

Approved for tabling

*RAI
SNA
7/7/15*



PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT – THIRD SESSION

Paper Laid

*By the claim person
Justice and Legal
Affairs, Hon
Shameel Chapkwa
Tuesday 7/7/15*

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS



REPORT ON

THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT)
BILL, 2015



Clerks Chambers,
National Assembly,
Parliament Buildings,
Nairobi

July, 2015

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PART 1

LIST OF APPENDICES

- Appendix 1:** Minutes of the sitting adopting the report of the Committee
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PART 2

1. PREFACE

Hon Speaker,

On behalf of the Departmental Committee on Justice and Legal Affairs, and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the report of the Committee on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015.

1.1 Mandate of the Committee

The Committee derives its mandate from Standing Order No. 216(5) which provides as follows:-

- a) *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;*
- b) *To study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;*
- c) **To study and review all legislation referred to it;**
- d) *To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;*
- e) *To investigate and enquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a minister; and*
- f) *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.*

The Second Schedule of the Standing Orders on Departmental Committees further states the subjects which the Committee is supposed to deal with while discharging its mandate. The subjects are as follows:-

- (a) Constitutional affairs;
- (b) The administration of law and Justice, including the Judiciary, public prosecutions, elections, ethics, integrity and anti-corruption; and
- (c) Human rights.

1.2 Committee Membership

The Committee was constituted on Thursday, 16th May, 2013 and currently comprises the following:-

- | | | | |
|-----|--|---|------------------|
| 1. | Hon. Samuel Chepkong'a, M.P. | – | Chairperson |
| 1. | Hon. Priscilla Nyokabi, M.P. | – | Vice Chairperson |
| 2. | Hon. Njoroge Baiya, M.P. | | |
| 3. | Hon. Muriithi Waiganjo, M.P. | | |
| 4. | Hon. Ndirangu Waihenya, M.P. | | |
| 5. | Hon. Florence Kajuju, M.P. | | |
| 6. | Hon. Kang'ata Irungu, M.P. | | |
| 7. | Hon. Benson Mutura, M.P. | | |
| 8. | Hon. John Njoroge Chege, M.P. | | |
| 9. | Hon. William Cheptumo, M.P. | | |
| 10. | Hon. Mohamed Abdi Haji, M.P. | | |
| 11. | Hon. Sammy Koech, M.P. | | |
| 12. | Hon. Moses Cheboi, M.P. | | |
| 13. | Hon. Paul Bii, M.P. | | |
| 14. | Hon. Charles Gimose, M.P. | | |
| 15. | Hon. Johanna Ng'eno, M.P. | | |
| 16. | Hon. Boniface Otsiula, M.P. | | |
| 17. | Hon. David Ouma, M.P. | | |
| 18. | Hon. Neto Agostinho, M.P. | | |
| 19. | Hon. Kaluma Peter, M.P. | | |
| 20. | Hon. Fatuma Ibrahim Ali, M.P. | | |
| 21. | Hon. Ben Momanyi Orari, M.P. | | |
| 22. | Hon. Tom J. Kajwang', M.P. | | |
| 23. | Hon. (Bishop) Mutua Mutemi, M.P. | | |
| 24. | Hon. Olago Aluoch, M.P. | | |
| 25. | Hon. (Dr) Christine Oduor Ombaka, M.P. | | |
| 26. | Hon. Munuve G. Mati, M.P. | | |
| 27. | Hon. Mwamkale William Kamoti, M.P. | | |
| 28. | Hon. James Bett, M.P. | | |

1.3 First Reading of the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015

The Ethics and Anti-Corruption Commission (Amendment) Bill, 2015 was read for the first time on 24th June, 2015 and immediately committed to the Departmental Committee on Justice and Legal Affairs for scrutiny in line with Standing Order 127 (1) which states as follows:-

“A Bill having been read a First Time shall stand committed to the relevant Departmental Committee without question being put to it”

Notwithstanding provisions of Standing Order No.120, the House reduced the publication period of the Bill from fourteen to five days following a motion by the Committee Chair and seconded by Majority Chief Whip.

1.4 Public participation in the consideration of the Bill

Article 118 (1) (b) of the constitution states as follows:-

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

Standing Order 127(3) states as follows:-

“The Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its recommendations to the House”

Pursuant to these provisions, the Committee invited the public through the Daily Nation and Standard newspapers of 25th June, 2015 to make representations on the Bills. (See appendix 3). There was however no response from the public.

1.5 Consideration of the Bill and adoption of Committee’s report

The Committee considered the Bill on 2nd July, 2015 and did not propose amendments. At its sitting of 7th July, 2015, the Committee considered and adopted its report on the Bill. The adoption of the report was proposed by Hon. Priscilla Nyokabi and seconded by Hon. (Bishop) Mutua Mutemi. There was no dissenting voice to the adoption of the report. Minutes of the Committee sitting adopting the report are annexed hereto as appendix 1. The list of Members who attended the sitting that adopted the report is also annexed as appendix 2.

