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Paper laid

*By Hon. (Eng.) Regge on
Thursday 10/11/2011.*

[Signature]

KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION (2011)

THE DEPARTMENTAL COMMITTEE

ON

ENERGY, COMMUNICATIONS AND INFORMATION

REPORT ON
THE ENERGY AND COMMUNICATIONS LAW (AMENDMENT) BILL, 2011

Clerk's Chambers
Parliament Buildings
NAIROBI

November, 2011

1. 0 PREFACE

Mr. Speaker, Sir,

1. The Departmental Committee on Energy, Communications and Information was constituted on June 17th 2009 and its membership is as follows:-

- | | |
|---|---------------|
| 1. The Hon. (Eng.) James Rege, M.P. | Chairman |
| 2. The Hon. Maina Kamau, M.P | Vice Chairman |
| 3. The Hon. Adan Keynan, M.P | |
| 4. The Hon. (Eng.) Nicholas Gumbo, M.P | |
| 5. The Hon. Edwin O. Yinda, M.P | |
| 6. The Hon. Emilio Kathuri, M.P | |
| 7. The Hon. Ekwee Ethuro ,M.P | |
| 8. The Hon. (Prof.) Phillip Kaloki, M.P | |
| 9. The Hon. Cyprian Omolo, M.P | |
| 10. The Hon. Joshua Kutuny, M.P | |

Mandate of the Committee

2. The functions of this Departmental Committee as established under Standing Order No. 198 are *inter alia*:-
- a) to Study and review all legislation after First Reading subject to the exemptions under Standing Order No. 111(3); and
 - b) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.

Ministries assigned

3. In executing its oversight mandate the Committee oversees the following Ministries:-
- i) Ministry of Energy
 - ii) Ministry of Information and Communications.

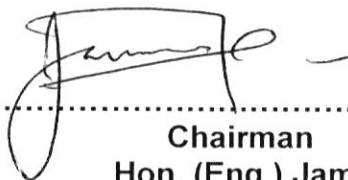
4. The Energy and Communications Law (Amendment) Bill, 2011 was Read a First Time on 11th October, 2011 and was subsequently referred to the Committee pursuant to the provisions of Standing Order No. 111(1). The Committee held a meeting with all the Stakeholders in the Energy, Communication and the Scrap metal Sector at the Norfolk Hotel on 25th October, 2011 to deliberate on the Bill and their views have been incorporated in the Report.

Mr. Speaker Sir,

5. On behalf of the Departmental Committee on Energy, Communication and Information and pursuant to the provisions of Standing Order No. 111 (2), it is my pleasure to present and commend the Report to the House.

Thank You.

Signed



Chairman
Hon. (Eng.) James Rege, MP

Date:

Nov, 10, 11.

Part I

2.0 MEETING WITH THE STAKEHOLDERS

6. The Committee considered the Bill on 25th October, 2011 at a stakeholders meeting attended by the representatives of the following organizations:-

- i) P.S Ministry of Information and Communication
- ii) Ministry of Energy
- iii) Ministry of Transport
- iv) Energy Regulatory Commission
- v) Energy Tribunal
- vi) Kenya Power Ltd
- vii) Orange Telkom
- viii) Kenya Pipeline Corporation
- ix) Rural Electrification Authority
- x) Airtel Kenya
- xi) Access Kenya
- xii) Essar Telecom Kenya Ltd
- xiii) Safaricom Ltd
- xiv) Jamii Telecommunication Limited
- xv) Kenya Data Networks Ltd
- xvi) Telecommunications Service Providers Association of Kenya
- xvii) Kenya Private Sector Alliance (KEPSA)

7. It is worth noting that, even though invited, the Kenya Iron Scrap Metal Association did not send representatives to the meeting.

8. In order to have a clear focus on the issues, it was agreed during the meeting that the stakeholders should break themselves into two groups one representing the Energy sector and the other one representing the Communication sector and to report back to the plenary.

SUBMISSIONS BY THE ENERGY SECTOR STAKEHOLDERS.

