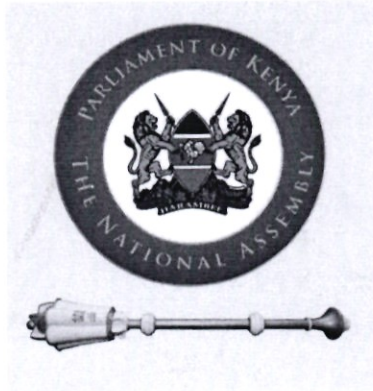


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THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

REPORT OF THE DEPARTMENTAL COMMITTEE ON SOCIAL
PROTECTION ON ITS CONSIDERATION OF
THE SOCIAL ASSISTANCE (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILL NO. 80 OF 2023)

	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 NOV 2024	DAY: Thur
TABLED BY:	Hon. Alice Ngunjiri, CBS, MP Chairperson, DC on Social Protection
THE TABLE:	Vivian Wambui

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

November 2024

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LIST OF ABBREVIATIONS AND ACRONYMS

CRBH	Coast Region Budget Hub
NSAA	National Social Assistance Authority
PFM	Public Finance Management
PTPRs	Presidential Task Force on Parastatal Reforms
SDSP	State Department for Social Protection

LIST OF ANNEXURES

1. Report Adoption Schedule
2. Committee Minutes
3. Copy of the newspaper advertisement on public participation
4. Letters inviting stakeholders to meetings with the Committee
5. Stakeholders' submissions

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Social Protection on its consideration of the Social Assistance (Amendment) Bill, 2023 (National Assembly Bill No. 80 of 2023), which is sponsored by the Hon. Peter Francis Masara, MP. The Bill underwent First Reading on 11th April 2024 and was thereafter committed to the Departmental Committee on Social Protection for consideration and reporting to the House pursuant to the provision of Standing Order 127(1).

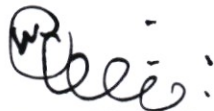
The Bill seeks to amend the Social Assistance Act, No. 24 of 2013 to, among other things, require the Social Assistance Authority to collaborate with county governments to provide social services to elderly persons in all counties; to provide for social assistance to persons earning low wages; and to require the Cabinet Secretary in consultation with the Social Assistance Authority to regularly review the intervals for payment and the amount of social assistance payable to eligible persons to reflect the change in the cost of living.

Following placement of advertisements in the print media on 16th April 2024 seeking public and stakeholder views on the Bill pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Departmental Committee on Social Protection received memoranda from the Coast Region Budget Hub, the Ministry of Labour and Social Protection, as well as from the Mover of the Bill, Hon. Peter Francis Masara, MP.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the Principal Secretary, State Department for Social Protection and Senior Citizens Affairs, Ms. Josephine Nyamai of the Coast Region Budget Hub, and the Mover of the Bill, Hon. Peter Francis Masara, MP who made their respective submissions on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made valuable input during consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Social Protection 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 its consideration of The Social Assistance (Amendment) Bill, 2023.

I thus wish to table this Report on The Social Assistance (Amendment) Bill, 2023 (National Assembly Bill No. 80 of 2023) in this Honourable House, with the recommendation that the Bill **be approved without amendments.**



The Hon. Alice Wambui Ng'ang'a, CBS, M.P.
Chairperson, Departmental Committee on Social Protection

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Social Protection is one of the 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 their implementation;*
- iii. 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 the 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 recommendation 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 to the Standing Orders, the Committee is mandated to consider, social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
3. In executing its mandate, the Committee oversees the following State departments and Commission;
 - i. The State Department for Social Protection and Senior Citizen Affairs
 - ii. The State Department for Gender and Affirmative Action
 - iii. The State Department for Youth Affairs and Creative Economy
 - iv. The State Department for Public Service (NYS)
 - v. The National Gender and Equality Commission (NGEC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Social Protection was constituted by the House on 27th October 2022 and comprises of the following Honourable Members:

