit responsible for coordinating youth engagement and empowerment activities under this Act.
- (4) The State shall ensure that the rights and interests of the youth are protected and promoted in all climate change-related actions and decisions, and that their perspectives and voices are taken into account in the development and implementation of climate change policies and programs.
- (5) The State shall encourage and support the establishment of youth-led climate change organizations and networks, and facilitate their participation in national and international climate change forums and conferences.
- (6) The State shall ensure that all policies, programs and initiatives developed under this Act are gender responsive and intergenerational, and take into account the unique perspectives and needs of youth populations in order to achieve equitable and sustainable low carbon climate change resilient development.
- (7) The Council shall ensure the inclusion of youth in the development and implementation of climate change policies and strategies at all levels, including national, county, and community levels.
- (8) The Council shall establish mechanisms to promote the participation of youth in climate change decision making processes and encourage their engagement in climate action initiatives.
- (9) The Cabinet Secretary shall, in consultation with the Council and other relevant stakeholders, develop a youth climate change action plan that outlines specific strategies for promoting youth participation and leadership in climate action initiatives.
- (10) The government shall provide adequate resources and support to enable the effective participation of youth in climate change policy development and implementation & quote;