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PARLIAMENT OF KENYA





THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – THIRD SESSION – 2019

DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO THE LAND VALUE INDEX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO 3 OF 2018)

	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 26 MAR 2019	DAY: TUESDAY
TABLED BY:	COMMITTEE CHAIRPERSON Hon. RACHEL NYAMAI
FOR THE TABLE:	

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

MARCH, 2019

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1. Minutes of the Committee proceedings on the Bill.



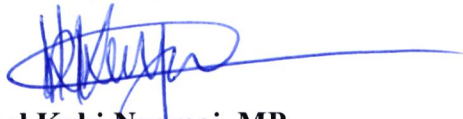
CHAIRPERSON'S FOREWORD

The Land Value Index Laws (Amendment) Bill, 2018 seeks to amend the Land Act, the Land Registration Act and the Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012 and to provide for the assessment of land value index in respect of compulsory acquisition of land. The Bill was passed by the National Assembly on 8th August, 2018 and thereafter conveyed to the Senate in accordance with the provisions of Article 110(4) of the Constitution. Subsequently, the Senate considered the Bill and passed it with amendments on 14th February, 2019. The Senate conveyed the Message regarding the passage of the Bill to the National Assembly on Thursday 21st February 2019.

The amendments were thereafter conveyed to the Departmental Committee on Lands on 21st February, 2019. The Committee subsequently considered the Senate amendments to the Land Value Index Laws (Amendment) Bill, 2018 on 5th and 15th March, 2019 as contained in this Report.

I wish to express appreciation to the office of the Speaker and that of the Clerk of the National Assembly for the support accorded to the Committee when discharging its mandate. My further appreciation goes to the Honourable Members of the Committee for their participation during consideration of the Senate amendments to the Land Value Index Laws (Amendment) Bill, 2018. This report contains the Committees deliberations and recommendations on the Senate amendments to the Land Value Index Laws (Amendment) Bill, 2018.

Pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honor to present to the House the Report of the Committee on its consideration of the Senate Amendments to the Land Value Index Laws (Amendment) Bill, 2018.



Hon. Dr. Rachael Kaki Nyamai, MP

Chairperson, Departmental Committee on Lands



1.0 PREFACE

1.1 Mandate of the Committee

The Departmental Committee on Lands is established pursuant to the provisions of Standing Order No. 216 (1) and (5) with the following terms of reference:-

- (i) 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) study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- (iii) study and review all legislation referred to it;*
- (iv) study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (v) 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;*
- (vi) 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);*
- (vii) Examine treaties ,agreements and conventions;*
- (viii) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- (ix) consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 2534 of the Constitution; and*
- (x) examine any questions raised by Members on a matter within its mandate*

1.2 Committee subjects

The Committee is mandated to consider the following subjects:-

- a) Land Policy,
- b) Physical Planning,
- c) Land Transactions,
- d) Survey and Mapping
- e) Land Adjudication
- f) Settlement

- g) Land registration
- h) Land Valuation
- i) Administration of Private, community and Public Land
- j) Land Information and Management System

1.3 Oversight

The Committee oversights:

- i. The Ministry of Lands and Physical Planning; and
- ii. The National Land Commission.

1.4 Committee Membership

Chairperson	The Hon. Dr. Rachael Nyamai, MP
Vice Chairperson	The Hon. Khatib Mwashetani, MP
	The Hon. Jayne Njeri Wanjiru Kihara, MP
	The Hon Joshua Kutuny Serem, MP
	The Hon. Kimani Ngunjiri, MP
	The Hon. Mishi Mboko, MP
	The Hon. Omar Mwinyi, MP
	The Hon. Ali Mbogo, MP
	The Hon. Babu Owino, MP
	The Hon. Caleb Kipkemei Kositany, MP
	The Hon. Catherine Waruguru, MP
	The Hon George Aladwa, MP
	The Hon George Risa Sunkuyia,MP
	The Hon. Jane Wanjuki Njiru,MP
	The Hon. Josphat Gichunge Kabeabea, MP
	The Hon. Owen Yaa Baya, MP
	The Hon. Samuel Kinuthia Gachobe, MP
	The Hon. Simon Nganga Kingara, MP
	The Hon Teddy Mwambire, MP