Chairperson

Hon. Alice Wambui Ng'ang'a, CBS, MP
Thika Town Constituency

UDA Party

Vice-Chairperson

Hon. Hillary Kiplang'at Koskei, MP
Kipkelion West Constituency

UDA Party

Hon. (Dr) James Wambura Nyikal, MP
Seme Constituency

ODM Party

Hon Timothy Wanyonyi Wetangula, MP
Westlands Constituency

ODM Party

Hon (Dr) Lilian Achieng Gogo, MP
Rangwe Constituency

ODM Party

Hon. Mark Ogolla Nyamita, MP
Uriri Constituency

ODM Party

Hon Edith Vethi Nyenze, MP
Kitui West Constituency

WDM-K PARTY

Hon Betty Njeri Maina, MP
Murang'a County

UDA PARTY

Hon Michael Wambugu Wainaina, MP
Othaya Constituency

UDA Party

Hon Sulekha Hulbale Harun, MP
Nominated Member

UDM Party

Hon. Amina Abdullahi Dika, MP
Tana River County

KANU PARTY

Hon Hussein Abdi Barre, MP
Tarbaj Constituency

UDA Party

Hon Susan Nduyo Ngugi, MP
Tharaka Nithi County

TSP PARTY

Hon. Agnes Mantaine Pareiyo, MP
Narok North Constituency

JUBILEE PARTY

Hon Linet Chepkorir, MP
Bomet County

UDA PARTY

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Parliamentary staff:

Mr. Finlay Muriuki
Lead Clerk/ Head of Secretariat

Mr. Ahmednoor Hassan
Clerk Assistant III

Ms. Jemimah Waigwa
Legal Counsel

Mr. Adan Ahmed Abdi
Fiscal Analyst II

Ms. Grace Maneno
Research Officer III

Mr. Benjamin Ochutsi
Hansard Officer III

Ms. Naomi Onsomu
Public Communications Officer

Mr. Derrick Kathurima
Media Relations Officer

Mr. Cosmas Akhonya
Audio Recording Officer

Ms. Eva Kaare
Serjeant-At-Arms

Ms. Fiona Musili
Research Officer

PART TWO

3 OVERVIEW OF THE SOCIAL ASSISTANCE (AMENDMENT) BILL, 2023 (NATIONAL ASSEMBLY BILL NO. 80 OF 2023)

3.1 INTRODUCTION

6. The Social Assistance (Amendment) Bill, 2023 (National Assembly Bill No. 80 of 2023) is a Bill sponsored by Hon. Peter Francis Masara, MP and was committed to the Committee for public participation in accordance with Standing Order 127.
7. The Bill seeks to amend the Social Assistance Act, No. 24 of 2013 to among other things, require the Social Assistance Authority to collaborate with county governments to provide social services to elderly persons in all counties; to provide for social assistance to persons earning low wages; and to require the Cabinet Secretary in consultation with the Authority to regularly review the intervals for payment and the amount of social assistance payable to eligible persons to reflect the change in the cost of living.
8. The following is a summary of the Bill as proposed by the Honourable Member:

Clause 1 of the Bill is the short title.

Clause 2 of the Bill seeks to amend the principal Act to require the Social Assistance Authority to collaborate with county governments in the provision of social services to elderly persons in all counties.

Clause 3 of the Bill proposes to amend section 17 of the principal Act to include persons earning low wages as persons in need for purposes of getting social assistance.

Clause 4 of the Bill proposes to amend section 22 of principal Act to insert a new section 22A to provide for the criteria for one to be eligible to get social assistance as a person earning low wages.

Clause 5 of the Bill proposes to amend section 24 of principal Act to require the Cabinet Secretary in consultation with the Authority to regularly review the interval of payments and the amounts payable under social assistance to persons in need to reflect the change in the cost of living.

For purposes of the section “cost of living” has been defined to mean the cost of purchasing goods and services as measured by the changes in the consumer price index as provided by the Kenya National Bureau of Statistics periodically.

PART THREE

4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

9. Following the call for memoranda from the public through placement of adverts in the print media on 16th April 2024 and vide a letter dated 5th November 2024 inviting stakeholders for a meeting, the Committee received memoranda from the following stakeholders:

- i. The Ministry of Labour and Social Protection.
- ii. The Hon. Peter Francis Masara.
- iii. The Coast Regional Budget Hub.

