

REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON:

CONSIDERATION OF THE ANTI-MONEY LAUNDERING AND COMBATING OF
TERRORISM FINANCING LAWS (AMENDMENT) BILL, 2025 (NATIONAL ASSEMBLY
BILL NO. 5 OF 2025)



CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS

APRIL 2025

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LIST OF ABBREVIATIONS AND ACRONYMS

| | | |
|---------|---|---|
| AML | - | Anti-Money Laundering |
| AMLAB | - | Anti-Money Laundering Advisory Board |
| BCLB | - | Betting Control and Licencing Board |
| CBK | - | Central Bank of Kenya |
| CFT | - | Countering the Financing of Terrorism |
| CSPEN | - | Civil Society Parliamentary Engagement Network |
| EACC | - | Ethics and Anti-Corruption Commission |
| EANG | - | Estate Agents Networking Group |
| EARB | - | Estate Agents Registration Board |
| ESAAMLG | - | Eastern and Southern Africa Anti-Money Laundering Group |
| FATF | - | Financial Action Task Force |
| FRC | - | Financial Reporting Centre |
| ICPAK | - | Institute of Certified Public Accountants of Kenya |
| KBA | - | Kenya Bankers Association |
| LSK | - | Law Society of Kenya |
| MCCP | - | Maendeleo Chap Chap Party |
| ODM | - | Orange Democratic Movement |
| ODPP | - | Office of the Director of Public Prosecutions |
| UDA | - | United Democratic Alliance |
| WDM | - | Wiper Democratic Movement |

ANNEXURES

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (*National Assembly Bill No. 5 of 2025*)
- Annexure 4: Communication from the Speaker
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- Annexure 6: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum
- Annexure 7: Memoranda by Stakeholders

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill (*National Assembly Bill No. 5 of 2025*) which was published on 11th February 2025. It was read a First Time in the House on 4th March 2025 and thereafter committed to the Departmental Committee on Justice and Legal Affairs for consideration and reporting to the House pursuant to the provision of Standing Order 127.

The Honourable Speaker of the National Assembly directed that the Committee prioritize consideration of the Bill and report to the House soonest as the Bill is informed by various international obligations that require the country to have a robust legal framework to combat money laundering, financing of terrorism and proliferation of weapons.

The Bill seeks to make various amendments to the following ten (10) statutes –

1. The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)
2. The Prevention of Terrorism Act (Cap. 59B)
3. The Betting, Lotteries and Gaming Act (Cap. 131)
4. The Retirement Benefits Act (Cap. 197)
5. The Mining Act (Cap. 306)
6. The Sacco Societies Act (Cap. 490B)
7. The Accountants Act (Cap. 531)
8. The Estate Agents Act (Cap. 533)
9. The Certified Public Secretaries of Kenya Act (Cap. 534)
10. The Public Benefits Organizations Act (No. 18 of 2013)

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 11th March 2025 inviting the public to submit memoranda by way of written statements on the Bill.

In addition, the Clerk of the National Assembly vide letter Ref. No. *NA/DDC/JLAC/2025/014* dated 26th March 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum on Thursday 3rd April 2025. The memoranda were to be received on or before Wednesday, 2nd April 2025 at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received six (6) memoranda.

The Office of the Attorney General, Assets Recovery Agency, Civil Society Parliamentary Engagement Network (CSPEN), Ethics and Anti-Corruption Commission (EACC), Estate Agents Registration Board (EARB), Financial Reporting Centre (FRC), Ministry of Mining, Blue Economy and Maritime Affairs, Law Society of Kenya (LSK), Transparency International, Institute of Certified Public Accountants of Kenya (ICPAK) and the Director of Public Prosecutions (ODPP) attended the public hearing forum and gave their views on the Bill which the Committee considered in the preparation of this report.

While considering the Bill, the Committee observed that the Bill addresses fundamental issues relating to anti-money laundering, countering the financing of terrorism and countering the proliferation of weapons of mass destruction in addressing the technical compliance deficiencies identified arising from the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) re-rating and review by Financial Action Task Force and matters incidental thereto. Therefore, the Bill is necessary to ensure compliance with global standards on anti-money laundering and combating of terrorism financing and proliferation financing.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill (*National Assembly Bill No. 5 of 2025*).

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank the Office of the Attorney General, Assets Recovery Agency, Betting Control and Licencing Board (BCLB), Central Bank of Kenya (CBK), Civil Society Parliamentary Engagement Network (CSPEN), Ethics and Anti-Corruption Commission (EACC), Estate Agents Registration Board (EARB), Estate Agents Networking Group (EANG), Financial Reporting Centre (FRC), Mau Mau Associations, Ministry of Mining, Blue Economy and Maritime Affairs, Law Society of Kenya (LSK), Transparency International, Institute of Certified Public Accountants of Kenya (ICPAK) and Director of Public Prosecutions (ODPP). for submitting their views on the Bill.

Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (*National Assembly Bill No. 5 of 2025*) and have the honour to report back to the National Assembly with the recommendation that the House **approves the Bill with amendments as proposed in the Schedule of Amendments.**

HON. MURUGARA GEORGE GITONGA, CBS, MP
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS



CHAPTER ONE

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. *To study and review all legislation referred to it;*
 - v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider: -
 - a) The Judiciary;
 - b) Tribunals;
 - c) Access to Justice;
 - d) Public prosecutions;
 - e) Ethics, Integrity and Anti-corruption;
 - f) Correctional services;
 - g) Community service orders and witness protection;
 - h) Constitutional Affairs;
 - i) Sovereign immunity;
 - j) Elections including referenda;
 - k) Human rights;
 - l) Political parties; and
 - m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.
3. In executing its mandate, the Committee oversees the following Ministries, Departments and Agencies:

- a) State Department of Correctional Services;
- b) State Law Office and Department of Justice;
- c) The Judiciary;
- d) Judicial Service Commission;
- e) Office of the Director of Public Prosecutions;
- f) Ethics and Anti-Corruption Commission;
- g) Independent Electoral and Boundaries Commission;
- h) Commission on Administrative Justice;
- i) Office of the Registrar of Political Parties;
- j) Witness Protection Agency;
- k) Kenya National Commission on Human Rights;
- l) Kenya Law Reform Commission; and
- m) Council of Legal Education.

1.3 Committee Membership

4. The Committee was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, CBS, MP
Tharaka Constituency

UDA Party

Vice-Chairperson

Hon. Mutuse Eckomas Mwengi, OGW, MP
Kibwezi West Constituency

MCCP Party

Members

Hon. Gladys Boss, MGH, MP
Uasin Gishu (CWR)

UDA Party

Hon. Francis Kajwang' Tom Joseph, MP
Ruaraka Constituency

ODM Party

Hon. (Dr.) Otiende Amollo, SC, MP
Rarieda Constituency

ODM Party

Hon. Muchira Michael Mwangi, MP
Ol Jorok Constituency

UDA Party

Hon. Makali John Okwisia, MP
Kanduyi Constituency

FORD-Kenya

Hon. Mogaka Stephen M, MP
West Mugirango Constituency

UDA Party

Hon. CPA Suleka Hulbale Harun, MP
Nominated

UDM Party

Hon. Maalim Farah, EGH, MP
Dadaab Constituency

WDM Party

Hon. Onyiego Silvanus Osoro, CBS, MP
South Mugirango Constituency

UDA Party

Hon. Wetangula Timothy Wanyonyi, CBS, MP
Westlands Constituency

ODM Party

Hon. Muchangi Karemba, CBS, MP
Runyenjes Constituency

UDA Party

Hon. Aden Daud, EBS, MP
Wajir East Constituency

Jubilee Party

Hon. Siyad Amina Udgoon, MP
Garissa Township (CWR)

Jubilee Party

1.4 Committee Secretariat

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla
Clerk Assistant I / Head of Secretariat

Mr. Ronald Walala
Senior Legal Counsel

Mr. Abdikafar Abdi
Clerk Assistant III

Ms. Jael Ayiego
Clerk Assistant III

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Omar Abdirahim
Fiscal Analyst I

Ms. Vivienne Ogega
Research Officer III

Ms. Mary Kamande
Public Communications Officer III

Mr. Calvin Karung'o
Media Relations Officer III

Mr. Silas Opanga
Hansard Reporter III

Mr. Meldrick Sakani
Audio Officer

Mr. John Nduaci
Serjeant-At-Arms

CHAPTER TWO

2 THE ANTI-MONEY LAUNDERING AND COMBATING OF TERRORISM FINANCING LAWS (AMENDMENT) BILL (*NATIONAL ASSEMBLY BILL NO. 5 OF 2025*)

2.1 Introduction

6. The Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 is sponsored by the Leader of Majority Party, Hon. Kimani Ichung'wah, MGH, MP.
7. The Bill was published on 11th February 2025 and read a First Time in the House on Tuesday 4th March 2025. It was thereafter committed to the Departmental Committee on Justice and Legal Affairs in line with the provision of Standing Order 127(3).

2.2 Summary of Legal Provisions

8. The Bill seeks to amend various Acts of Parliament relating to anti-money laundering; and combating of financing of terrorism and proliferation acts to address deficiencies in Kenyan laws. The Bill seeks to amend the following laws—

1) The Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A)

The proposed Bill seeks to amend the Act by adopting the title “Director General” as the head of the Asset Recovery Agency to align with other investigative agencies. The proposed Bill also seeks to define a dealer in precious metal or stone as one of the businesses that are designated as non-financial businesses which are regulated and supervised by the Financial Reporting Centre. In addition, the proposed Bill seeks to align the Act with the Public Benefits Organizations Act, 2013 by deleting reference to non-governmental organisations.

2) The Prevention of Terrorism Act (Cap. 59B)

The proposed Bill seeks to amend the Act to define the term “terrorism financing” which includes the offences of collection or provision of funds, property and services for commission of terrorist acts; and financing of travel for terrorism purposes as stipulated under section 5 and 5A respectively. Further the proposed Bill seeks to align various provisions of the Act with standards developed the Financial Action Task Force to combat terrorism financing.