Committee Secretariat

Clerk Assistant I	Mr. Leonard Machira
Clerk Assistant III	Mr. Ahmad Guliye
Legal Counsel I	Ms. Jemimah Waigwa
Researcher III	Mr. Joseph Tiyan
Fiscal Analyst III	Mr. Adan Abdi
Audio Officer	Mr. Nimrod Ochieng
Media Relations Officer III	Ms. Winnie Kizia
Serjeant-At-Arms	Ms. Peris Kaburi

RKN

2.0 CONSIDERATION OF THE SENATE AMENDMENTS TO THE LAND VALUE INDEX LAWS (AMENDMENT) BILL, 2018

The Committee considered the Senate amendments to the Land Value Index Laws (Amendment) Bill, 2018 in its sitting held on Tuesday, 5th March, 2018 and during a retreat held in Mombasa on 15th and 16th March, 2019.

The following is the consideration of the Senate amendments with the justification for approval or rejection of each Clause by the Committee-

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the words “Value Index” appearing immediately after the words “as the Land”.

Committee recommendation

The Committee **rejected** the Senate amendment to Clause 1.

Justification

The amendment seeks to change the title of the Bill to Land Laws (Amendment) Bill. Although the Bill is amending various laws, the title of the Bill should be distinct to reflect the essence of amendments. Which is to provide for the assessment of land value index in relation to compulsory acquisition of land.

CLAUSE 2

THAT Clause 2 of the Bill be amended by—

- (a) deleting the proposed definition of the term “prompt” and substituting therefor the following new definition—

“prompt” means within a reasonable time of, and in any case not more than one year after, the taking of possession of the land by the Commission;

- (b) deleting the proposed definition of the term “full” and substituting therefor the following new definition—

“full” in relation to compensation for compulsorily acquired land or creation of wayleaves, easements and public rights of way means the restoration of the value of the land, including improvements thereon, as at the date of the notice of intention to acquire the land and any other matter provided for in this Act;

Committee recommendation

The Committee **agreed** to the Senate amendments to Clause 2.

Justification

The amendments are in order, as they seek to create clarity on the definition of the term prompt to ensure that it is within a reasonable time and does not exceed one year. The amendments also seek to amend the definition of the term “full” to clarify that compensation shall be on the full value of the land as at the date of the notice of intention to acquire it by the National Land Commission.

CLAUSE 3

THAT the Bill be amended by deleting Clause 3.

Committee recommendation

The Committee **agreed** to the Senate amendment to Clause 3.

Justification

The Clause offends the provisions of Article 23(3) of the Constitution by restricting the power of courts to issue certain orders.

CLAUSE 4

THAT the Bill be amended by deleting Clause 4.

Committee recommendation

The Committee **agreed** to the Senate amendment to Clause 4

Justification

The clause offends the provisions of Article 23(3) of the Constitution by restricting the power of courts to issue certain orders.

CLAUSE 5

THAT Clause 5 of the Bill be amended —

(a) by deleting paragraph (a) and substituting therefor the following new paragraph—

(a)by inserting the following new subsection immediately after subsection (3)—

(3A) Where the Commission rejects a request of an acquiring body in accordance with subsection (3), the Commission shall inform the relevant acquiring body within seven days of the decision to reject the request.;

(b) in paragraph (b) by deleting the proposed new subsection (4)(b) and substituting therefor the following new paragraph—

(b)establish that the acquiring authority has identified the number and maintains a register of persons in actual occupation of the land, confirming for each such occupation how much time they have been in uninterrupted occupation or ownership of interest in the land prior to the date of the request for acquisition of the land, and the improvements thereon;

- (c) in paragraph (c) by deleting the word “body” appearing immediately after the words “in the acquiring” in the proposed subsection 107(5B) and substituting therefor the word “authority”.