9. The following were the submissions made by the Energy Sector Stakeholders:
- i. The Petroleum sub-sector was omitted in the draft bill and the sector offences should be included.
 - ii. The Bill should provide for the following additional offences under section 64 and/or section 100 of the Energy Act;
 - b) Trespass/encroachment on Energy installations (pipelines, tanks, Transmission lines and other apparatus) and way leaves; - this will deal with the problem of informal settlers on the way leaves.
 - c) Hoarding of petroleum products leading to creation of artificial shortages of petroleum products and thus lead to economic sabotage;
 - d) Siphoning of oil [product theft].
 - e) Attempted siphoning of oil.
 - f) Puncturing of oil/gas pipeline(s)
 - g) Theft of oil/gas pipeline equipment [pipeline and its apparatus];
 - h) Diversion of export petroleum product into the local market for unlawful gain; it is noted that although section 95 of the Energy Act, 2006 prohibits diversion of product, it does not make it an offence;
 - i) Willful adulteration of products for purposes of unlawful gain;
 - j) Stealing of petroleum products and electric power.
 - k) Illegal connections
 - l) Meter tempering
 - m) Illegal filling of LPG cylinders – should criminalize both the act illegal of re-filling and also re-filling in non designated areas (to cater for safety aspect).
 - iii. The offences proposed above be declared economic crimes and punished in accordance with the provisions of the Ethics and Anti-corruption Act. Also civil recovery mechanisms should also be instituted to make good the loss suffered.

- iv. The penalties in the proposed Bill should be enhanced. When sentencing the court should not just look at the item stolen but also look at the effect of that act of vandalism including security and safety issues.
 - a. Replace **five hundred thousand** in section 2A 2 (a) with **5 million** and also replace **one year** imprisonment with **5 years**.
 - b. Replace **one million** in section 2A 2 (b) with **10 million** and also replace **one year** imprisonment with **10 years**.
 - c. Proposal to also criminalize Attempts to commit the proposed offences.
 - d. Amend section 12 (d) to read
 - “**Steals, illegally trades or improperly uses any of the electrical energy supplied by a licensee**”
 - e. Amend section 64A to read
 - “A person who servers or **drains oil** from any conductor, transformer or part thereof, insulator, tower reactor, jumper or other **installations** under the control of a licensee, with intent to steal, commits an offence and is liable on conviction to a fine of not less than **ten million shillings** or to imprisonment for a term of not less than **thirty years** or both”
- v. The sectors was also of the view that a proposal be made to the relevant house committees to capture the other aspects of infrastructure vandalism e.g. railways etc.
- vi. The sentence on the omnibus penal clause was to be enhancing from 10,000 to 500,000 and imprisonment to 5 years.
- vii. Criminal liability (just as in scrap metal scenario) should attach to the purchasers or handlers of stolen/siphoned fuel. This will enable us cater for the demand side of the offence.

SUBMISSIONS BY THE COMMUNICATIONS SECTOR STAKEHOLDERS.

- 10. The following were the submissions made by the Communications Sector Stakeholders:
 - i. **Further Enhancement of Proposed Penalties**

Having due regard to the principles of sentencing and imposition of fines for offences, we propose that the floor limits for the jail term and fines be raised as far as is possible. We propose 14 years as the lower limit. This is to enable us achieve the stiffest penalties allowed in law. Stakeholders agree that the enhancements contained in the Bill are a step in the right direction however they do not suffice given the impact of the crime.

ii. Stair casing of Penalties for repeat offenders

With a view to penalize repeat offenders even more than the first offenders. This would act as a deterrent to offenders able to pay fines easily for the first offence and still have an ill motive of tampering with communications installations especially in the cases of economic sabotage where the fines may not be a major deterrent factor.

GENERAL RECOMMENDATIONS

iii. Public Awareness on the Bill

The key purpose of enhancing penalties for the offence of vandalism is so that they act as a deterrent to commission of the crime in the first place. It is in view of this that there is need to raise awareness of the changes set to come with adoption of the Bill into law in order to attain its full tenor and effect.

iv. Engagement of the Roads Ministry, Parliamentary Committee on Transport, Public works and Housing

This would be with the aim of ensuring structured Governance of Road constructions that have been a major culprit in damaging fiber optic cables in the course of their works. We propose that the authorities involved in issuing clearances for the Contractors engage other stakeholders in the process.

v. The licensing powers under the amendment proposals to the Scrap Metal Act are vested in one officer.