3) The Betting, Lotteries and Gaming Act (Cap. 131)

The proposed Bill proposes to amend the Act to empower and allow the Betting Control and Licensing Board to regulate and supervise entities that fall within its jurisdiction for anti-money laundering, counter terrorism financing and counter proliferation financing.

4) The Retirement Benefits Act (Cap. 197)

The proposed Bill seeks to amend the Act by strengthening the mandate of the Retirement Benefit Authority to regulate, supervise and enforce compliance of the entities under its watch for anti-money laundering, counter financing of terrorism and counter proliferation financing.

5) The Mining Act (Cap. 306)

The proposed Bill seeks to amend the Act to empower the Director of Mining, and in discharge of his or her functions, to regulate, supervise and enforce compliance of persons

under his or her supervision for anti-money laundering, counter financing of terrorism and counter proliferation financing.

6) The Sacco Societies Act (Cap. 490B)

The proposed Bill seeks to amend the Act by empowering Sacco Societies Regulatory Authority to regulate and supervise bodies under its purview for anti-money laundering, counter financing of terrorism and counter proliferation financing.

7) The Accountants Act (Cap. 531)

The proposed Bill proposes to amend the Act to empower and allow the Institute of Accountants to regulate and supervise matters relating to anti-money laundering, counter financing of terrorism and counter financing of proliferation acts.

8) The Estate Agents Act (Cap. 533)

The proposed Bill seeks to amend the Act to empower the Estate Agents Registration Board to regulate and supervise entities that fall within its jurisdiction for anti-money laundering, counter financing of terrorism and counter financing of proliferation acts.

9) The Certified Public Secretaries of Kenya Act (Cap. 534)

The proposed Bill seeks to amend the Act to strengthen the Institute of Certified Public Secretaries to closely regulate and supervise issues relating to anti-money laundering, counter financing of terrorism and counter proliferation financing.

10) The Public Benefits Organizations Act (No. 18 of 2013)

The proposed Bill seeks to amend the Act to empower the Public Benefits Regulatory Authority to oversight and monitor public benefits organizations that are at risk of terrorism financing in Kenya.

CHAPTER THREE

3 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 Legal Framework on Public Participation

9. Article 118 (1)(b) of the Constitution provides that:

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.”

10. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

“(3) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism including-

(a) inviting submission of memoranda;

(b) holding public hearings;

(c) consulting relevant stakeholders in a sector; and

(d) consulting experts on technical subjects.

(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”

3.2 Memoranda Received on the Bill

11. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 11th February 2025 inviting the public to submit memoranda by way of written statements on the Bill. Further, the Committee vide letter Ref. No. *NA/DDC/JLAC/2025/014* dated 26th March 2025 invited key stakeholders to submit views on the Bill and attend a public participation forum on Thursday 3rd April 2025.

12. To this end, the Departmental Committee on Justice and Legal Affairs received fifteen memoranda from the Office of the Attorney General, Assets Recovery Agency, Betting Control and Licencing Board (BCLB), Central Bank of Kenya (CBK), Civil Society Parliamentary Engagement Network (CSPEN), Ethics and Anti-Corruption Commission (EACC), Estate Agents Registration Board (EARB), Estate Agents Networking Group (EANG), Financial Reporting Centre (FRC), Mau Mau Organisations, Ministry of Mining, Blue Economy and Maritime Affairs, Law Society of Kenya (LSK), Transparency International, Institute of Certified Public Accountants of Kenya (ICPAK), the Office of the Director of Public Prosecutions (ODPP), the Institute of Certified Public Secretaries of Kenya (ICPSK) and Henia Anzala and Associates. The memoranda are annexed to this report as *Annexure 7*.

13. The following entities submitted memoranda in support of the provisions contained in the Bill—

- (1) The **FRC** submitted memoranda in support of the Bill stating the Bill addresses the technical compliance deficiencies in the country’s legal framework identified by ESAAMLG and FATF standards as well as other issues in anti-money laundering and combating of terrorism and proliferation financing. It further stated that FATF International Cooperation Review Group (ICRG) process has strict timelines and failure to adhere to the same would affect Kenya’s timely exit from the FATF grey list.
- (2) The **OAG** submitted memoranda in support of the Bill stating that its contents do not offend the Constitution or the existing Acts of Parliament. However, the policy direction lies with the National Treasury and Economic Planning.