Committee recommendation

The Committee **agreed** to the amendment in paragraph (a) subject to amending the period from seven days to fourteen days.

The Committee **rejected** the amendments to paragraphs (b) and (c).

Justification

The Committee agreed with the introduction of a timeline within which the Commission should relay information to the acquiring body. The Committee was however of the view that the seven days notification period is limited and should be increased to fourteen days to allow for ample time for the National Land Commission to communicate its decision to acquiring authorities.

The term acquiring body in paragraph (c) should not be substituted with the word “acquiring authority as the latter refers to National Land Commission, while the acquiring body is the entity that initiates the compulsory acquisition.

The Committee also observed that Clause 5(b) only refers ‘uninterrupted occupation’ meaning any person who has occupied land even for one year provided its uninterrupted can be included in the register as persons in actual occupation for purposes of compensation. In this regard, without putting the duration in paragraph (b) it can be open to abuse. The uninterrupted period should be for a period of twelve years as already contained in the Bill in accordance with the adverse possession common law doctrine.

CLAUSE 6

THAT Clause 6 of the Bill be amended—

(a) in the proposed new section 107A—

(i) by deleting subsection (1) and substituting therefor the following new subsection—

(a) Valuation of freehold land and community land for purposes of compensation under this Act shall be based on the provisions of this Part and the land value index developed for that purpose by the Cabinet Secretary in consultation with county governments and approved by the National Assembly and the Senate;

(ii) in subsection (4) by deleting the word “apparent” appearing immediately after the words “increase in the” in the introductory clause in paragraph (c);

(iii) in subsection (4) by inserting the words “and are not capital improvements” immediately after the words “state of repair” in paragraph (c)(ii)

(iv) in subsection (8) by deleting the word “twelve” appearing immediately after the words “uninterrupted period of” in paragraph (a) and substituting therefor the word “six”;

(b) in the proposed new subsection 107B(2)—

- (i) by deleting paragraph (a) and substituting therefor the following new paragraph—
 - (a) the value of the land based on the unexpired term of the lease calculated on the basis of a land value index developed for that purpose by the Cabinet Secretary in consultation with county governments and approved by the National Assembly and the Senate;
- (ii) by deleting the word “cost” appearing immediately after the word “the” in paragraph (b) and substituting therefor the word “value”; and
- (iii) by inserting the words “in consultation with the Cabinet Secretary and county governments and with the approval of the National Assembly and the Senate” immediately after the words “prescribe in Regulations” in paragraph (c).

Committee recommendation

The Committee **agreed** to the Senate amendment to Clause 6(a) (i), (iii) and (b).

The Committee **rejected** the amendment to Clause 6(ii) and (iv).

Justification

The amendment provides that the land value index shall be developed by the Cabinet Secretary in consultation with county governments and approved by the National Assembly and the Senate hence giving Parliament a role in approving the land value index. The amendment shall also ensure that the value of improvements to land shall be considered during compulsory acquisition as opposed to the cost of the improvements.

The Committee however notes that the deletion of the word ‘apparent’ value of the land is improper as it alters the import of the clause which was to provide that an increase in the value of the land shall be disregarded if there is increase in the potential value of the land, actual value of the land and the apparent value of the land due to development or improvement made at the date of the notice of intention to acquire land among other considerations.

The Committee also notes that section 107A (8) (a) reduces the duration of what can be termed as ‘uninterrupted occupation’ from 12 to 6 years. The period should be tied to the adverse possession common law doctrine which refers to 12 years.