Aware of the risks that are associated with such an arrangement, we propose that the amendment introduce a model whereby the Police would require a no objection clearance from all the relevant stakeholders prior to licensing a scrap metal dealer. This would ensure wider stakeholder involvement and dilution of the vast powers that would be vested in a single licensing entity.

- vi. Classification of Communications installations as critical infrastructure along with other utility services installations i.e. Water and Electricity.

This would ensure better management of way leaves that has partly been the cause of vandalism and open access to buildings by operators. It would also ensure communications installations are afforded the appropriate protection.

3.0 COMMITTEE'S OBSERVATIONS

11. On 1st November, 2011, the Committee met and considered all the submissions made by the Stakeholders and thereafter made the following observations:-

a) The following proposals were **agreed** to :-

- i. hoarding of petroleum products leading to creation of artificial shortage should be criminalized;
- ii. puncturing or damaging of pipelines should also be criminalized;
- iii. creation of an offence for diversion of export petroleum products into local market;
- iv. enhancement of penalties with respect to scrap metal Act;
- v. replacement of the Inspector General of Police as the licensing officer in the Scrap metal Act with the Minister of Trade or his representative;
- vi. the penalties in the omnibus clause should be enhanced

b) The following proposals were **not agreed** on :-

- i. The issue of encroachment on Energy installations should be dealt with in a separate legislation i.e. the Way leaves Act
- ii. Siphoning of oil should be dealt with in a separate legislation
- iii. Illegal connection and meter tempering are already catered for in the present Act;
- iv. There are regulation already in place to deal with Illegal filling of LPG cylinders
- v. The penalties prescribed in the Bill with respect to vandalism are adequate and care should be taken that the Committee does not introduce penalties which may later be declared unconstitutional

Part II

4.0. SUMMARY OF PROPOSED AMENDMENTS.

THE ENERGY AND COMMUNICATIONS LAW (AMENDMENT) BILL, 2011 COMMITTEE STAGE AMENDMENTS

NOTICE is given that the member for Karachuonyo, Hon. Eng. James Rege, intends to move the following amendments to the Energy and Communications Law (Amendment) Bill, 2011 at the Committee Stage—

CLAUSE 3

THAT, clause 3 be amended—

(a) in subsection (2) of the proposed section 2A, by—

- (i) deleting the words “five hundred” appearing in paragraph (a) and substituting therefor the words “one million”;
- (ii) deleting the words “one year” appearing in paragraph (a) and substituting therefor the words “three years”;
- (iii) deleting the words “two years” appearing in paragraph (b) and substituting therefor the words “three years”;

(b) in the proposed section 2B, by deleting the words “the Inspector-General of the National Police Service or such officer as the Inspector-General” and substituting therefor the words “such officer as the Cabinet Secretary for the time being responsible for trade”.

CLAUSE 7

THAT, clause 7 be amended in the proposed section 27, by—

- (a) deleting the words “ten thousand” and substituting therefor the words “three hundred thousand”;
- (b) deleting the words “one year” and substituting therefor the words “three years”.

CLAUSE 11

THAT, clause 11 be deleted and replaced with the following new clause—

Amendment of
section 2 of No.
12 of 2006.

11. Section 2 of the Energy Act, 2006 is amended by—

- (a) deleting the words “and vessels” appearing in the definition of the term “apparatus” and substituting therefor the words “vessels, pipeline, electrical plants and equipment”;
- (b) inserting the following new definitions in their proper alphabetical sequence—

“act of vandalism” means any wilful, negligent, reckless or malicious act aimed at destroying or damaging an apparatus;

“vandalise” means to commit an act of vandalism.

CLAUSE 12

THAT, clause 12 be amended by inserting the words “steals, illegally trades or” immediately before the word “improperly” appearing in paragraph (d) of the proposed new subsection (4).

CLAUSE 13

THAT, clause 13 be amended in the proposed section 64A, by—

- (a) deleting the words “with intent to steal” and substituting therefor the words “or drains oil from a transformer”;
- (b) deleting the word “works” appearing immediately after the words “jumper or other” and substituting therefor the word “installations”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately clause 13—

Amendment of
section 95 of
No. 12 of 2006.

