

Approved for tabling.

REPUBLIC OF KENYA



But
SNA
11/3/2020

PARLIAMENT
OF KENYA
LIBRARY

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FOURTH SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

.....
REPORT ON THE CONSIDERATION OF THE KENYA UWEZO FUND BILL (N.A. BILLS
NO. 42 OF 2019)

CLERKS CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

MARCH, 2020

TABLE OF CONTENTS

CHAIRPERSON'S FOREWORD	3
EXECUTIVE SUMMARY	4
CHAPTER ONE	5
1 PREFACE	5
1.1 Establishment of the Committee	5
1.2 Mandate of the Committee	5
1.3 Committee Membership	6
1.4 Committee Secretariat	7
CHAPTER TWO	8
2 OVERVIEW OF THE KENYA UWEZO FUND BILL (N.A. BILLS NO. 42 OF 2019).....	8
CHAPTER THREE	10
3. PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION	10
3.1 Submission by Stakeholders.....	10
3.1.1 Ministry of Public Service, Youth and Gender	10
3.1.2 National Youth Council.....	10
3.1.3 Office of the Attorney General	10
CHAPTER FOUR.....	11
4 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL.....	11
4.1 Part 1: Preliminary	11
4.2 Part II: Establishment of the Uwezo Fund	11
4.3 Part III: Management of the Fund	14
4.4 Part IV: Devolution of the Fund and Disbursement of Funds.....	16
4.5 Part V: Provision on Delegated Powers	17
4.6 First Schedule.....	18
4.7 Second Schedule	18
4.8 Third Schedule	18
4.9 New Clause	19
CHAPTER FIVE	20
5 COMMITTEE'S GENERAL OBSERVATIONS.....	20
CHAPTER SIX.....	21
6 COMMITTEE RECOMMENDATION	21

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of the Kenya Uwezo Fund Bill, 2019, which was read a first time on **Wednesday, 3rd July, 2019** pursuant to Standing Order 127.

In processing the Bill, the Committee invited comments from the public by placing advertisements in the print media on **Thursday, 18th July 2019** pursuant to Article 118 of the Constitution. By the time the Committee was considering the Bill, two (2) stakeholders had submitted memoranda on the Bill both proposing amendments to the Bill.

The Committee put the stakeholders' comments into consideration while preparing the proposed Committee's amendments. Some of the proposals were adopted and therefore form part of the proposed Committee's amendments.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the 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 Kenya Uwezo Fund Bill, 2019.

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 wishes to thank the sponsor of the Bill, Hon. David Kangogo Bowen, M.P. and the stakeholders who responded to the Committee's call for memoranda.

Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Departmental Committee on Finance and National Planning has considered the Kenya Uwezo Fund Bill, 2019 and has the honour to report back to the National Assembly with the recommendation that the Bill is **approved with amendments**.

Hon. Joseph Limo, M.P.

EXECUTIVE SUMMARY

The Kenya Uwezo Fund Bill (N.A. Bills No. 42 of 2019) was published on 17th **June, 2019** and read a first time on **Wednesday, 3rd July 2019** and thereafter committed to the Departmental Committee on Finance and National Planning for consideration pursuant to Standing Order 127.

The Uwezo Fund stems from the pledge that His Excellency the President made to allocate the KSh. 6B that was meant for a presidential run-off to youth and women groups. Following this, the National Treasury allocated and Parliament approved the sum of KSh. 6B to go towards the Fund in the budget for the Financial Year 2013/2014.

The objective of the Bill is to elevate the Public Finance Management (Uwezo Fund) Regulations, 2013 into an Act of Parliament and to incorporate the Youth and Women Enterprise Development Funds into the Act. This Bill therefore repeals the following subsidiary legislations:-

- i. The Public Finance Management (Uwezo Fund) Regulations, 2013;
 - ii. The Public Finance Management (National Government Affirmative Action Fund) Regulations, 2016
 - iii. The Government Financial Management (Women Enterprise Fund) Regulations, 2007;
and
-
- iv. Youth Enterprise Development Fund Order, 2007

CHAPTER ONE

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are 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. To study and review all the legislation referred to it;**
 - iv. To 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. 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;
 - 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 No. 204 (Committee on appointments);
 - vii. To examine treaties, agreements and conventions;
 - viii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - ix. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - x. 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 of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following Government Ministries and Departments:
 - a. The National Treasury and Planning
 - b. Ministry of Devolution and ASAL
 - c. The Commission on Revenue Allocation
 - d. Office of the Controller of Budget
 - e. Salaries and Remuneration Commission