- (3) The **BCLB** submitted memoranda in support of the Bill of the amendments to the Betting, Lotteries and Gaming Act (Cap. 131).
 - (4) The **CBK** submitted memoranda in support of the Bill stating that it will strengthen the country's anti-money laundering and combating of terrorism financing regulatory framework.
 - (5) The **PBORA** submitted memoranda in support of the proposed amendments to the Public Benefits Organizations Act, 2013 (No. 18 of 2023).
 - (6) The **ODPP** submitted memoranda in support of the proposed amendments to the Prevention of Terrorism Act (Cap 59B) stating that the amendments are fundamental to the successful prosecution of offences under the Act.
 - (7) The **ICPSK** submitted memoranda in support of the proposed amendments and highlighted commendable aspects of the Bill, examined the relevance of the Company Secretary profession's regulatory framework role in AML compliance, and provided recommendations to enhance its effectiveness.
14. **EACC, ODPP, EARB, EANG, ICPAK, CSPEN, Assets Recovery Agency, Ministry of Mining, Blue Economy and Maritime Affairs and Transparency International** submitted memoranda in support of the Bill with specific additional proposals for inclusion in the Bill as follows—
Further amendments to the Proceeds of Crime and Anti-Money Laundering Act (Cap. 59A).
16. EACC proposed amendment of—
- (a) section 2 of the Act to define the term "*proliferation financing*". According to them, the lack of a clear definition may lead to inconsistent application of the law and hinder effective enforcement and compliance requirements. It also proposed to include the dealers in artefacts and antiques under the definition of designated non-financial businesses.
 - (b) section 11(1) of the Act to include a corresponding sanction for the offence of non-compliance by reporting institutions.
 - (c) section 49 of the Act to include the Chief Executive Officer of the Commission as a member of the AMALB as the Commission is a key player in investigations on all matters corruption, economic crimes and money laundering relating to proceeds of corruption.
17. ODPP proposed that section 49 of the Act be amended to include the DPP as a member of the AMALB as the office is a key stakeholder.
18. Transparency International submitted that the proposed new subsection 134(3)(a) be amended by the deleting the option of paying a fine as a penalty and enhancement of the period of imprisonment in the case of a natural person. It stated that a fine of up to ten million shillings for natural persons may seem insignificant compared to the illicit profits made, leading offenders to treat it as a "cost of doing business" thus diminishing the intended impact of the penalty and fails to address the severity of the crime.
19. The Ministry of Mining, Blue Economy and Maritime Affairs proposed that—
the new definition of "dealers in precious stones or metals" be amended by replacing paragraph (a) with "mining operations". It submitted that under the Mining Act, a mineral dealer does not include a person or entity engaged in the extraction or production of minerals. However, using the term mining operations ensures it covers the

extraction/production of precious metals and stones and also ensures harmonization of both laws.

20. It further proposed the First Schedule be amended to include the State Department responsible for mining in the list of supervisory bodies.

21. The Assets Recovery Agency proposed that section 55A be amended by deleting the word “Asset” and substitute therefor the word “Assets” to correct an error in the naming of the Agency.

22. CSPEN proposed that—

- (a) the Act should be amended to establish a system of management of the assets recovered. It stated that additional measures are needed to enhance its efficiency and ensure that recovered assets are not mismanaged or lost through corruption by establishing a robust asset management system.
- (b) risk assessment guidelines should be developed to ensure that risk evaluations is consistent, legally grounded, and aligned with international best practices. These guidelines should provide a clear framework for identifying, assessing and mitigating risks in each sector, while safeguarding fundamental rights, including data protection and due process.

23. ICPAK submitted that—

- (a) section 9 and 10 of the Act be amended to provide a penalty provision aimed to strengthen the enforcement mechanism of the Act by introducing clear and enforceable consequences for non-compliance.
- (b) while in agreement with the provisions of section 13(2), it was of the opinion that the section should carefully balance the need for robust financial surveillance with respect for individual privacy rights, particularly in the context of sensitive financial information. It was its view that the provision should be explicitly detailed to ensure that the AML/CTF measures comply with national data protection laws.
- (c) section 24 of the Act be amended to establish clear checks and balances to ensure that the FRC’s powers are exercised transparently and fairly. Oversight mechanisms such as a review panel or regular audits of the FRC’s actions could be implemented to prevent overreach.
- (d) section 36A(4) of the Act be amended to provide clear guidelines and oversight mechanisms to prevent misuse of resources and ensure that fees or charges are determined and utilized in a fair, reasonable and accountable manner. It further submitted that while section 44 aims to improve financial surveillance, it could lead to an unnecessary administrative burden on financial institutions, particularly for low-risk transactions. It was of the view that a more balanced approach should be adopted, where financial institutions are required to report only transactions that meet a defined risk threshold. It stated that the Bill should differentiate reporting requirements based on risk assessments, rather than blanket for all transactions.
- (e) while section 45 of the Act as proposed to be amended in the Bill seeks to enhance due diligence requirements for financial institutions, the Bill should include clearer guidance on the types of enhanced due diligence measures that should be adopted particularly in relation to politically exposed persons (PEPs) and non-resident clients. It stated that clear guidelines on verifying foreign PEPs will ease the compliance burden on financial institutions, improve the effectiveness of due diligence, and enhance international cooperation in fighting financial crimes.