13A. Section 95 of the Energy Act, 2006 is amended in subsection (3) by inserting the following new paragraph immediately after paragraph (b)—

“(c) diverts for sale in Kenya, goods destined for other

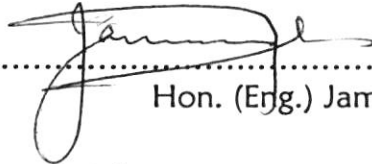
markets,”

Amendment of
section 100 of
No. 12 of 2006.

13B. Section 100 of the Energy Act, 2006 is amended in subsection (1)
by inserting the following new paragraph immediately after paragraph (e)—

“(f) being the owner or operator of a bulk storage facility for petroleum
products, service station, filling station or storage depot, hoards
petroleum products”.

Signed



Hon. (Erg.) James Rege, MP

Date: Nov. 10, 11

Part III

MINUTES OF THE 97TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION AND INFORMATION ON THE TUESDAY, OCTOBER 25TH, 2011 AT THE NORFOLK HOTEL, NAIROBI AT 9.00 A.M.

PRESENT

1. The Hon. (Eng.) James Rege, M.P. - **Chairman**
2. The Hon. Emilio Kathuri, M.P
3. The Hon. (Prof) Phillip Kaloki, M.P
4. The Hon. Edwin O. Yinda, M.P
5. The Hon. Joshua Kutuny, M.P

ABSENT WITH APOLOGY

1. The Hon. Maina Kamau, M.P - **Vice Chairman**
2. The Hon. Ekwere Ethuro, M.P
3. The Hon. Aden Keynan M.P
4. The Hon. Cyprian Omolo, M.P
5. The Hon. (Eng.) Nicholas Gumbo, M.P

IN ATTENDANCE:

NATIONAL ASSEMBLY

- | | |
|---------------------|------------------------|
| 1. Emmy Chepkwony | Third Clerk Assistant |
| 2. Jacob Ngwele | Third Clerk Assistant |
| 3. Veronicah Kibati | Parliamentary Research |

STAKE HOLDERS:

(List Attached to the Minutes)

MIN.297/2011 PRELIMINARIES

The proceedings were opened with a word of prayer. The Chairperson welcomed those present and informed them of the agenda before the Committee. He informed them that:

1. The Energy & Communication Law (Amendment) Bill, 2011 is a Private Members Bill sponsored by Hon. James Rege, M.P on behalf of the Committee and that the same was Read a First Time on 11th October, 2011 and committed to the Committee.
2. In accordance with the Standing Order and the new Constitution, it was incumbent upon the Committee to listen to the views of members of the public

and interested stakeholders and those present were welcomed to submit their views which will be considered by the Committee at a later stage.

3. For better deliberation, the stakeholders should break into sector groups; each group considers the Bill and afterward makes a submission to the plenary.

MIN. 299/2011: CONSIDERATION OF THE ENERGY AND COMMUNICATIONS LAW (AMENDMENT BILL, 2011)

a. SUBMISSIONS BY THE ENERGY SECTOR STAKEHOLDERS.

The following were the submissions made by the Energy Sector Stakeholders:

- i. The Petroleum sub-sector was omitted in the draft bill and the sector offences should be included.
- ii. The Bill should provide for the following additional offences under section 64 and/or section 100 of the Energy Act;
 - a) Trespass/encroachment on Energy installations (pipelines, tanks, Transmission lines and other apparatus) and way leaves; - this will deal with the problem of informal settlers on the way leaves.
 - b) Hoarding of petroleum products leading to creation of artificial shortages of petroleum products and thus lead to economic sabotage;
 - c) Siphoning of oil [product theft].
 - d) Attempted siphoning of oil.
 - e) Puncturing of oil/gas pipeline(s)
 - f) Theft of oil/gas pipeline equipment [pipeline and its apparatus];
 - g) Diversion of export petroleum product into the local market for unlawful gain; it is noted that although section 95 of the Energy Act, 2006 prohibits diversion of product, it does not make it an offence;
 - h) Willful adulteration of products for purposes of unlawful gain;
 - i) Stealing of petroleum products and electric power.
 - j) Illegal connections
 - k) Meter tempering
 - l) Illegal filling of LPG cylinders – should criminalize both the act illegal of re-filling and also re-filling in non designated areas (to cater for safety aspect).
- viii. The offences proposed above be declared economic crimes and punished in accordance with the provisions of the Ethics and Anti-corruption Act. Also civil recovery mechanisms should also be instituted to make good the loss suffered.
- ix. The penalties in the proposed Bill should be enhanced. When sentencing the court should not just look at the item stolen but also look at the effect of that act of vandalism including security and safety issues.
 - f. Replace **five hundred thousand** in section 2A 2 (a) with **5 million** and also replace **one year** imprisonment with **5 years**.