1.6. Acknowledgement

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for guidance and technical support accorded during the process of consideration of the Bill. The Chairperson on the

other hand wishes to commend Committee Members for their devotion and commitment to duty which made the consideration of the Bill a reality.

Hon. Speaker Sir,

On behalf of the Committee, I now wish to table this report in the House.

SIGNED.....

Hon. Samuel Chepkong'a, MP
(Chairperson)

Departmental Committee on Justice and Legal Affairs

DATE.....

PART 3

2. BACKGROUND

The Bill seeks to amend the Ethics and Anti-Corruption Commission Act to increase the number of Commissioners from three to five. The Bill also seeks to provide for the Chairperson and members of the Commission to serve on a part time basis. The Bill further seeks to provide for a timeline for the appointment of the Chairperson and members of the Commission when a vacancy arises.

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms of the people of Kenya. The Bill further does not concern county governments in terms of Article 109(3) of the Constitution neither does it affect the functions and powers of county governments recognized in the Fourth Schedule to the Constitution.

The enactment of this Bill shall not occasion additional expenditure of public funds.

PART 4

3. PUBLIC PARTICIPATION IN THE CONSIDERATION OF THE BILL

In line with Article 118(1)(b) of the constitution of Kenya and Standing Order 127(3) the Committee put up an advertisement in the Standard and Daily Nation newspapers of 25th June, 2015, a copy of which is annexed hereto as appendix 3 inviting the public to make representations on the Bill. There was however no response from the public.

PART 5

4. CONSIDERATION OF THE BILL AND PROPOSED AMENDMENTS BY THE COMMITTEE

The Committee considered the Bill on 2nd July, 2015 and did not propose any amendments. It should be noted that the Bill originated from the Committee.

PART 6

5. RECOMMENDATIONS

The Committee recommends that the House passes the Bill in its published form.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPENDIX 1

MINUTES OF THE FIFTY SECOND SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, 7TH JULY, 2015 AT 10 A.M. AT THE MEDIA CENTRE, MAIN PARLIAMENT BUILDING

PRESENT:-

1. Hon. Samuel Chepkong'a, MP – **Chairperson**
2. Hon. Priscilla Nyokabi, MP – **Vice Chairperson**
3. Hon. Benson Mutura, MP
4. Hon. Fatuma Ibrahim Ali, MP
5. Hon. Florence Kajuju, MP
6. Hon. Johanna Ngeno, MP
7. Hon. Olago Aluoch, MP
8. Hon. Mutua Mutemi (Bishop), MP
9. Hon. James Bett, MP
10. Hon. Mohamed Abdi Haji, MP
11. Hon. Munuve Mati John, MP
12. Hon. Tom.J. Kajwang', MP
13. Hon. Ndirangu Waihenya, MP
14. Hon. Neto Agostinho, MP
15. Hon. John Njoroge Chege, MP
16. Hon. Ben Momanyi Orori, MP
17. Hon. David Ouma Ochieng, MP
18. Hon. Moses Cheboi, MP
19. Hon. Boniface Otsiula, MP
20. Hon. Muriithi Waiganjo, MP
21. Hon. Dr. Christine Ombaka, MP

ABSENT:-

22. Hon. Kang'ata Irungu, MP
23. Hon. William Cheptumo, MP
24. Hon. Sammy Koech, MP
25. Hon. Kaluma Peter, MP
26. Hon. William Mwamkale, M.P
27. Hon. Charles Gimose, MP
28. Hon. Paul Bii, MP
29. Hon. Njoroge Baiya, MP

SECRETARIAT:-

- | | | |
|--------------------------|---|------------------------|
| 1. Mr. George Gazemba | - | Senior Clerk Assistant |
| 2. Ms. Mary L. Lemerelle | - | Clerk Assistant III |
| 3. Mr. Ahmed Salim | - | Clerk Assistant III |

MIN NO. JLA/203/2015:- - **PRELIMINARIES**

The Chairperson called the meeting to order at 10.30 a.m. Prayer was said by Hon. Tom J. Kajwang.

MIN NO. JLA/204/2015:- **CONSIDERATION AND ADOPTION OF REPORTS ON BILLS**

(i) **The Ethics and Anti-Corruption Commission (Amendment) Bill, 2015**

The Committee considered and adopted its report on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015. The adoption of the report was proposed by Hon. Priscilla Nyokabi and seconded by Hon. (Bishop) Mutua Mutemi. No Member dissented to the adoption of the report.