- (f) specific clauses that outline the mechanisms for mutual legal assistance and sharing of intelligence between countries should be incorporated in the Bill as well as a framework for financial institutions to collaborate with. This would enhance global cooperation, improve intelligence exchange and strengthen compliance with international AML standards.
- (g) non-financial entities such as real estate companies, lawyers and accountants have become significant players in money laundering activities. It was of the view that strengthening the obligations of non-financial entities would enhance transparency, accountability, and AML compliance to reduce their misuse for illicit activities.
- (h) the use of the term “periodically” in section 36D (3) of the Act does not establish clear timelines for conducting assessments. It was of the opinion that the section be amended to replace the word “periodically” and substitute therefor with the words “on a semi-annual basis each year” and provide a new subsection 2 to read as follows—
“The Financial Reporting Centre shall compile the finding of these assessments into a quarterly report, which shall be published on its website before the next review is conducted.”
- (i) section 53 of the Act be deleted. It stated that the Assets Recovery Agency Director General is the accounting officer of the Board and appointment should not be left to one member of the advisory board or have any external hand but be left to the Advisory board as a whole for independence.
- (j) section 53(3)(a) be amended by deleting the words “law” and “or any other relevant” in the qualifications for appointment as the Director-General of the Assets Recovery Agency. It further proposed that section 53(3)(c) of the Act be deleted and replaced with the following—
“a member in good standing, registered with a body that regulates the accounting profession in Kenya”
- (k) section 53(4) of the Act be amended by requiring the Assets Recovery Agency to consult with the Public Service Commission instead of the Attorney General to second staff to the Agency. It stated that the Public Service Commission has a well-resourced and elaborate procedure and internal processes in staff recruitment, training and development and thus best placed to handle staff matters and help the Agency in development of its human capital.
- (l) section 71 be amended to allow police officers to seek such seizure power from the court. It stated that to prevent the misuse of power by officers in arbitrarily seizing property, the authority to sanction such seizures should be vested in the courts.

24. LSK proposed—

- (a) the deletion of the provisions of section 49(1) (f) and (g) of the Act. It stated that the proposal seeks to eliminate conflict of interest by Kenya Bankers Association (KBA) and Institute of Certified Public Accountants of Kenya (ICPAK) representation in the Anti-Money Laundering Advisory Board (AMLAB). They noted that pursuant to section 48 of the Act, the KBA and ICPAK representatives have reporting obligations to the FRC thus creating direct conflict of interest. Their membership in the AMLAB involves in them in decisions making that affects the FRC's ability to oversee and supervise AML/CFT measures within their own institutions and undermines public trust and confidence in the FRC's operations. It further stated that, the provisions of Sec. 49(1)(h) of the Act, the Cabinet Secretary is mandated to appoint to AMLAB two other persons from the private sector who shall have knowledge and

expertise in matters relating to money laundering’. In view of the membership of the two institutions in the AMLAB, other similar professional bodies i.e. LSK, ICPSK and AKI which are similarly reporting institutions have cited this provision as being discriminatory in law, and championed have their inclusion as well.

(b) section 25(5)(a) of the Act be amended to change the term of the Director-General of the FRC to a single term of six (6) years. They submitted that the justification for the proposed amendment is to—

- (i) align the term limit of the Director General of the Financial Reporting Centre with the term limits of Heads of similar counterpart similar agencies such as Ethics and Anti-Corruption Commission, whose Secretary/CEO has a one six-year non-renewable term. This is crucial given the fact that POCAMLA has guaranteed the independence and autonomy of the Centre to enable it plays its critical AML/CFT role of providing financial intelligence to law enforcement agencies for investigation, as well as the primary AML/CFT regulation and supervision of the Country’s Financial and Designated Non-Financial Businesses and Professions (DNFBPs) sectors.
- (ii) secure the tenure of the Director General, ensuring that he/she can execute his/her mandate without the potential and inherent pressure associated with term renewal, a decision which is dependent on a number of state actors. The amendment providing a one fix term shall safeguard against the Director General making undue decision on the premises of expecting favourable renewal considerations, which can likely compromise the effectiveness of the Centre.
- (iii) align the Act with the recent enactment of the Anti-Money Laundering and Combating of Terrorism Laws (Amendment) Act, 2023 which amended section 2(b) of the State Corporation Act, (Cap 446) to exempt FRC from being a State Corporation. The import of the amendment is that it excluded FRC from the jurisdiction of State Corporation and reinforced its autonomy and independence.
- (iv) align the Act with FATF standards and best practice on the autonomy and independence of Heads of Financial Intelligence Units.

25. Henia Anzala and Associates proposed that—

- (a) Section 49 of the Act be amended to replace the Cabinet Secretary with the President as the appointing authority of the chairperson of the AMLAB
- (b) Section 55A of the Act be amended to remove the Attorney General as the Chairperson of the ARAAB to be replaced by a person appointed by the President and that the Solicitor General be included as a member of the Board.
- (c) Section 55B of the Act be amended to allow the ARAAB to oversee the ARA.

Committee observations

26. The Committee observed that there was a need to align any further proposed amendments to the Proceeds of Crime and Ant-Money Laundering Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee agreed with the proposals made by the Law Society of Kenya with respect to the term of the Director-General of the FRC; and the Ministry of Mining on the definition of “dealer in precious stones or metals”.