1.3 Committee Membership

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members:-

Chairperson

Hon. Joseph K. Limo, MP
MP for Kipkelion East Constituency

Jubilee Party

Vice-Chairperson

Hon. Isaac W. Ndirangu
M.P for Roysambu Constituency

Jubilee Party

Members

Hon. Jimmy O. Angwenyi, MP
MP for Kitutu Chache North Constituency

Jubilee Party

Hon. Christopher Omulele, MP
MP for Luanda Constituency

ODM Party

Hon. Dr. Enoch Kibunguchy, MP
MP for Likuyani Constituency

FORD-K

Hon. Shakeel Shabbir Ahmed, MP
MP for Kisumu Town East

Independent Member

Hon. Abdul Rahim Dawood, MP
MP for North Imenti Constituency

Jubilee Party

Hon. Daniel E. Nanok, MP
MP for Turkana West Constituency

Jubilee Party

Hon. Andrew A. Okuome, MP
MP for Karachuonyo Constituency

ODM Party

Hon. David M. Mboni, MP
MP for Kitui Rural Constituency

CCU Party

Hon. Francis K. Kimani, MP
M.P. Molo Constituency

Jubilee Party

Hon. Joseph M. Oyula, MP
MP for Butula Constituency

ODM Party

Hon. Joshua C. Kandie, MP
MP for Baringo Central Constituency

MCC Party

The Hon. Lydia H. Mizighi, MP
MP for Taita Taveta County

Jubilee Party

Hon. Mohamed A. Mohamed, MP
MP for Nyali Constituency

Independent Member

Hon. Purity W. Ngirici, MP
MP for Kirinyaga County

Jubilee Party

Hon. Samuel Atandi, MP
MP for Alego Usonga Constituency

ODM Party

Hon. Stanley M. Muthama, MP
MP for Lamu West Constituency

MCC Party

The Hon. Edith Nyenze, MP
MP for Kitui West Constituency

WDM-K

1.4 Committee Secretariat

5. The Committee is facilitated by the following Secretariat:-

Head of Secretariat

Ms. Leah W. Mwaura

Senior Clerk Assistant

Ms. Jennifer Ndeto

Principal Legal Counsel I

Ms. Lauren Wesonga

Clerk Assistant II

Mr. Josephat Motonu

Fiscal Analyst I

Mr. Chelang'a Maiyo

Research Officer II

CHAPTER TWO

2 OVERVIEW OF THE KENYA UWEZO FUND BILL (N.A. BILLS NO. 42 OF 2019)

Statement of Objects and Reasons for the Bill

6. The objective of the Bill is to elevate the Public Finance Management (Uwezo Fund) Regulations, 2013 into an Act of Parliament and to incorporate the Youth and Women Enterprise Development Funds into the Act. This Bill therefore repeals the following subsidiary legislations:-
 - v. The Public Finance Management (Uwezo Fund) Regulations, 2013;
 - vi. The Government Financial Management (Women Enterprise Fund) Regulations, 2007; and
 - vii. Youth Enterprise Development Fund Order, 2007
7. **Clause 1** of the Bill provides for the short title of the Bill.
8. **Clause 2** provides for the definition of term.
9. **Clause 3** provides for the application of the Bill.
10. **Clause 4** provides the guiding principles of the Bill.
11. **Clauses 5 and 6** provide for the establishment and the objects and purpose of the Uwezo Fund.
12. **Clauses 7 and 8** provide for the establishment and functions of the Uwezo Fund Board.
13. **Clause 9** provides for the role of the Ministry.
14. **Clauses 10, 11, 12, 13 and 14** provide for the appointment and qualification of the chairperson and members of the Uwezo Fund Board, as well as the conditions for their removal from office and the filling of a vacancy.
15. **Clauses 15 and 16** provide for the appointment and removal of the Chief Executive Officer.
16. **Clauses 17, 18 and 19** provide for the establishment of committees of the Board as well as the employment of employees of the Board.
17. **Clauses 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31** provide for the management of the Fund, the initial capital, fund allocation and expenditure of the Uwezo Fund.
18. **Clauses 32, 33, 34, 35, 36, 37 and 38** provide for the devolution of the Fund and the disbursement of funds. They provide for the establishment and functions of the Constituency Uwezo Fund Committee, the eligibility criteria for applicants as well as the disbursement of funds.
19. **Clause 39** deals with the provisions on delegated powers. It provides for the powers of the Cabinet Secretary to make regulations on any matter necessary for the carrying out of the provisions of this Act.
20. **Clause 40** provides for the winding up of the Fund.
21. **Clause 41** provides for the transitional provisions.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

22. The Bill delegates the power to make regulations to the Cabinet Secretary but it does not limit fundamental rights and freedoms.