The Committee however observed a requirement that Diaspora applicants for positions at the Commission submit local clearances from the Kenya Revenue Authority and Criminal Investigation Department locked them out which was not fair. It was agreed that a letter be written to the Office of the Attorney General instructing him to advise the concerned authorities to waive such conditions or ask for clearances from applicants' country of domicile while advertising for positions.

(ii) **The Vetting of Judges and Magistrates (Amendment) Bill, 2015**

The Committee considered and adopted its report on the Bill. The adoption of the report was proposed by Hon. Olago Aluoch and seconded by Hon. John Njoroge. No Member dissented to the adoption of the report.

The meeting resolved that the two reports adopted be tabled in the House at 2.30 p.m. of the same day.

MIN NO. JLA/205/2015:- - **ADJOURNMENT**

There being no other business to transact, the sitting adjourned thirty minutes past eleven in the morning.

Signed:



(Chairperson, Departmental Committee on Justice & Legal Affairs
Committee)

Date:



APPENDIX 2



DEPARTMENTAL COMMITTEE ON JUSTICE & LEGAL AFFAIRS

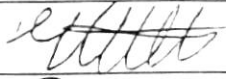

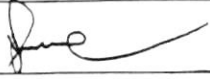



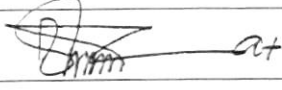
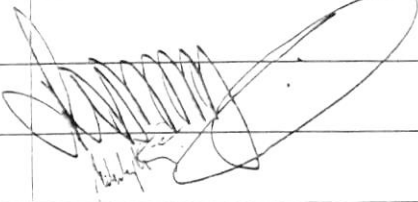
MEMBERS ATTENDANCE

Date: 7th June 2015

Venue: MEDIA CENTRE

Agenda: AMENDMENT OF RULES OF PROCEDURE OF THE DEPARTMENTAL COMMITTEE ON JUSTICE & LEGAL AFFAIRS
S.I. 2015

| | NAMES | SIGNATURE |
|-----|--|--------------------|
| 1. | Hon. Samuel Chepkonga (Chairperson) | <i>[Signature]</i> |
| 2. | Hon. Priscila Nyokabi (Vice Chairperson) | <i>[Signature]</i> |
| 3. | Hon. Agostinho Neto | <i>[Signature]</i> |
| 4. | Hon. Ben Momanyi Orori | <i>[Signature]</i> |
| 5. | Hon. Benson Mutura | <i>[Signature]</i> |
| 6. | Hon. Boniface Otsiula | <i>[Signature]</i> |
| 7. | Hon. Charles Gimose | |
| 8. | Hon. Christine Ombaka (Dr.) | <i>[Signature]</i> |
| 9. | Hon. David Ochieng' | <i>[Signature]</i> |
| 10. | Hon. Fatuma Ibrahim | <i>[Signature]</i> |
| 11. | Hon. Florence Kajuju | <i>[Signature]</i> |
| 12. | Hon. Irungu Kang'ata | <i>[Signature]</i> |
| 13. | Hon. James Bett | <i>[Signature]</i> |
| 14. | Hon. Johanna Ngeno | <i>[Signature]</i> |
| 15. | Hon. John Munuve | <i>[Signature]</i> |

| | | |
|-----|-----------------------------|--|
| 16. | Hon. John M. Waiganjo |  |
| 17. | Hon. John Njoroge |  |
| 18. | Hon. John Olago Aluoch |  |
| 19. | Hon. Kamoti W. Mwamkale |  |
| 20. | Hon. Mohamed Abdi Haji |  |
| 21. | Hon. Moses Cheboi |  |
| 22. | Hon. Njoroge Baiya | |
| 23. | Hon. Paul K. Bii | |
| 24. | Hon. Peter Kaluma | |
| 25. | Hon. Robert Mutemi (Bishop) |  |
| 26. | Hon. Sammy Koech |  |
| 27. | Hon. T.J. Kajwang | |
| 28. | Hon. Waihenya Ndirangu | |
| 29. | Hon. William Cheptumo | |

George Gazemba

For: The Clerk of the National Assembly

APPENDIX 3

REPUBLIC OF KENYA



NATIONAL ASSEMBLY ELEVENTH PARLIAMENT – THIRD SESSION

In the Matter of consideration by the National Assembly
The Ethics and Anti-Corruption Commission (Amendment) Bill, 2015

SUBMISSION OF MEMORANDA

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.*" Standing Order 127(3) states that "*the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House.*"

The Ethics and Anti-Corruption Commission (Amendment) Bill, 2015 has undergone First Reading pursuant to Standing 127(3) and is now committed to the Departmental Committee on Justice and Legal Affairs for consideration and thereafter report to the House.