27. The Committee did not agree to include the other proposals in the current Bill. To allow for further interrogation, the proposals could be introduced as substantive amendments to the Act in the future.

Further amendments to the Prevention of Terrorism Act (Cap. 59B)

28. Transparency International submitted that the proposed section 5A (2) be amended to enhance the penalties provided for corporate/legal persons. It stated that the penalties are weak and need to be made more stringent, for instance, revocation of licences for offenders. It was their view that Kshs. 20M is an insignificant proportion for multinational companies as they have the financial capacity whose leadership should be held accountable.

29. ICPAK proposed that section 40E(2)(a) be amended to read as follows—

“Propose persons to the relevant sanctions committee based on credible evidence and objective criteria, such proposals shall not be influenced by personal interest, political considerations or any form of bias.”

Committee Observations

30. The Committee observed that there was a need to align any further proposed amendments to the Prevention of Terrorism Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill. To allow further interrogation, the Committee shall introduce the proposals in a separate Bill.

Further amendments to the Public Benefits Organizations Act, 2013 (No.18 of 2013)

31. Transparency International noted that while the Bill empowers the PBORA to oversee organizations at risk of terrorism financing, it does not specify due diligence requirements for PBOs. It was its view that the Act be amended to outline clear compliance guidelines for PBOs on terrorism financing to complement the proposed amendments under Section 43A of the instant proposed Bill.
32. CSPEN proposed that section 43A(d) be redrafted in the affirmative so as to foster a collaborative relationship between regulatory bodies and PBOs and encourage compliance and mutual trust.

Committee Observations

33. The Committee observed that there was a need to align any further proposed amendments to the Public Benefits Organizations Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill. To allow further interrogation, the Committee shall introduce the proposals in a separate Bill.

Further amendments to the Accountants Act (Cap. 531)

34. ICPAK proposed amendment of—

(a) the proposed new section 8A of the Act and recommended the development of a clear comprehensive Memorandum of Understanding (MoU) between ICPAK and the Financial Reporting Centre (FRC), as envisioned under section 36A (7) of the Proceeds

of Crime and Anti-Money Laundering Act, is essential to enhance coordination and cooperation between the two entities. It was its view that the MoU will enhance coordination and cooperation by clearly defining roles, responsibilities, and mechanisms for information sharing, dispute resolution and reporting.

- (b) the proposed new section 8B (2) of the Act and recommended that the prescribed penalties be scaled in proportion to the size and resources of the entity. For smaller entities, a more flexible, remedial approach such as warnings, guidance, or opportunities for training should be considered as part of a tiered penalty system. It was its view that this will ensure that smaller organizations are not unduly burdened, while still promoting compliance with AML/CFT regulations.

Committee Observations

- 35. The Committee observed that there was a need to align any further proposed amendments to the Accountants Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill. To allow further interrogation, the Committee shall introduce the proposals in a separate Bill.

Further amendments to the Estate Agents Act (Cap. 533)

- 36. EARB proposed that—

- (a) the proposed section 28(3) be renumbered to section 28(4) and introduce a new section 28(3) as follows—
 - (a) *“The Board shall categorize Estate Agents based on their training, experience and any other suitable criteria.*
 - (b) *The Board shall maintain a register of listed practicing Estate Agency Firms.*
 - (c) *All real estate purchasing and selling transactions by land buying companies and developers shall be handled by registered and practising estate agent(s)”*

EARB noted that the amendments would help the Board to execute its mandate under the proposed section 28(1) and 28(2).

- (b) prescribed penalties in section 29(2) are not fair as there are many actors illegally practicing as estate agents; high penalty will discourage registration; many actors will continue practicing illegally. It also stated that the penalty for practicing as unregistered estate agent is 20,000, a high penalty will only discourage them from registering. It also submitted that there is no requirement that unregistered actors to be reporting agent and therefore the Board has no mandate for regulating and supervising unregistered actors practicing as estate agents.
- (c) section 29(2) be amended by the reducing the penalties to not exceeding Kshs.500,000, Kshs.100,000 and Kshs.10,000 in paragraphs (a), (b) and (c) respectively.

- 37. EANG proposed—

- (a) The incorporation of stringent registration, enhancing digital and inter-agency oversight and addressing both domestic and international engagement with unregistered estate agents in the amendments. It proposed mandatory licencing of estate agents, real estate business registration with FRC as Designated Non-Financial Business and Professions and a centralized transaction monitoring.
- (b) licencing and regulation of Multiple Listing Services (MLS) and digital platforms to enhance digital oversight and reporting. It was its view that to strengthen compliance all estate agents should undergo a mandatory AML-CFT training and certification. It

further proposed additional mandatory regulatory measures such business entity registration, trade licences and permits, tax compliance, legal and developer obligations, prohibition of facilitating benefits to unregistered estate agents. It also emphasized on international and cross-border oversight to ensure compliance of local regulations by international clients, regulation of foreign engagement via social media and cross-border transaction monitoring.