Statement on whether the Bill concerns county governments

23. The Bill does not concern county governments in terms of Article 109(3) of the Constitution as it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Statement whether the Bill is a money bill

24. The Bill is a money bill for purposes of Article 114 of the Constitution. The enactment of the Bill shall occasion additional expenditure of public funds.

CHAPTER THREE

3. PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

25. Through an advertisement in the print media on Thursday, 18th July, 2019 the Committee invited the public to present submissions on the Kenya Uwezo Fund Bill, 2019.

26. The Committee received submissions on the Bill from the following stakeholders:-

- i. Ministry of Public Service, Youth and Gender vide letter Ref. No. MPYG.CS/6
- ii. National Youth Council vide letter Ref. No. NYC 1/5 Vol. 1 (51)
- iii. Office of the Attorney General vide letter Ref. No. AG/LDD/578/1/83

27. The Committee extensively considered the contents of the submissions. Details of the deliberations and the Committee's observations and resolutions are contained in chapter four of this report.

3.1 Submission by Stakeholders

3.1.1 Ministry of Public Service, Youth and Gender

28. The Ministry was in support of the Bill citing that it was in line with the reforms that the Government has introduced to:-

- i. Provide a one stop shop for affirmative action groups seeking affordable and accessible business loans;
- ii. Improve effectiveness; and
- iii. Eliminate overlaps.

29. They proposed a number of amendments to the Bill that will be highlighted in Chapter Four of this report.

3.1.2 National Youth Council

30. The Council submitted that the Bill once enacted into law will provide a unified model for the sector that will rid off the inefficiencies associated with many non-unified funds.

31. They proposed an amendment to clause 10(2) and addition of a new clause to the Bill.

3.1.3 Office of the Attorney General

32. The Attorney General requested the withdrawal of the Bill citing that the Executive had identified the need to think the overall policy underlying the affirmative action legislation with a view to strengthening the law and the attendant implementation. He stated that the anticipated policy was likely to inform and affect most of the affirmative legislations beyond what was been proposed by the Bill. With the reasoning cited above, the Attorney proposed the withdrawal of the Bill to pave way for a comprehensive and more effective affirmative action legal framework.

CHAPTER FOUR

4 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

33. This part deals with the clause by clause consideration of the Bill by the Committee after taking into consideration the views of the aforementioned stakeholders.

4.1 Part 1: Preliminary clause 1

34. Clause 1 provides for the short title of the Bill.

Stakeholders' Views

Ministry of Public Service, Youth and Gender

35. The Ministry proposed that the short title of the Bill should be changed to 'The Kenya Biashara Fund Bill' in order to underscore the empowerment aspect of the Fund. The new title will also distinguish the Fund from the merged entities.

Clause 2

36. Provides for interpretation.

Clause 3

37. Provides for the application of the Bill.

Clause 4

38. Provides the guiding principles

4.2 Part II: Establishment of the Uwezo Fund

Clause 5

39. The clause provides for the establishment of the Fund.

40. The Ministry proposed that sub-clause 5(3) should be deleted and replaced by the following new sub-clauses:-

(3) The Fund shall consist of-

- a) monies appropriated by Parliament for the purposes of the Fund;
- b) income generated from the proceeds of the Fund;
- c) income from investments made by the Fund;
- d) grants, donations, bequests or other gifts made to the Fund; and
- e) monies from any other source approved by the Cabinet Secretary.

Clause 6

41. Provides the objects and purpose of the Fund.

Stakeholders' views

Ministry of Public Service, Youth and Gender

42. The Ministry proposed that additional objects should be added to the Bill to:-

- i. Facilitate mainstreaming of the interests of women, youth and persons with disabilities enterprises or groups and micro, small and medium enterprises in bilateral and international trade, investment and agreements;

- ii. Support capacity building of the beneficiaries of the Fund and their institutions through training, incubation, mentorship, start-up support and promotion of innovation and development of products;
- iii. Facilitate periodic market surveys and data analysis to identify industry opportunities for women, youth, persons with disability enterprises or groups and micro, small and medium enterprises; and
- iv. Promote, develop and facilitate access to government procurement opportunities by women, youth and persons with disabilities enterprises or groups and micro, small and medium enterprises.