10. The Committee held a meeting with the Ministry of Labour and Social Protection (State Department for Social Protection and Senior Citizens Affairs), in which the Mover of the Bill was present, on 14th November 2024. The analysis of the submissions made by the stakeholders are contained hereunder.

4.1 Submissions by the Stakeholders

Submissions by the Ministry of Labour and Social Protection

11. The Bill seeks to amend the Social Assistance Act (Cap 258A) Laws of Kenya, to require the Social Assistance Authority to collaborate with County Governments in the provision of social assistance to elderly persons.

12. The Bill further seeks to amend section 17 (3) of the Social Assistance Act to add a paragraph (c) on persons earning low wages.

13. The Social Assistance Act (Cap 258A), has not been implemented. The delay in the implementation has been occasioned by some of the reasons elaborated on below:

- (a) The Court ruling delivered on 7th December, 2016 in Petition No. 226 of 015 as filed by the National Gender and Equality Commission (NGEC) which allowed the Ministry to work towards preparing a comprehensive law for the social protection sector in line with the Kenya Social Protection Policy.
- (b) Notably, the Social Assistance Act (Cap 258A) was introduced through a private Member's Bill (commonly referred to as the *Laboso Bill*) on the 14th January, 2013 with the date of commencement being 25th January, 2013.
- (c) Operationalizing the Act is a challenge as there was no proper policy guidance from the Ministry and the National Treasury. However, it is important to note that in August 2015, the Ministry was taken to court by the NGEC for failing to implement the law. In its response, the Ministry cited key discrepancies in the law that posed inherent policy, operational and governance challenges in implementation and sought more time to put in place a more comprehensive law for the social protection sector.
- (d) The Court ruled in favour of the Ministry, thereby allowing time to prepare a comprehensive law that is aligned to the existing national laws and policy provisions.
- (e) Establishment of the National Social Assistance Fund as provided for under part IV of the Social Assistance Act (Cap 258A) is in conflict with the existing law on the establishment of

national public funds as captured under section 24 (4) of the Public Finance Management Act (Cap 412A).

- (f) The National Social Assistance Authority (NSAA) Authority which is largely the objective of the Bill as captured under Part II, was dissolved through the Presidential Task Force on Parastatal Reforms (PTPRs) appointed on 23rd July 2013 through their report, presented in October, 2013 recommended that the National Social Assistance Authority established under the Social Assistance Act (Cap 258A) be dissolved and thus it was never established.
- (g) This further hampered any possible operationalization of the Act. Despite the foregoing, the following actions have been taken towards having in place a more comprehensive social protection law that provides for a large majority of vulnerable citizens, including low-income earners.
- (h) The Ministry has now completed preparation of a comprehensive legislation on social protection which is the Social Protection Bill. The Draft Bill has gained Cabinet approval and has now been submitted to the Office of the Attorney General for processing before it can be submitted to Parliament.
- (i) The Kenya Social Protection Policy, 2023 (KSPP, 2023) has now been finalized after receiving Cabinet approval and is due to be launched. The provisions in the KSPP has comprehensively informed the Social Protection Bill.
- (j) Given the foregoing, the Ministry proposed that the current Social Assistance (Amendment) Bill, 2023 by Hon. Peter Francis Masara, MP be shelved since the Government's Social Protection Bill, which will repeal the existing Social Assistance Act, will be forwarded to the National Assembly in early 2025.

Submissions by the Sponsor of the Bill, Hon. Peter Francis Masara, MP

- 14. The Bill seeks to amend the Social Assistance Act, No. 24 of 2013 to among other things, require the Social Assistance Authority to collaborate with county governments to provide social services to elderly persons in all counties; to provide for social assistance to persons earning low wages; and to require the Cabinet Secretary in consultation with the Authority to regularly review the intervals for payment and the amount of social assistance payable to eligible persons to reflect the change in the cost of living.
- 15. For nearly nine years the Ministry of Labour and Social Protection (and its name-variant predecessors) had pledged to amend the Social Assistance Act to align it with the Constitution, court rulings and resolutions of the Presidential Task Force on Parastatal Reforms, and hence, even this new pledge of publishing a Bill in early 2025 could not be relied on. As such, the Mover implored the Committee to pass the Bill in its current form in order to secure the welfare of low-wage earners and other vulnerable persons.