37. CSPEN submitted that—

- (a) there is need to impose sanctions on real estate agents that are not registered under the Act. It submitted that the effectiveness of the sanctions prescribed under the AML/CFT framework is undermined, as enforcement mechanisms remain largely ineffective in the absence of comprehensive sectoral oversight. Addressing the gap is critical in streamlining the AML/CFT regime and mitigating the risks posed by the sector.
- (b) cash transactions above a specific threshold in real estate transactions should be prohibited. It stated that electronic transactions through licensed financial institutions will ensure traceability and prevent cash-based money laundering and require estate agents, law firms and financial institutions involved in property transactions to conduct enhanced due diligence and report suspicious transactions to FRC.

Committee Observations

38. The Committee observed that there was a need to align any further proposed amendments to the Estate Agents Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee agreed with the submission to enhance the penalties applicable to unregistered persons acting as estate agents.

Further amendments to the Mining Act (Cap 306)

39. The Ministry of Mining, Blue Economy and Maritime Affairs proposed—

- (a) that the provisions of the proposed new section 16B on penalties for violations relating to money laundering and terrorism financing be inserted immediately after section 212 as section 212A. It stated that all the offences and penalties under the Mining Act are covered in Part XIV (Monitoring, Compliance and Enforcement) which covers sections 196 to 216. The provision therefore falls under this part of the Mining Act.
- (b) that the proposed new sections 16A and 16B on the functions of the Director of Mines relating to anti-money laundering and countering the financing of terrorism purposes be inserted after section 20 which provides for the functions of the Director of Mines.
- (c) the amendment of the proposed section 16A(2)(g) on the power of the Director of Mines to issue regulations, guidelines or directions because the Cabinet Secretary is the one with the powers to make regulations.

Committee Observations

40. The Committee observed that there was a need to align any further proposed amendments to the Mining Act with the principal object of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee agreed to the amendments proposed by the Ministry with

respect to the power of the Director of Mines to issue regulations in the proposed section 16A(2)(g) of the Act.

Amendments to Acts not contained in the Bill

41. The **LSK** submitted proposed amendments to various other laws relating to anti-money laundering and countering the financing of terrorism that were not published as part of the Bill, as follows—

- (a) Amendment of section 40 of the **Kenya Citizenship and Immigration Act, Cap 170** by inserting a new subsection 40(2A) immediately after subsection 40(2)—

“(2A) An application for work and or business permit shall be made by an advocate to the Director in the prescribed manner.”

It stated that the proposal seeks to curtail fraud and misuse of permits by individuals engaging in illegal business activities in order to maintain economic integrity.

- (b) Amendment of section 5(1) of the **Trustees (Perpetual Succession) Act Cap, 164** by deleting subsection (1) and substitute therefor for the following new subsection—

“(1) An application to the Registrar for a certificate under this Act shall be in writing, signed by the Advocate making it and shall contain the several particulars specified in the First Schedule, or such of them as shall be applicable to the case.”

LSK stated that the proposal seeks to ensure that applications for registration of trusts are made through Advocates and thereby ensuring that trust that are registered are in compliance with AML/CFT regulations.

- (c) Amendment of section 13(1) of the **Companies Act, Cap 486** by deleting subsection (1) and substituting therefor the following new subsection—

“(1) A person who wishes to register a company shall, through an Advocate, lodge with the registrar –

(a) An application for registration of the company that complies with subsection (2) and (4)

(b) A memorandum of association of the company; and

(c) Except as provided by section 21, a copy of the proposed articles of association.”

LSK stated that the proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical oversight and reduction of unscrupulous or unregulated agents facilitating company formation for illicit actors.

- (d) Amendment section 74 of the **Companies Act, Cap. 486** to insert the following new subsection 2(c) immediately after subsection 2(b)—

“(c) is made through an Advocate.”

LSK noted that conversion of a private company is a fundamental change to the structure of a company which could lead to loopholes in terms of compliance due to the change in structure. The proposal will ensure prevention of regulatory arbitrage; and scrutiny of capitalization and fund injections.

- (e) Deletion of subsection 975(1) of the **Companies Act, Cap. 486** and substitution with the following new subsection—

“(1) Subject to this part, a foreign company that wishes to be registered as a foreign company shall through an Advocate, lodge with the registrar an application that is in accordance with this Division.”

LSK stated that this proposal seeks to ensure that companies are registered through Advocates who are regulated by the POCAMLA thereby ensuring enhanced due diligence; compliance with reporting obligations to the FRC; professional and ethical

oversight and reduction of unscrupulous or unregulated agents facilitating company formation for illicit actors.

- (f) Amendment of section 36 of the **Land Registration Act, Cap. 300** to insert the following new subsection (8A) immediately after subsection (8)—

“(8A) Any proposition to deal in land in the manner proposed in subsection (8) above can only be carried out by an Advocate of the High Court of Kenya.”