Pursuant to Article 118(1)(b) and Standing Order 127(3), the Committee invites interested members of the Public to submit any representations they may have on the said bill. The representations may be forwarded to the **Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi**; hand-delivered to the **Office of the Clerk, Main Parliament Buildings, Nairobi**; or emailed to clerk@parliament.go.ke; to be received on or before **Wednesday 1st July, 2015 at 5.00 pm.**

MICHAEL R. SIALAI

FOR: CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA



THE PARLIAMENTARY SERVICE COMMISSION SALE OF BOARDED MOTOR VEHICLES AND ASSORTED STORES ITEMS

TENDER NO.PSC/043/2014-2015

The Parliamentary Service Commission invites tenders for the purchase of motor vehicles and assorted stores items.

ITEM DESCRIPTION

1. Nissan Urvan GK A572Q
2. Toyota Hiace GK A326C
3. Mercedes Benz GK B109B
4. Assorted stores items

The tender document showing details of the motor vehicles and assorted stores items are obtainable from the Procurement Office, **PROTECTION HOUSE [TENTH FLOOR]** upon payment of a non-refundable fee of **Kshs.1,000/=** payable by banker's cheque or in cash plus a refundable deposit of **Kshs.10,000** for each of the vehicles. Payment will be made to the Cashier on **9THFLOOR, PROTECTION HOUSE.**

The motor vehicles and assorted stores items may be viewed at Parliament Buildings, Continental House and County Hall during official working hours [Monday to Friday], between 9.00 a.m to 4.00 p.m on appointment with the Chief Serjeant -At -Arms or Deputy Director Finance & Accounting Services.

The motor vehicles and assorted stores items will be sold on "**AS IS WHERE IS BASIS**"
Completed Tender document enclosed in a plain sealed envelope, marked **Sale of Board Motor Vehicle and Assorted Stores Items** should be addressed to:-

**The Clerk of the Senate/Secretary
Parliamentary Service Commission
Parliament Building
P.O Box 41842-00100
NAIROBI**

or be placed in the Tender Box situated on the **TENTH FLOOR, PROTECTION HOUSE, PARLIAMENT ROAD, NAIROBI**, so as to reach him on or before **Thursday, 9th July 2015 at 11.am.** Tenders will be opened immediately thereafter in the presence of the firms representatives who choose to attend at the Board Room on the 11 Floor Protection House.

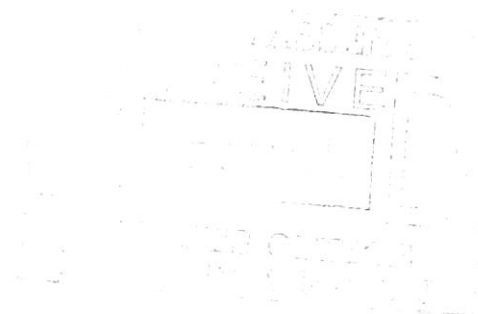
PLEASE NOTE: MEMBERS OF PARLIAMENT AND EMPLOYEES OF THE PARLIAMENTARY SERVICE COMMISSION ARE NOT ELIGIBLE FOR THIS TENDER

The Parliamentary Service Commission reserves the right to accept or reject any bid[s] or part without assigning any reason[s] thereto.

THE CLERK OF THE SENATE /SECRETARY PARLIAMENTARY SERVICE COMMISSION

June 15, 2015

Mr. Justin Bundi, CBS
The Clerk, National Assembly
Main Parliament buildings
P.O Box 41842-00100
Nairobi, Kenya.



Dear Mr. Bundi,

RE: THE COMPANIES BILL, 2015

Refer to your advertisement of Tuesday June 9, 2015 on the above subject matter.

I am requesting for the following amendments in the Companies Bill, 2015.

| | CURRENT PROVISIONS | AMENDMENTS REQUESTED | JUSTIFICATION |
|---|---|--|---|
| 1 | S.244 -- Private Companies not required to have a Secretary | Propose that the section be worded as " <i>Requirement for a secretary</i> " Section 244 (1) – " <i>Every Company shall have a secretary.</i> " Section 244(2)(a)(i), (ii) and (b)(i) and (ii) be deleted. | <ul style="list-style-type: none">• A company can hire a full time or a part-time Secretary depending with its financial ability.• The Certified Secretary will improve corporate governance and compliance. |
| 2 | S.245 -- Public Company requires to have a secretary | Propose that the section is worded " <i>Qualifications of a secretary</i> " The section should read: " <i>No person shall qualify for appointment as Secretary unless he is qualified under the Certified Public Secretaries of Kenya Act, Chapter 534 of the Laws of Kenya</i> ". | It is important that a person appointed as secretary is a trained person and a member of a professional body which regulates his professional conduct as prescribed by Law. |
| 3 | part XII | Reference to " Public " with regard to the company secretary be deleted throughout part XII of the Bill. | This will remove the connotation that only public companies should have a Secretary |

Yours sincerely,

Emily Njogu
CBS

0720950571

CIAZEMBA

pls deaf
FA
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