

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 50 (Acts No. 7)*



REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2017**

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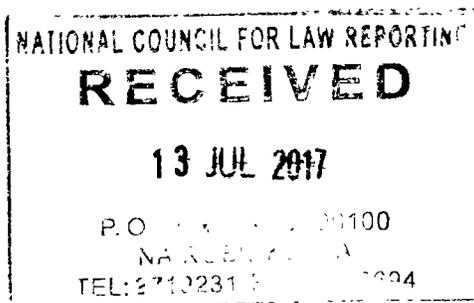
**NAIROBI, 12th April, 2017**

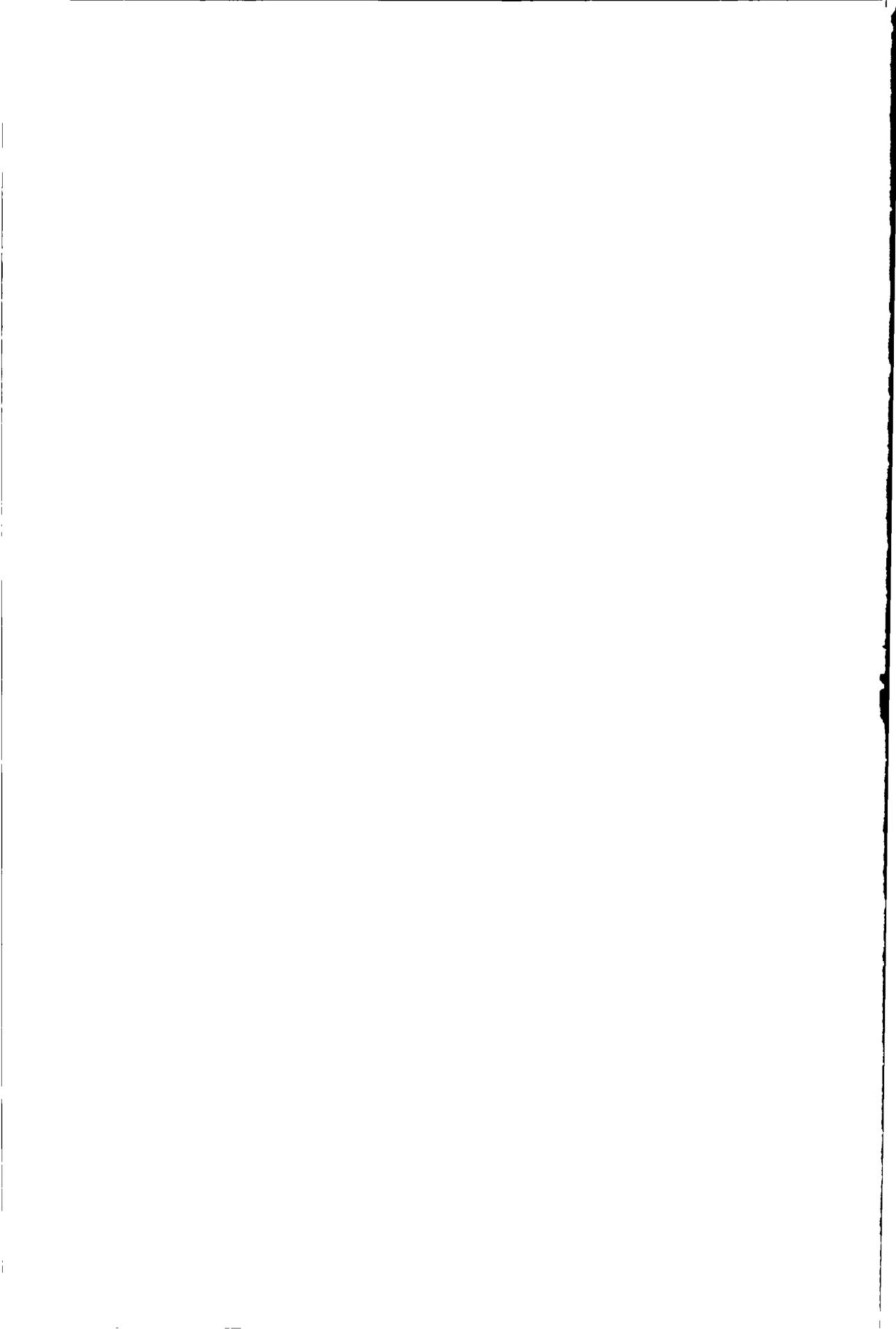
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**THE PRIVATIZATION (AMENDMENT) ACT****No. 7 of 2017***Date of Assent: 7th April, 2017**Date of Commencement: 26th April, 2017***AN ACT of Parliament to amend the Privatization Act, 2005****ENACTED** by Parliament of Kenya, as follows—

1. This Act may be cited as the Privatization (Amendment) Act, 2017.

Short title.

2. The Privatization Act, 2005, is amended in section 2—

Amendment of section 2 of No. 2 of 2005.

(a) by inserting the following new definition in its proper alphabetical sequence—

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for finance;

“County Government” means the county government established by Article 176(1) of the Constitution”.

(b) by deleting the definition of the word “Minister” and substituting therefor the following new definition—

“Minister” means Cabinet Secretary.

(c) in the definition of the word “privatization” by inserting the words “but excludes sale of new shares to existing shareholders through a rights issue or any balance sheet reorganization which may lead to dilution of the percentage of shares held by a public entity” immediately after the words “ a state corporation”.

3. The Privatization Act, 2005 is amended in section 5(1)(d) by—

Amendment of section 2 of No. 5 of 2005.

(a) inserting the words “ through a competitive process” immediately after the word “Minister” ; and

(b) deleting the words “relevant committee of Parliament” and substituting therefor the word “National Assembly”.

4. The Privatization Act, 2005, is amended in section 6—

Amendment of section 6 of No. 2 of 2005.

- (a) by re-numbering the provision as subsection (1); and
- (b) by inserting the following new subsections—

“(2) A member appointed under section 5 (1) (d) shall be eligible for reappointment as provided for under subsection (1) subject to favourable performance evaluation.”

23— 5. The Privatization Act, 2005, is amended in section

Amendment of section 23 of No. 2 of 2005.

- (a) in subsection (1), by inserting the words “to the Cabinet Secretary” immediately after the words “proposal for privatization”;
- (b) by deleting subsection (2) and substituting therefor the following subsection—

“(2) The Cabinet Secretary shall present the privatization proposals specified in subsection (1) to the Cabinet for approval.”

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

“(3) The Cabinet Secretary shall submit a report in form of a Sessional Paper on a privatization proposal approved by the Cabinet to the National Assembly for consideration.

(4) Upon laying before the National Assembly, a report under subsection (3) shall stand referred to the relevant committee.”

6. The Privatization Act, 2005, is amended in section 37 by inserting the words “and any other objections and appeals relating to implementation of the privatization programme” immediately after the words “under section 36”.

Amendment of section 37 of No.2 of 2005.

7. The Second Schedule to the Privatization Act, 2005, is amended in paragraph 2 by—

Amendment of Second Schedule to No.2 of 2005.

- (a) inserting the words “or any other objection relating to implementation of the privatization programme” in subparagraph (1) at the end thereof;
- (b) deleting subparagraph (2) and substituting therefor the following subparagraph—

“(2) An objection to what has been determined and published under section 36 may not be filed later than five working days after the publication.”

- (c) by deleting subparagraph (3) and substituting therefor the following subparagraph—

“(3) The Commission shall make a decision with respect to the objection to what has been determined and published under section 36 or any other objection relating to implementation of the privatization programme and give a copy of its decision to the objector within five working days after receiving that objection.”