CLAUSE 7

THAT Clause 7 of the Bill be amended—

- (a) in the proposed new subsection (1A) by inserting the following proviso immediately after paragraph (f)—

Provided that regardless of the form of compensation under this section, where an acquisition process is not completed within twenty-four months from the date of publication of the notice of intention to acquire, the acquisition shall lapse.;

(b) by renumbering the existing clause as sub-clause (1) and inserting the following new sub-clause immediately after sub-clause (1)—

(2) Section 111 of the Land Act is amended in subsection (1A) by deleting the word “body” appearing immediately after the words “The acquiring” and substituting therefor the word “authority”.

Committee recommendation

The Committee **agreed** to the Senate amendment to Clause 7 (a).

The Committee **rejected** the Senate amendment to Clause 7 (b).

Justification

The amendment shall ensure that compulsory acquisition is completed within two years and where an acquisition process is not completed within twenty-four months from the date of publication of the notice of intention to acquire, the acquisition shall lapse.

However, the Committee noted that the acquiring body, which may be any public institution, is distinct from the acquiring authority, which is the National Land Commission.

CLAUSE 12

THAT Clause 12 of the Bill be amended by—

(a) deleting paragraph (a);

(b) by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) by deleting subsection (1) and substituting therefor the following new subsection—

(1) After an award has been made, the Commission may take possession of the respective land by - serving on every person interested in the land a notice that on a specified day possession of the land and the title to the land will vest in the national or county government as the case may be, provided that such taking of possession will not result in persons being rendered homeless

Committee recommendation

The Committee **agreed** to the Senate amendment to clause 12.

Justification

The amendment shall ensure that when the National Land Commission takes possession of land, before compensation payments are made no person will be rendered homeless.

CLAUSE 13

THAT the Bill be amended by deleting Clause 13.



Committee recommendation

The Committee **agreed** to the Senate amendment to clause 13.

Justification

Clause 13(a) was already amended by the Land Laws (Amendment) Bill, 2016 that is why it is being deleted from the Bill.

Clause 13(b) offends the provisions of Article 23(3) of the Constitution by restricting the power of courts to issue certain orders.

CLAUSE 14

THAT the Bill be amended by deleting Clause 14

Committee recommendation

The Committee **agreed** to the Senate amendment to Clause 14.

Justification

The amendment as proposed already exists in the Act and hence should be deleted.

CLAUSE 16

THAT Clause 16 of the Bill be amended by deleting paragraph (b).

Committee recommendation

The Committee **agreed** to the Senate amendment to Clause 16.

Justification

The amendment as proposed already exists in the Act and hence should be deleted.

CLAUSE 17

THAT Clause 17 of the Bill be amended in the proposed new section 133A by deleting subsection (2) and substituting therefor the following new subsection—

- (2) The members of the Tribunal shall consist of —
 - (a) one person nominated by the Judicial Service Commission, who shall serve as the chairperson;
 - (b) one person nominated by the Cabinet Secretary;
 - (c) one person nominated by the Valuers' Registration Board
 - (d) one person nominated by Land Surveyors' Board; and

(e) one person nominated by Attorney General.

Committee recommendation

The Committee **rejected** the Senate amendment to clause 17.

Justification

The amendment limits the discretion of the Cabinet Secretary in the appointment of the membership of the Tribunal. This may affect diversity and inclusivity in the composition of the Tribunal and their membership. The Cabinet Secretary should be allowed to make the appointments based on gender, regional and ethnic diversity.

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3.0 COMMITTEE RECOMMENDATIONS

Having deliberated on the Senate amendments to the Land Value Index Laws (Amendment) Bill, (National Assembly Bill No. 3 of 2018) the Committee therefore recommends that the National Assembly:

1. Approves

The Senate amendments to Clauses, 2, 3, 4, 6(a) (i), (iii) and (b), 7 (a), 12, 13, 14, and 16.

2. Rejects

The Senate amendments to Clauses 1, 5 and 6(a) (ii) (iv) 7 (b) and 17.