- g. Replace **one million** in section 2A 2 (b) with **10 million** and also replace **one year** imprisonment with **10 years**.
- h. Proposal to also criminalize Attempts to commit the proposed offences.
- i. Amend section 12 (d) to read
"Steals, illegally trades or improperly uses any of the electrical energy supplied by a licensee"
- j. Amend section 64A to read
 "A person who servers or **drains oil** from any conductor, transformer or part thereof, insulator, tower reactor, jumper or other **installations** under the control of a licensee, with intent to steal, commits an offence and is liable on conviction to a fine of not less than **ten** million shillings or to imprisonment for a term of not less than **thirty** years or both"
- x. The sectors was also of the view that a proposal be made to the relevant house committees to capture the other aspects of infrastructure vandalism e.g. railways etc.
- xi. The sentence on the omnibus penal clause was to be enhancing from 10,000 to 500,000 and imprisonment to 5 years.
- xii. Criminal liability (just as in scrap metal scenario) should attach to the purchasers or handlers of stolen/siphoned fuel. This will enable us cater for the demand side of the offence.

SUBMISSIONS BY THE COMMUNICATIONS SECTOR STAKEHOLDERS.

The following were the submissions made by the Communications Sector Stakeholders:

- i. **Further Enhancement of Proposed Penalties**
 Having due regard to the principles of sentencing and imposition of fines for offences, we propose that the floor limits for the jail term and fines be raised as far as is possible. We propose 14 years as the lower limit. This is to enable us achieve the stiffest penalties allowed in law. Stakeholders agree that the enhancements contained in the Bill are a step in the right direction however they do not suffice given the impact of the crime.
- ii. **Stair casing of Penalties for repeat offenders**
 With a view to penalize repeat offenders even more than the first offenders. This would act as a deterrent to offenders able to pay fines easily for the first offence and still have an ill motive of tampering with communications installations especially in the cases of economic sabotage where the fines may not be a major deterrent factor.

GENERAL RECOMMENDATIONS

iii. Public Awareness on the Bill

The key purpose of enhancing penalties for the offence of vandalism is so that they act as a deterrent to commission of the crime in the first place. It is in view of this that there is need to raise awareness of the changes set to come with adoption of the Bill into law in order to attain its full tenor and effect.

iv. Engagement of the Roads Ministry, Parliamentary Committee on Transport, Public works and Housing

This would be with the aim of ensuring structured Governance of Road constructions that have been a major culprit in damaging fiber optic cables in the course of their works. We propose that the authorities involved in issuing clearances for the Contractors engage other stakeholders in the process.

v. The licensing powers under the amendment proposals to the Scrap Metal Act are vested in one officer.

Aware of the risks that are associated with such an arrangement, we propose that the amendment introduce a model whereby the Police would require a no objection clearance from all the relevant stakeholders prior to licensing a scrap metal dealer. This would ensure wider stakeholder involvement and dilution of the vast powers that would be vested in a single licensing entity.

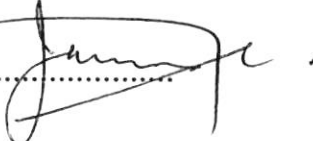
vi. Classification of Communications installations as critical infrastructure along with other utility services installations i.e. Water and Electricity.