Clause 7

43. Provides for the establishment of the Uwezo Fund.

44. The Ministry proposed that the sub-clause should be deleted and replaced with the following new sub-clause:-

(2) The Board shall consist of:-

- a) Non-executive chair appointed by the President;
- b) PS Treasury;
- c) PS Gender;
- d) National Council of Persons with Disabilities nominee;
- e) Youth nominee by the National youth Council; and
- f) Three other persons (one woman) not public officers appointed by the responsible CS.

45. This is to comply with Mwongozo guidelines and to spread representation. National Gender and Equality Commission provides oversight and hence cannot be part of the Board.

Clause 8

46. Outlines the functions of the Board.

Stakeholders' views

Ministry of Public Service, Youth and Gender

47. The Ministry submitted that the clause should be amended by inserting the following new paragraphs:-

- i. Oversee the administration of the fund;
- ii. Advise the CS responsible on general operations;
- iii. Receive reports on the performance of the Funds;
- iv. Develop policy, regulations and guidelines relating to the disbursement of the Fund; and
- v. Mobilise resources for the Fund.

Clause 9

48. Provides the role of the Ministry.

Stakeholders' views

Ministry of Public Service, Youth and Gender

49. The Ministry proposed that the clause should be amended by deleting sub-clauses (a) and (b) and replacing them with the following new sub-clauses:-

- a) Facilitate and oversee the operations of the Board and in particular;

b) Develop policy measures relating to the Fund and prescribe Regulations on the formula for distribution of the Fund.

50. This is to take into consideration possible re-organisation of the Government.

Clause 10

51. Outlines the qualifications of Board Members.

Stakeholders' views

Ministry of Public Service, Youth and Gender

52. The Ministry proposed that the clause should be amended in sub-section (1)(c) by deleting the word 'five' and replacing with the word 'ten'. This is because advanced experience is required of the chairperson to steer the Board.

National Youth Council

53. The Council proposed that sub-clause (2)(c) should be amended either by deleting the word 'five' and replacing it with the word 'three' or deleting the word 'post-qualification'. This is to give an opportunity to young people to hold the position. The five years' experience is disadvantageous to the youth.

Clause 11

54. Provides for the removal from office.

Clause 12

55. Provides for vacation from office.

Clause 13

56. Provides for the filling of a vacancy.

Clause 14

57. Highlights how meetings of the Board shall be held.

Clause 15

58. Provides for the appointment of the Chief Executive Officer.

Stakeholders' Views

Ministry of Public Service, Youth and Gender

59. The Ministry proposed amendment of sub-clause (1) by inserting the following new clause:-

'The CEO and staff of the secretariat shall be appointed competitively in consultation with the Public Service Commission'. This is because PSC provides the norms and standards in public service.

Committee's observations and recommendations on the clause

60. The Committee observed that

Clause 16

61. Provides the process of removal of the Chief Executive Officer.

Committee's observations and recommendations on the clause

62. The Committee observed that there were no comments from stakeholders on the clause.

Clause 17

63. Provides for the Committees of the Board.

Committee's observations and recommendations on the clause

64. The Committee observed that no comments had been received from stakeholders on the clause.

Clause 18

65. Provides for the delegation by the Board.

Committee's observations and recommendations on the clause

66. The Committee observed that no comments had been submitted by stakeholders on the clause.

Clause 19

67. Provides the employees of the Board.

Committee's observations and recommendations on the clause

68. The Committee observed that there were no comments on the clause from stakeholders.

4.3 Part III: Management of the Fund

Clause 20

69. Provides how the Fund will be administered.

Committee's observations and recommendations on the clause

70. The Committee observed that there were no comments on the clause from stakeholders.

Clause 21

71. Provides for the initial capital of the Fund.

Committee's observations and recommendations on the clause

72. The Committee observed that there were no comments from stakeholders on the clause.

Clause 22

73. Provides for fund allocation.

Stakeholders' views

Ministry of Public Service, Youth and Gender

74. The Ministry proposed that the following amendments should be made to the clause:-

- i. The Bill should consider an additional recurrent line budget from the exchequer to cushion operations and maintenance. This is because the 3% is inadequate to cater for administration cost of the fund;
- ii. The Bill should consider the cost associated with the transition process and recommend that the exchequer provides a budget line for transition costs; and

- iii. The Fund should be 100% a revolving Fund. From the experience of current Funds, the 20% grant creates/perpetuates a culture of dependency and a challenge on the sustainability of the Funds.