LSK stated that the proposal seeks to smoke out persons who illegally and fraudulently procure the consent of validly registered proprietors of land and deal with such land based on irregularly acquired consent.

- (g) Amendment of the **Land Registration Act, Cap. 300** to insert the following new section 36A—

“36A. The execution of any instrument relating to any disposition and dealings affecting land must be effected in the presence of an Advocate of the High Court of Kenya, a magistrate, a judge or a notary public.”

LSK submitted that this proposal aims to ensure that any disposition relating to land is executed by persons who are bound by professionally approved ethics and standards. It stated that this will help reduce cases of land fraud.

- (h) Deletion of subsection 44 (2) of the **Land Registration Act, Cap. 300** and substitution therefor the following new subsection—

“(2) The execution of any instrument referred to in subsection (1) by a person shall consist of appending a person’s signature on it or affixing the thumbprint or other mark as evidence of personal acceptance of that instrument. Such execution shall be done in the presence of an advocate”

LSK submitted that the proposal seeks to further affirm the proposal requiring that instruments relating to land are executed by an advocate of the Hight Court of Kenya over and above them being in writing. It stated that this ensures that transactions in land are not regularized just by virtue of being in writing.

- (i) Amendment of section 12A of the **Land Act, Cap. 280** to delete subsection (2) and substitute therefor the following new subsection—

“(2) No transaction in controlled land including a transfer for a consideration by way of trusts, gift intervivos or otherwise to an eligible person shall be dealt with unless such a transaction is done though an Advocate of the High Court of Kenya and without the prior written approval of the Cabinet Secretary.”

LSK stated that the proposal seeks to ensure that transaction with regards to controlled land are carried out by an Advocate of the High Court of Kenya who can be put to account and is answerable to relevant authorities in case of any irregularities.

Committee Observations

42. The Committee observed that there was a need to align any proposed amendments to Acts not covered in the Bill with the provisions of the National Assembly Standing Orders and the objects of the Bill which seeks to address technical deficiencies in specific laws arising from a re-rating and review by international Anti-Money Laundering and Counter-Terrorism Financing bodies in which Kenya is a member. In this regard, the Committee did not agree to include the proposals in the current Bill as they would unduly expand the subject of the Bill. To allow for further interrogation, the proposals could be introduced as substantive amendments in the future.

CHAPTER FOUR


4 COMMITTEE OBSERVATIONS

43. Upon reviewing the Bill and the submissions received, the Committee made the following observations:
- (a) The Bill seeks to amend various Acts of Parliament to align them to the international standard on combating terrorism financing and financing of proliferation of weapons of mass destruction as prescribed by the Financial Action Task Force (FATF);
 - (b) The Bill is necessary to ensure compliance with global standards on anti-money laundering and combating of terrorism financing and proliferation financing through improving the powers of designated non-financial businesses and professions to conduct anti-money laundering and combating of terrorism financing risk-based supervision and inspection of reporting institutions.
 - (c) The proposed amendments to the Betting, Lotteries and Gaming Act; the Retirement Benefits Act; the Mining Act; the Sacco Societies Act; the Accountants Act; the Estate Agents Act; and the Certified Public Secretaries of Kenya Act seek to give the respective entities supervisory powers for anti-money laundering and combating of terrorism and proliferation acts financing. These proposed amendments are in line with the provisions of section 36A (3) of the Proceeds of Crime and Anti-Money Laundering Act which states that the obligation of supervising and enforcing compliance with the Act is placed on a supervisory body and this obligation shall constitute a core function of the supervisory body.
 - (d) The Bill seeks to revise the framework for regulation and oversight of non-governmental organizations which was informed by the results of Non-Profit Organizations Task Force risk assessment. In that regard, the Proceeds of Crime and Anti-Money Laundering Act is amended by removing non-governmental organizations as reporting institutions and removing Non-Governmental Organizations Co-ordination Board as a supervisory body to comply with FATF standards.
 - (e) During public participation, various entities and stakeholders proposed amendments to various sections and Acts of Parliament not contained in the Bill. For example, LSK proposed a raft of amendments to the Kenya Citizenship and Immigration Act; the Companies Act; the Land Act; the Land Registration Act and the Trustee (Perpetual Succession) Act. They stated that these amendments were to allow LSK effectively carry out its supervisory mandate over advocates in line with the provisions of the Proceeds of Crime and Anti-Money Laundering Act which declares LSK to be a self-regulatory body. These amendments would unduly expand the subject of the Bill. Therefore, the Committee shall introduce the proposals in a separate Bill.

CHAPTER FIVE

5 COMMITTEE RECOMMENDATIONS

44. The Committee, having considered the Anti-Money Laundering and Combating of Terrorism Financing Laws (Amendment) Bill, 2025 (*National Assembly Bills No. 5 of 2025*) and the submissions from members of the public and stakeholders, **recommends that the House approves the Bill with amendments as proposed in the Schedule of Amendments.**

SIGNED.......... DATE.....*8. 4. 025'*.....

HON. GEORGE GITONGA MURUGARA, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