Signed  Date 21/3/2019

Hon Dr. Rachael Kaki Nyamai, MP
Chairperson Departmental Committee on Lands

MINUTES OF THE 8TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON TUESDAY 5TH MARCH 2019 IN THE BOARD ROOM GROUND FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS, AT 10:00 A.M.

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Omar Mwinyi Shimbwa, M.P
3. Hon. Joshua Kutuny, M.P
4. Hon. Mishi Mboko, M.P
5. Hon. Ali Mbogo, M.P
6. Hon. Caleb Kositany, M.P
7. Hon. George Risa Sunkuyia, M.P
8. Hon. Samuel Kinuthia Gachobe, M.P
9. Hon. Simon Nganga Kingara, M.P
10. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
2. Hon. Jayne Kihara, M.P
3. Hon. Kimani Ngunjiri, M.P
4. Hon. Babu Owino, M.P
5. Hon. Catherine Waruguru, M.P
6. Hon. George Aladwa, M.P
7. Hon. Jane Wanjuki Njiru, M.P
8. Hon. Josphat Gichunge Kabeabea, M.P
9. Hon. Owen Yaa Baya, M.P

THE NATIONAL ASSEMBLY SECRETARIAT

1. Mr. Leonard Machira - Clerk Assistant I
2. Ms. Jemimah Waigwa - Legal Counsel 1
3. Mr. Nimrod Ochieng - Audio Officer
4. Ms. Peris Kaburi - Serjeant-At-Arms

MIN. NO. NA/DCS/LANDS/2019/032: PRELIMINARIES

The meeting was called to order at twenty minutes past ten o'clock and prayers were said. The agenda of the meeting was adopted as outlined in the notice of the meeting.

MIN. NO. NA/DCS/LANDS/2019/033: CONSIDERATION OF THE SENATE AMENDMENTS TO THE LAND VALUE INDEX LAWS (AMENDMENT) BILL, 2018

The Committee considered the Senate amendments to the Land Value Index Laws (Amendment) Bill, 2018 as follows:

CLAUSE 1

The Committee agreed to the Senate amendment to clause 1.

Justification

The amendment seeks to change the title of the Bill to Land Laws (Amendment) Bill as the Bill is amending various laws including the Land Act and the Land Registration Act hence it is more accurate to refer to it as the Land Laws (Amendment) Bill.

CLAUSE 2

The Committee agreed to the Senate amendment to Clause 2.

Justification

The amendment is in order as it seeks to create clarity on the definition of the term prompt to ensure that it is within a reasonable time and does not exceed one year. The amendment also seeks to amend the definition of the term "full" to clarify that compensation shall be on the full value of the land as at the date of the notice of intention to acquire it by the National Land Commission.

CLAUSE 3

The Committee agreed to the Senate amendment to Clause 3.

Justification

The clause offends the provisions of Article 23(3) of the Constitution by restricting the power of courts to issue certain orders.

CLAUSE 4

The Committee agreed to the Senate amendment to Clause 4.

Justification

The clause offends the provisions of Article 23(3) of the Constitution by restricting the power of courts to issue certain orders

CLAUSE 5

The Committee agreed to the Senate amendment on Clause 5(c) save for the amendment to Clause 5(a) and (b) which the Committee rejected.

Justification

The amendment is important as it seeks to provide for the communication of the decision of the National Land Commission to an acquiring authority intending to acquire land through compulsory acquisition. The amendment also seeks to create harmony with the Land Act by deleting reference to the term acquiring body and substituting with acquiring authority as used in the Act. The Committee however notes that the seven days notification period is limited and should be increased to fourteen days to allow for ample time for the National Land Commission to communicate its decision to acquiring authorities.

The Committee also observed that the clause 5(b) only refers 'uninterrupted occupation' meaning any person who has occupied land even for one year provided its uninterrupted can be included in the register as persons in actual occupation for purposes of compensation. In this regard, without putting the duration in paragraph (b) it can be open to abuse. The uninterrupted period should be for a period of twelve years as already contained in the Bill in accordance with the adverse possession common law doctrine.