This would ensure better management of way leaves that has partly been the cause of vandalism and open access to buildings by operators. It would also ensure communications installations are afforded the appropriate protection.

MIN.300 /2011 CLOSURE AND WAY FORWARD

The Chairperson thanked all the stakeholders present for their contributions and proposed amendments it was agreed that:

- a. The Committee would meet on Tuesday 1st November, 2011 to consider the submissions presented by the stakeholders and adopt the report on the amendments, in present of the parliamentary drafter.

SIGNED: **Hon. (Eng.) James Rege, MP** 
CHAIRPERSON

DATE: Nov. 10, 11

NAME	COMPANY
Dr. Bitange Ndemo	Ministry of Information and Communication
Jane Karuku	Telkom Kenya Limited
Angela Ng'ang'a - Mumo	Telkom Kenya Limited
Agnes A Okello	Telkom Kenya Limited
Debra Ajwang'	Telkom Kenya Limited
Ndungu Njoroge	Access Kenya Limited
C.K. Joshua	Jamii Telcom
Gideon Chikamai	Ministry of Transport
David Kiarie	Kenya Data Networks
Sammy Keter	Rural Electricification Authority
Willis Osano	Safaricom
Benson Murithi	KPLC
E.M. Ng'ang'a	SLO
David Komen	Ministry of Information and Communication
Paul Barasa	Telkom Kenya Limited
Hon James Rege	Parliament
Atul Chatunvedi	KDN
Francisca Omunga	Airtel
Andrew Papai	CSK
Dr. Waudu Singanga	CSK
Joe Nganga	Energy Regulatory Communications
Rose Ngecu	Essar Telcom Kenya
Mueni Muting'a	Energy Regulatory Communications
Simon Ngure	Ken Gen
Eng. J.k. Njoroge	KPLC
Imelda Bore	KPLC
Stanley Manduku	KPLC
Abdi Rashid	KDN
John K.K. Gichuru	Energy Tribunal
Eng. Esther Ruto	REA
Joseph Masibu	KPLC
P.M.G. Ngatia	MDE
Michael Karuru	Kenya National Assembly

MINUTES OF THE 99TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ENERGY, COMMUNICATION AND INFORMATION ON THE TEUSDAY, NOVEMBER 1ST, 2011 AT THE COMMITTEE ROOM 5TH FLOOR CONTINENTAL, PARLIAMENT BUILDINGS AT 11.00 A.M.

PRESENT

1. The Hon. (Eng.) James Rege, M.P. - **Chairman**
2. The Hon. Emilio Kathuri, M.P.
3. The Hon. (Prof) Phillip Kaloki, M.P.
4. The Hon. Edwin O. Yinda, M.P.
5. The Hon. Joshua Kutuny, M.P.

ABSENT WITH APOLOGY

1. The Hon. Maina Kamau, M.P. - **Vice Chairman**
2. The Hon. Danson Mwazo, M.P.
3. The Hon. Ekwee Ethuro, M.P.
4. The Hon. Aden Keynan M.P.
5. The Hon. Cyprian Omolo, M.P.
6. The Hon. (Eng.) Nicholas Gumbo, M.P.

IN ATTENDANCE:

1. Emmy Chepkwony
2. Jacob Ngwele
3. Veronicah Kibati

NATIONAL ASSEMBLY

Third Clerk Assistant
Third Clerk Assistant
Parliamentary Research

MIN.305/2011 PRELIMINARIES

The proceedings commenced at 11.20am with a word of prayer.

MIN. 306/2011: DELIBERATIONS ON THE ENERGY AND COMMUNICATIONS LAW (AMENDMENT BILL, 2011)

- ❖ The Committee deliberated on the submissions made at the Stakeholders meeting on the Energy and Communications Law amendment Bill, 2011 and made the following observations:-
 - c) The following proposals were **agreed** to :-
 - i. hoarding of petroleum products leading to creation of artificial shortage should be criminalized;
 - ii. puncturing or damaging of pipelines should also be criminalized;
 - iii. creation of an offence for diversion of export petroleum products into local market;