Clause 23

75. Provides for the expenditure of the Fund.

Committee's observations and recommendations

76. The Committee observed that there was no stakeholder comment on the clause.

Clause 24

77. Provides for the retention of receipts.

Committee's observations and recommendations on the clause

78. The Committee observed that there was no stakeholder comment on the clause.

Clause 25

79. Provides for the application of Government regulations and procedures.

Committee's observations and recommendations on the clause

80. The Committee observed that there were no comments by stakeholders on the clause.

Clause 26

81. Provides the expenses of administering the Fund.

Committee's observations and recommendations on the clause

82. The Committee observed that there were no stakeholder comments on the clause.

Clause 27

83. Provides for the investment of the Fund.

Committee's observations and recommendations on the clause

84. The Committee observed that there was no comment from the stakeholders on the clause.

Clause 28

85. Provides for the annual estimates.

Committee's observations and recommendations on the clause

86. The committee observed that no stakeholder had submitted views on the clause.

Clause 29

87. Provides for the accounts and audit.

Committee's observations and recommendations on the clause

88. The Committee observed that there were no stakeholder comments on the clause.

Clause 30

89. Provides for the annual report.

Committee's observations and recommendations on the clause

90. The committee observed that no comment had been submitted by stakeholders on the clause.

Clause 31

91. Provides the interest rates.

Committee's observations and recommendations on the clause

92. The Committee observed that there were no comments from stakeholders on the clause.

4.4 Part IV: Devolution of the Fund and Disbursement of Funds

Clause 32

93. Provides for Fund disbursement.

Committee's observations and recommendations on the clause

94. The Committee observed that no stakeholder had submitted views on the clause.

Clause 33

95. Provides for the establishment of Constituency Uwezo Fund Committees.

Stakeholders' views

Ministry of Public Service, Youth and Gender

96. The Ministry proposed the following amendments to the clause:-

- i. Amend sub-clause 33(2)(a) by stating that the Deputy County Commissioner is the Chair of the Committee. This is in line with the national Government Executive Order No.1;
- ii. Deleting sub-clause 33(2)(e). This is in line with the functions and mandates;
- iii. Amend sub-clause 33(2)(h) by stating that the officer from the responsible ministry shall be the secretary this is in line with the functions and mandates of a constitutional commission;
- iv. Inserting the paragraph 'Sub County representative of the responsible ministry because some Constituencies have more than three wards; and
- v. Deleting sub-clause 33(4) because the clause does not define the ward representatives indicated in the clause.

Clause 34

97. Outlines the functions of the Constituency Uwezo Fund Committees.

Committee's observations and recommendations on the clause

98. The Committee observed that no stakeholder had submitted views on the clause.

Clause 35

99. Provides for the bank accounts.

Stakeholders' views

Ministry of Public Service, Youth and Gender

100. The Ministry proposed that the clause should be amended to:-

- i. Propose that three bank accounts should be maintained at the board level and disburse directly to the beneficiaries' bank accounts; and
- ii. Propose that the role of the constituency committee is to review and recommend approval of the loans, monitor and recover outstanding loans.

Clause 36

101. Outlines the eligibility criteria for applicants.
102. The Ministry proposed deletion of sub-clause (1) and replacing it with the following new clause:-
 - (1) A woman, youth, person with disability and micro, small and medium enterprise shall be eligible to apply for a loan for business purposes from the Fund if-
 - a) In the case of a group, is registered with the Department of Social Services, Cooperatives or the Registrar of Society and:-
 - (i) At least seventy percent of the membership is aged between 18 and 35 years;
 - (ii) At least seventy percent of the membership is composed of women aged eighteen years and above; or
 - (iii) At least seventy percent of the membership is composed of persons with disability.
 - b) In the case of an enterprise owned by women, youth, persons with disability, micro, small and medium enterprises registered under the Registration of Business Names Act, Partnerships Act, Companies Act or Cooperatives Act;
 - c) In the case of unregistered business, the person shall have a business permit and PIN issued by the Kenya Revenue Authority; or
 - d) In the case of a natural person, the person shall demonstrate that he or she is running an enterprise or intends to start an enterprise.
 - (2) Women, youth and persons with disability enterprises shall be given preference while processing loans by the Fund.

Clause 37

103. Provides for the disbursement of funds.

Committee observations and recommendations on the clause

104. The Committee observed that there was no stakeholder view on the clause.

Clause 38

105. Provides for the repayment of the loan.

Stakeholders' views

Ministry of Public Service, Gender and Youth

106. The Ministry proposed an amendment to sub-clause (2) by deleting the word 'six' and replacing with the word 'three' in order to sustain the revolving nature of the Fund.