CLAUSE 6

The Committee agreed to the Senate amendment to Clause 6(a)(i), (iii) and (b) save for the amendment to Clause 6(ii) and (iv).

Justification

The amendment provides that the land value index shall be developed by the Cabinet Secretary in consultation with county governments and approved by the National Assembly and the Senate hence giving Parliament a role in approving the land value index. The amendment shall also ensure that the value of improvements to land shall be considered during compulsory acquisition as opposed to the cost of the improvements.

The Committee however notes that the deletion of the word 'apparent' value of the land is improper as it alters the import of the clause which was to provide that an increase in the value of the land shall be disregarded if there is increase in the potential value of the land, actual value of the land

and the apparent value of the land due development or improvement made at the date of the notice of intention to acquire land among other considerations.

The Committee also notes that section 107A(8)(a) reduces the duration of what can be termed as 'uninterrupted occupation' from 12 to 6 years. The period should be tied to the adverse possession common law doctrine which refers to 12 years.

CLAUSE 7

The Committee agreed to the Senate amendment to clause 7.

Justification

The amendment shall ensure that compulsory acquisition is completed within two years and where an acquisition process is not completed within twenty-four months from the date of publication of the notice of intention to acquire, the acquisition shall lapse.

CLAUSE 12

The Committee agreed to the Senate amendment to clause 12.

Justification

The amendment shall ensure that when the National Land Commission takes possession of land, before compensation payments are made no person will be rendered homeless.

CLAUSE 13

The Committee concurs with the Senate amendment to clause 13.

Justification

Clause 13(a) was already amended by the Land Laws (Amendment) Bill, 2016 that is why it is being deleted from the Bill.

Clause 13(b) offends the provisions of Article 23(3) of the Constitution by restricting the power of courts to issue certain orders.

CLAUSE 14

The Committee agreed to the Senate amendment to clause 14.

Justification

The amendment as proposed already exists in the Act and hence should be deleted.

CLAUSE 16

The Committee concurs with the Senate amendment to clause 16.

Justification

The amendment as proposed already exists in the Act and hence should be deleted.

CLAUSE 17

The Committee concurs with the Senate amendment to clause 17.

Justification

The amendment as proposed seeks to create clarity on the membership of the Tribunal and its membership.

MIN. NO. NA/DCS/LANDS/2019/034: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at twenty-five minutes past noon. The next meeting will be held on Thursday 7th March 2019 at 10.00 a.m. at a venue to be communicated.

Signature .. 

HON. DR. RACHAEL KAKI NYAMAI, M.P.

(Chairperson)

Date... 21 / 3 / 2019

MINUTES OF THE 12TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LANDS HELD ON FRIDAY 15TH MARCH 2019 IN THE INNER PIER CONFERENCE ROOM, ENGLISH POINT HOTEL MOMBASA AT 9:00 A.M.

PRESENT

1. Hon. Dr. Rachael Nyamai, M.P - **Chairperson**
2. Hon. Khatib Mwashetani, M.P - **Vice Chairperson**
3. Hon. Jayne Kihara, M.P
4. Hon. Omar Mwinyi Shimbwa, M.P
5. Hon. Mishi Mboko, M.P
6. Hon. Kimani Ngunjiri, M.P
7. Hon. Ali Mbogo, M.P
8. Hon. Jane Wanjuki Njiru, M.P
9. Hon. George Risa Sunkuyia, M.P
10. Hon. Simon Nganga Kingara, M.P
11. Hon. Teddy Mwambire, M.P

APOLOGIES

1. Hon. Joshua Kutuny, M.P
2. Hon. Babu Owino, M.P
3. Hon. Catherine Waruguru, M.P
4. Hon. Josphat Gichunge Kabeabea, M.P
5. Hon. Samuel Kinuthia Gachobe, M.P
6. Hon. Owen Yaa Baya, M.P
7. Hon. Caleb Kositany, M.P
8. Hon. George Aladwa, M.P