- iv. enhancement of penalties with respect to scrap metal Act;
- v. replacement of the Inspector General of Police as the licensing officer in the Scrap metal Act with the Minister of Trade or his representative;
- vi. the penalties in the omnibus clause should be enhanced

d) The following proposals were **not agreed** on :-

- i. The issue of encroachment on Energy installations should be dealt with in a separate legislation i.e. the Way leaves Act
- ii. Siphoning of oil should be dealt with in a separate legislation
- iii. Illegal connection and meter tempering are already catered for in the present Act;
- iv. There are regulation already in place to deal with Illegal filling of LPG cylinders
- v. The penalties prescribed in the Bill with respect to vandalism are adequate and care should be taken that the Committee does not introduce penalties which may later be declared unconstitutional

❖ The following amendments were thereafter adopted by the Committee

CLAUSE 3

THAT, clause 3 be amended—

(a) in subsection (2) of the proposed section 2A, by—

- (i) deleting the words “**five hundred**” appearing in paragraph (a) and substituting therefor the words “one million”;
- (ii) deleting the words “**one year**” appearing in paragraph (a) and substituting therefor the words “**three years**”;
- (iii) deleting the words “**two years**” appearing in paragraph (b) and substituting therefor the words “**three years**”;

(b) in the proposed section 2B, by deleting the words “**the Inspector-General of the National Police Service or such officer as the Inspector-General**” and substituting therefor the words “**such officer as the Cabinet Secretary for the time being responsible for trade**”.

CLAUSE 7

THAT, clause 7 be amended in the proposed section 27, by—

- (a) deleting the words “**ten thousand**” and substituting therefor the words “**three hundred thousand**”;
- (b) deleting the words “**one year**” and substituting therefor the words “**three years**”.

CLAUSE 11

THAT, clause 11 be deleted and replaced with the following new clause—

Amendment of
section 2 of No.
12 of 2006.

11. Section 2 of the Energy Act, 2006 is amended by—

- (a) deleting the words “**and vessels**” appearing in the definition of the term “**apparatus**” and substituting therefor the words “**vessels, pipeline, electrical plants and equipment**”;
- (b) inserting the following new definitions in their proper alphabetical sequence—

“**act of vandalism**” means any wilful, negligent, reckless or malicious act aimed at destroying or damaging an apparatus;

“**vandalise**” means to commit an act of vandalism.

CLAUSE 12

THAT, clause 12 be amended by inserting the words “**steals, illegally trades or**” immediately before the word “**improperly**” appearing in paragraph (d) of the proposed new subsection (4).

CLAUSE 13

THAT, clause 13 be amended in the proposed section 64A, by—

- (a) deleting the words “**with intent to steal**” and substituting therefor the words “**or drains oil from a transformer**”;
- (b) deleting the word “**works**” appearing immediately after the words “**jumper or other**” and substituting therefor the word “**installations**”.

NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately clause 13—

Amendment of
section 95 of
No. 12 of 2006.

13A. Section 95 of the Energy Act, 2006 is amended in subsection (3) by inserting the following new paragraph immediately after paragraph (b)—

“(c) **diverts for sale in Kenya, goods destined for other markets,**”

13B. Section 100 of the Energy Act, 2006 is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (e)—

“(f) being the owner or operator of a bulk storage facility for petroleum products, service station, filling station or storage depot, hoards petroleum products”.

❖ The proposed amendments were adopted by the Committee for tabling.

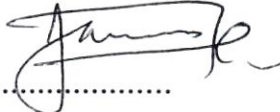
MIN.307 /2011 ANY OTHER BUSINESS

The Committee deliberated on the following:

- i. The Committee resolved that Hon. Charles Keter, MP to clarify to the Committee the position of the functionality of the well heads as at the time he represented the Ministry during the verification tour in India.
- ii. Its visit to Mwingi/ Kitui Coal Mine; the Committee noted that it was not able to travel to Mwingi Coal mine on the Thursday 13th October 2011 as scheduled and resolved to conduct the study tour on the November 10th to 13th 2011.

MIN. 308/2011: ADJOURNMENT

There being no other business and the time being at thirty minutes past twelve o'clock the meeting adjourned.

SIGNED:
Hon. (Eng.) James Rege, MP 
CHAIRPERSON

DATE:
Nov. 10, 11