4.5 Part V: Provision on Delegated Powers

Clause 39

107. Provides for the Regulations.

Committee observations and recommendations on the clause

108. The Committee observed that no stakeholder had submitted their views on the clause.

Clause 40

109. Provides for the winding up of the Fund.

Committee observations and recommendations on the clause

110. The Committee observed that no stakeholder had submitted views on the clause.

Clause 41

111. Provides the transitional clauses

Committee observations and recommendations on the clause

112. The Committee observed that there was no comment from the stakeholders on the clause.

4.6 First Schedule

113. Provisions as to the conduct of business and affairs of the Board.

Committee observations and recommendations on the schedule

114. The Committee observed that there was no comment from the stakeholders on the schedule.

4.7 Second Schedule

115. Provisions as to the initial capital and interest rates of the Fund.

Stakeholders' Views

Ministry of Public Service, Youth and Gender

116. Amend the Schedule by:-
- i. Initial capital to include the addition injection through Parliamentary appropriation in order to provide a wider capital base. The initial capital is already owed as loans by the beneficiaries;
 - ii. Developing a Sharia compliant product for inclusivity;
 - iii. Remove the proposed interest; and
 - iv. Propose a one off administrative fee of 6% to cater for administrative costs.

4.8 Third Schedule

117. Transitional clauses

Stakeholders' views

Ministry of Public Service, Youth and Gender

118. Amend the Schedule by deleting sub-clause 2(d). This is because the Fund seeks to merge affirmative action credit funds. National Government Affirmative Action Fund is an affirmative action grant fund and not a credit fund.

4.9 New Clause

National Youth Council

119. They proposed that an amendment should be made to provide for transparency, accountability and public participation guidelines to inform the operation of the Fund.

CHAPTER FIVE

5 COMMITTEE'S GENERAL OBSERVATIONS


The Committee observed as follows, THAT –

120. the Cabinet Secretary responsible for the National Treasury has established the Uwezo Fund under section 24 of the Public Finance Management Act.
121. there may be a challenge in operationalising the Kenya Uwezo Fund Act upon enactment as the same may infringe on the provisions of section 6 of PFMA that provides that the latter legislation prevails where there is in contravention on establishment and management of public funds.
122. the Memorandum of objects and reasons cites that the Bill seeks to elevate the Public Finance Management (Uwezo Fund) Regulations 2013 into Act. At the same time, the Bill repeals several other subsidiary legislations namely the Public Finance Management (Uwezo Fund) Regulations, 2013, the Public Finance Management (National Government Affirmative Action Fund) Regulations, 2016, the Government Financial Management (Women Enterprise Fund) Regulations, 2007 and the Youth Enterprise Development Fund Order, 2007 that are under separate guidelines and are established for different purposes and have nothing to do with the Public Finance Management (Uwezo Fund) Regulations 2013.
123. the Bill has gone outside of the scope by attempting to merge the four funds that are established through different frameworks and targets different groups.

CHAPTER SIX

6 COMMITTEE RECOMMENDATION

124. The Committee, having considered the Bill clause by clause and based on the aforementioned observations proposes to the House that the Bill be deleted in its entirety.

SIGNED.......... DATE.....11/3/2020.....

THE HON. JOSEPH LIMO, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING



MINUTES OF THE 11TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON TUESDAY, 10TH MARCH, 2020 ON 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Jimmy O. Angwenyi, MGH, MP
3. Hon. Christopher Omulele, MP
4. Hon. Dr. Enoch Kibunguchy, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. Andrew A. Okuome, MP
8. Hon. David M. Mboni, MP
9. Hon. Francis K. Kimani, MP
10. Hon. Joseph M. Oyula, MP
11. Hon. Joshua C. Kandie, MP
12. Hon. Mohamed A. Mohamed, MP
13. Hon. Purity Ngirici, MP
14. Hon. Samuel Atandi, MP
15. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
2. Hon. Daniel E. Nanok, MP
3. Hon. Lydia Mizighi, MP
4. Hon. Stanley M. Muthama, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of the Secretariat
2. Ms. Jennifer Ndeto - Principal Legal Counsel I
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Mr. Chelang'a Maiyo - Research Assistant II
5. Mr. John Njoro - Serjeant-At-Arms
6. Ms. Euridice Nzioka - Audio Officer
7. Mr. Vitalis Augo - Office Assistant
8. Mr. Faustine Rotich - Intern

SPONSORS OF THE LEGISLATIVE PROPOSAL

1. Hon. Benjamin Washiali, MP - MP, Mumias East
2. Hon. Oroo Oyioka, MP - MP, Bonchari
3. Hon. Eng. Wainaina Jungle, MP - MP, Thika Town
4. Hon. Didmus Barasa, MP - MP, Kimilili