THE NATIONAL ASSEMBLY SECRETARIAT

1. Ms. Florence Atenyo- Abonyo - Director Committee Services
2. Mr. Leonard Machira - Clerk Assistant I
3. Ms. Ahmad Guliye - Clerk Assistant III
4. Ms. Christine Odhiambo - Legal Counsel 1
5. Mr. Nimrod Ochieng - Audio Officer
6. Mr. Stephen Omunzi - Office Assistant

MIN. NO. NA/DCS/LANDS/2019/047: PRELIMINARIES

The meeting was called to order at twenty minutes past nine o'clock, prayers were said. The agenda of the meeting was adopted as outlined in the notice of the meeting.

MIN. NO. NA/DCS/LANDS/2019/048: COFIRMATION OF MINUTES

The item was differed to the next sitting.

MIN. NO. NA/DCS/LANDS/2019/049: ADOPTION OF REPORT ON THE SENATE AMENDMENTS TO THE LAND VALUE INDEX LAWS (AMENDMENT) BILL, 2018

The Committee unanimously adopted the report on the Senate amendments to the Land Value Index Laws (Amendment) Bill, 2018 having been proposed and seconded by Hon. Jane Wanjuki Njiru, M.P and Hon. Simon Nganga Kingara, M.P respectively.

The following amendments to the resolutions on Clauses 1, 5 and 17 were made;

CLAUSE 1

The Committee rejected the Senate amendment to clause 1.

Justification

The amendment seeks to change the title of the Bill to Land Laws (Amendment) Bill. Although the Bill is amending various laws, the title of the Bill should be distinct to reflect the essence of amendments. Which is to provide for the assessment of land value index in relation to compulsory acquisition of land.

CLAUSE 5

Committee recommendation

The Committee agreed to the amendment in paragraph (a) subject to amending the period from seven days to fourteen days.

The Committee rejected the amendments to paragraphs (b) and (c).

Justification

The Committee agreed with the introduction of a timeline within which the Commission should relay information to the acquiring body. The Committee was however of the view that the seven days notification period is limited and should be increased to fourteen days to allow for ample time for the National Land Commission to communicate its decision to acquiring authorities.

The term acquiring body in paragraph (c) should not be substituted with the word “acquiring authority as the latter refers to National Land Commission, while the acquiring body is the entity that initiates the compulsory acquisition.

The Committee also observed that the clause 5(b) only refers ‘uninterrupted occupation’ meaning any person who has occupied land even for one year provided its uninterrupted can be included in the register as persons in actual occupation for purposes of compensation. In this regard, without putting the duration in paragraph (b) it can be open to abuse. The uninterrupted period should be for a period of twelve years as already contained in the Bill in accordance with the adverse possession common law doctrine.

CLAUSE 17

Committee recommendation

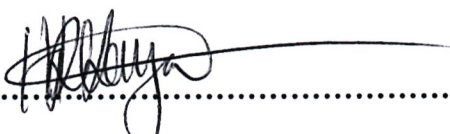
The Committee rejected the Senate amendment to clause 17.

Justification

The amendment limits the discretion of the Cabinet Secretary in the appointment on the membership of the Tribunal. This may affect diversity and inclusivity in the composition of the Tribunal and their membership. The Cabinet Secretary should be allowed to make the appointments based on gender, regional and ethnic diversity.

MIN. NO. NA/DCS/LANDS/2019/050: ADJOURNMENT

There being no other business to discuss, the meeting was adjourned at twenty-five minutes past noon. The next meeting will be held at 2.30 p.m. at the same venue.

Signature


HON. DR. RACHAEL KAKI NYAMAI, M.P.

(Chairperson)

Date.....21/3/2019.....