Submissions by the Coast Regional Budget Hub.

- 16. Amend the Bill to define the term "persons earning lower wages" to mean a person contemplated in section 22A(4); "cost of living" means as contemplated in section 24(3);
- 17. Amend "council of county governors" to mean a non-partisan organization established under section 19 of the Intergovernmental Relations Act (IGRA 2012);

18. Amend “Minister” to “Cabinet Secretary” which means the Cabinet Secretary for the time being responsible for matters relating to social development; in order to provide clarity on the meaning of the words used in the “Bill”.
19. There is need for regulations to effect the collaboration between the Authority and county governments. In this regard, amend the Bill to provide that the “Cabinet Secretary” shall, in consultation with the council of county governors make regulations that shall guide the collaboration with counties.”

The Committee could not determine some of the specific sections of the principal Act that the stakeholders were referring to. It was also noted that the Cabinet Secretary responsible for social development was already referred to in the principal Act.



The Sponsor of the Social Assistance (Amendment) Bill, 2023, Hon. Peter Francis Masara, MP, makes submissions on the Bill before the Social Protection Committee on 14th November 2024



The Principal Secretary for the State Department for Social Protection and Senior Citizens Affairs, Mr. Joseph Motari, MBS, makes the Ministry of Labour & Social Protection's submissions on the Bill

Observations

20. The Bill already provides clarity on the definition of the terms cost of living and a person earning low wages.
21. There is no need to define the terms council of governors and Minister as they are not used anywhere in the Bill.
22. The collaboration between the Authority and the county governments is in the manner envisaged under the Constitution and hence no need to prescribe regulations to define the parameters for the collaboration.
23. The Bill by the Ministry is yet to be submitted to Parliament and the existing Act is still operational unless repealed by an Act of Parliament. As such, the Bill ought to proceed for Second Reading in order to secure the welfare of low-wage earners and other vulnerable citizens -even if on an interim basis -pending the publication of the Social Protection Bill.

PART FIVE

5 COMMITTEE RECOMMENDATION


Pursuant to Standing Order 127, the Committee recommends that the National Assembly **APPROVES** the Social Assistance (Amendment) Bill (National Assembly Bill No. 80 of 2023) **without amendments.**



28/11/2024

SIGNED: DATE.....

HON. ALICE WAMBUI NG'ANG'A, CBS, M.P.
(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 NOV 2024	DAY: Thur
TABLED BY:	Hon. Alice Ng'ang'a, CBS, MP Chairperson, SC on Social Protection
CLERK-AT THE TABLE:	Vivian Wambui



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT-THIRD SESSION-2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

MINUTES OF THE 63RD SITTING OF THE DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION HELD ON WEDNESDAY, 27TH NOVEMBER, 2024 IN BUNGE TOWER, 3RD FLOOR, COMMITTEE ROOM 17, AT 12.00NOON

PRESENT

1. Hon. Alice Wambui Ng'ang'a, C.B.S M.P. - Chairperson
2. Hon. Hilary Kiplang'at Koskei, M.P - Vice Chairperson
3. Hon. Edith Nyenze, M.P
4. Hon. Betty Njeri Maina, M.P
5. Hon. Susan Ngugi, M.P
6. Hon. Michael Wambugu, M.P
7. Hon. Mark Ogolla Nyamita, M.P
8. Hon. Linet Chepkorir, M.P
9. Hon. Agnes Pareyio, M.P
- 10.Hon. Suleka Hulbale Harun, M.P
- 11.Hon. Barre Hussein Abdi, M.P

APOLOGIES

1. Hon. (Dr.) James Nyikal, M.P
2. Hon. Wetangula Timothy Wanyonyi, M.P
3. Hon. Amina Abdullahi Dika, M.P
4. Hon. (Dr.) Lilian Gogo, M.P

COMMITTEE SECRETARIAT

1. Mr. Finlay Muriuki -Committee Lead Clerk
2. Mr. Ahmednoor Hassan -Clerk Assistant III