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting with to:-**
 - i. **Discuss the following Legislative Proposals:-**
 - a. **The Pensions (Amendment) Legislative Proposal, 2019** by Hon. Didmus Wekesa Barasa, M.P.;
 - b. **The Public Finance Management (Amendment) Legislative Proposal, 2019** by Hon. Paul Abuor, M.P.;
 - c. **The Insurance Professionals Registration Legislative Proposal, 2019** by Hon. Benjamin Washiali, M.P.;
 - d. **The Parliamentary Pensions (Amendment) Legislative Proposal, 2019** by Hon. George Peter Kaluma, M.P.;
 - e. **The Public Procurement and Asset Disposal (Amendment) Bill, 2019** by Hon. Eng. Jungle Patrick Wainaina, MP; and
 - f. **The Central Bank of Kenya (Amendment) Bill, 2019** by Hon. Oroo Oyioka, MP
 - ii. **Adopt reports on the consideration of the following Bills:-**
 - a. **The Public Procurement and Asset Disposal (Amendment) Bill (N.A. Bills No. 36 of 2019)**
 - b. **The Kenya Uwezo Fund Bill (N.A. Bills No. 42 of 2019)**
6. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2020/052: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10.28am and a prayer was said. The Chairperson then welcomed Hon. Benjamin Washiali, MP to make submissions on his Legislative Proposal.

MIN.NO.NA/F&NP/2020/053: CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2020/054: CONSIDERATION OF THE INSURANCE PROFESSIONALS LEGISLATIVE PROPOSAL, 2019

Hon. Washiali, the Sponsor of the Legislative Proposal submitted that:-

The Bill intends to ensure professionalism in the insurance industry by establishing the Insurance Institute of Kenya like other professionals. The Institute will provide training for insurance professionals. This is because the insurance industry has many unscrupulous persons hence the need for legislation to regulate their conduct and in order to protect the citizenry.

MEMBERS' DELIBERATIONS

The meeting noted that the proposed Bill was a good legislation that will ensure professionalism in the insurance industry. They therefore recommended that the proposed Bill should be published.

**MIN.NO.NA/F&NP/2020/055: CONSIDERATION OF THE PUBLIC
PROCUREMENT AND ASSET DISPOSAL
(AMENDMENT) LEGISLATIVE, 2019**

Hon. Eng. Jungle Patrick Wainaina, MP informed the meeting that most contracts in the National and county governments were being awarded to foreigners. The Bill proposes that tenders should be divided into smaller bits so that the same tender can be awarded to more than one companies. Additionally, there should be engineer and market estimate price of different contracts in order to ensure that the amount allocated to the tenders will ensure that the work done is up to standard and also minimize wastage of resources. The contracts will be awarded to contractors who will quote prices that are either plus or minus 15% of the engineer and market price.

Further, the Bill proposes that a tender will be awarded to a successful tenderer by way of a bank guarantee. This will enable a contractor to be paid by the bank if the National or county government fails to pay them ninety (90) days after completion of the contract. The proposed Bill also proposes that there should be 1.5 stabilization rate for local contractors in order to give them a level playing field with the foreigners.

Finally, the Legislative Proposal provides that tenders below KSh. 1 billion should be awarded to locals.

MEMBERS' DELIBERATIONS

1. Members noted that the proposed Bill was good as it would cure numerous challenges that have been experienced by contractors in the country including late payment after completion of contracts;
2. Members noted that if enacted, the Bill will ensure that tenders are not awarded to tenderers who give very low quotations for tenders as most of them do below standard jobs;
3. Members were of the opinion that the bank guarantees may not be favourable to banks. Members requested Hon. Wainaina to give examples of countries where the bank guarantees have been implemented and worked successfully;
4. The meeting also noted that dividing tenders into small bits may not guarantee the same quality of the work and the contracts may not be completed within the same time frame due to difference in the capacity of the contractors; and
5. Members noted that the proposed Bill was good and proposed the following further amendments:-
 - i. A contract should be completed within the period in the contract failure to which the contractor should be penalized;
 - ii. The essence of variation in time and money should be captured in the proposed Bill;
 - iii. The number of days within which the bank guarantee takes effect should be captured in the Bill; and
 - iv. The proposed Bill should specify the Kenyan company that is being referred to.
6. The Committee recommended that the proposed Bill should be published.

**MIN.NO.NA/F&NP/2020/056: CONSIDERATION OF THE CENTRAL BANK OF
KENYA (AMENDMENT) LEGISLATIVE
PROPOSAL, 2019**

Hon. Oroo Oyioka, the sponsor of the Legislative Proposal submitted that the proposed Bill seeks regulation of the digital lending platforms by the Central Bank of Kenya. The interest rates

and penalties by such lenders are usually very high. He noted that regulating the digital lenders will help the government to collect more revenue through the registration fees.

MEMBERS' DELIBERATIONS

1. Members observed that the interest rate chargeable by the digital lending platforms should be similar to that of commercial banks;
2. Members noted that the proposed Bill should be amended to provide for regulations to shylocks in addition to the digital lenders; and
3. The Committee recommended that the Legislative Proposal should be published.

MIN.NO.NA/F&NP/2020/057: CONSIDERATION OF THE PENSIONS BILL, 2019

The Sponsor of the Bill, Hon. Didmus Barasa submitted that the objective of the proposed Bill is to save Kenyans from delayed payment of pension. The Legislative Proposal proposes that pension should be paid within ninety (90) days of retirement. He further noted that pension administrators will be committing an offense if they fail to pay pension and will be required to individually pay a fine of KSh. 1 million.

MEMBERS' DELIBERATIONS

1. Members noted that interest should be introduced to the amount of pension due to a member after the ninety (90) days until the pension is paid in full;
2. Members noted that the pension should be paid by the institution and not the pension administrator because most of the delays are occasioned by the institution and not the administrator;
3. Members proposed that an amendment should be made to ensure that pension due to a widow/widower should also be paid within ninety (90) days;
4. Members noted that the Pensions Act only recognizes widows and not widowers, they proposed that an amendment should be made to capture widowers too; and
5. The Committee recommended that the proposed Bill should be published.

MIN.NO.NA/F&NP/2020/058: CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT LEGISLATIVE PROPOSAL, 2019

The sponsor of the Legislative Proposal, Hon. Paul Abuor, did not attend the meeting. His Legislative Proposal will therefore be considered in another meeting.

MIN.NO.NA/F&NP/2020/059: CONSIDERATION OF THE PARLIAMENTARY PENSIONS LEGISLATIVE PROPOSAL, 2019

The sponsor of the Legislative Proposal, Hon. George Kaluma, did not attend the meeting. His Legislative Proposal will therefore be considered in another meeting.

MIN.NO.NA/F&NP/2020/060: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL (N.A. BILLS NO. 36 OF 2019)

The Committee adopted the report on the consideration of the Public Procurement and Asset Disposal (Amendment) Bill (N.A. Bills No. 36 of 2019) having been proposed and seconded by

Hon. Jimmy Angwenyi, MP and Hon. Andrew Okuome, MP respectively. The Committee recommended that the Bill should be deleted in its entirety.

MIN.NO.NA/F&NP/2020/061: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE KENYA UWEZO FUND BILL (N.A. BILLS NO. 42 OF 2019)

The Committee adopted the report on the consideration of the Kenya Uwezo Fund Bill (N.A. Bills No. 42 of 2019) having been proposed and seconded by Hon. Jimmy Angwenyi, MP and Hon. Joseph Oyula, MP respectively. The Committee recommended that the Bill should be deleted in its entirety.

MIN.NO.NA/F&NP/2020/062: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 1.11p.m. The next meeting will be held on Thursday, 12th March, 2020 at 10.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED..........DATE.....11/3/2020.....



REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

**DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE KENYA
UWEZO FUND BILL (N.A. BILLS NO. 42 OF 2019)**

DATE: 10TH MARCH, 2020

NAME	SIGNATURE
1. HON. JOSEPH K. LIMO, MP – CHAIRMAN	
2. HON. ISAAC W. NDIRANGU – VICE-CHAIRMAN	
3. HON. JIMMY O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, MP	
5. HON. ENOCH KIBUNGUCHY, MP	
6. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
7. HON. ABDUL RAHIM DAWOOD, MP	
8. HON. DANIEL E. NANOK, MP	
9. HON. ANDREW A. OKUOME, MP	
10. HON. DAVID M. MBONI, MP	
11. HON. KURIA KIMANI, MP	
12. HON. JOSEPH M. OYULA, MP	
13. HON. JOSHUA KANDIE, MP	
14. HON. LYDIA H. MIZIGHI, MP	
15. HON. MOHAMED ALI, MP	
16. HON. PURITY NGIRICI, MP	
17. HON. SAMUEL ATANDI, MP	
18. HON. STANLEY M. MUTHAMA, MP	
19. HON. EDITH NYENZE, MP	

