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THE NATIONAL ASSEMBLY


TWELFTH PARLIAMENT – SIXTH SESSION – 2022

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON-

THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE

BILL NO. 31 OF 2020)


 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 29 MAR 2022	DAY: Tue
TABLED BY:	Hon. Mwan Mwalimu Chair
CLERK-AT-THE-TABLE:	

CLERKS CHAMBERS

DIRECTORATE OF DEPARTMENTAL COMMITTEES

PARLIAMENT BUILDINGS

NAIROBI

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 29 MAR 2022	DAY: Tue
TABLED BY:	Hon. Mwan Mwalimu Member, Finance
CLERK-AT-THE-TABLE:	F. Mwangi

MARCH 2022



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CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Finance and National Planning on its consideration of the Salaries and Remuneration Commission (Amendment) Bill (*Senate Bill No. 31 of 2020*).

The Bill went through the First Reading on 13th October 2021 and was thereafter committed to the Departmental Committee on Finance and National Planning for consideration and reporting to the House pursuant to National Assembly Standing Order 127.

The Bill has three (3) clauses and seeks to amend sections 7 and 9 of the Salaries and Remuneration Commission Act (No. 10 of 2011), to provide for notification of the expiry of the term of office for commissioners in the Official Kenya *Gazette* and to provide for timelines for the filling of vacancies in the Commission upon the expiry of term of commissioners.

This is in view of the fact that the Salaries and Remuneration Commission Act does not provide for timelines for the process of selection of the commissioners by the various nominating bodies set out under Article 230 (2) (b) and (c) of the Constitution. There is therefore need for the law to be amended to clearly specify the timelines for the nomination process to ensure that the vacancies are filled as soon as possible, upon expiry of term for the existing commissioners.

Further, under section 9 of the Salaries and Remuneration Commission Act, the '*expiry of term for commissioners*' is not listed as one of the grounds for vacancy in the office of commissioner or chairperson. As such, there is no express requirement for notification of a vacancy, resulting from expiry of term, in the *Gazette* within fourteen days, as is provided for vacancies arising from the circumstances contemplated under section 9(1). A notification of vacancy in the *Gazette* is necessary to prompt the simultaneous nomination processes by all bodies required to nominate commissioners to the Salaries and Remuneration Commission.

Following placement of advertisements in the print media on 10th February 2022 requesting for comments on the Bill from members of the public and relevant stakeholders pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee did not receive any written memoranda. In a bid to carry out public participation, the Committee vide letter, Ref: NA/DDC/F&NP/2022/15 dated 14th March 2022 invited the National Treasury and Salaries and Remuneration Commission on Thursday, 24th March 2022 for a meeting to discuss the Bill. The meeting took place in the Mini Chamber, County Hall, Parliament Buildings.

Both the National Treasury and Salaries and Salaries and Remuneration Commission supported the amendment proposed in clause 2 noting that it would provide a timeframe within which nominating bodies should nominate persons to represent them in the Commission and ensure that vacancies are duly filled upon expiry of term of serving Commissioners. As a result, there would be continuity in service provision.

The Salaries and Remuneration Commission however, did not support the amendment proposed in clause 3 noting that it was restating the tenure of the Chairperson and members of the Commission as provided by the Constitution and was therefore inconsequential.

While considering the Bill, the Committee observed that the Bill would ensure that vacancies in the Commission are filled as soon as they fall vacant. This will ensure continuity of service by the Commission.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill. The Committee further wishes to thank all stakeholders who participated in the consideration of the Bill. Finally, I wish to express my appreciation to the Honorable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

On behalf of the Departmental Committee on Finance and National Planning 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 Salaries and Remuneration Commission (Amendment) Bill (*Senate Bill No. 31 of 2020*).

Hon. Gladys Wanga, CBS, MP

Chairperson, Departmental Committee on Finance and National Planning

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance and National Planning is one of the fifteen 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. **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:

- i. National Treasury and Planning*
- ii. State Department for Devolution*
- iii. Commission on Revenue Allocation*
- iv. Office of the Controller of Budget*
- v. Salaries and Remuneration Commission*

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning was constituted by the House in July, 2020 and comprises of the following Members:

Chairperson

Hon. Gladys Wanga, CBS, MP
Homabay County

ODM Party

Vice-Chairperson

Hon. Isaac W. Ndirangu, MP
Roysambu Constituency

Jubilee Party

Hon. Jimmy O. Angwenyi, MGH, MP
Kitutu Chache North Constituency
Jubilee Party

Hon. Christopher Omulele, CBS, MP
Luanda Constituency
ODM Party

Hon. Shakeel Shabbir Ahmed, CBS, MP
Kisumu East Constituency
Independent Member

Hon. Daniel Nanok, MP
Turkana West Constituency
Jubilee Party

Hon. (Dr.) Christine Ombaka, MP
Siaya County
ODM Party

Hon. Andrew Okuome, MP
Karachuonyo Constituency
ODM Party

Hon. David Mboni, MP
Kitui Rural Constituency
CCU Party

Hon. Francis K. Kimani, MP
Molo Constituency
Jubilee Party

Hon. Joseph Oyula, MP
Butula Constituency

ODM Party

Hon. Joshua Kandie, MP
Baringo Central Constituency
MCC Party

Hon. Stanley Muthama, MP
Lamu West Constituency
MCC Party

Hon. Edith Nyenze, MP
Kitui West Constituency
WDM-K

Hon. Catherine Waruguru, MP
Laikipia County
Jubilee Party

Hon. James Gichuhi Mwangi, MP
Tetu Constituency
Jubilee Party

Hon. (Prof.) Mohamud Muhamed, MP
Wajir South Constituency
Jubilee Party

Hon. Peter Lochakapong, MP
Sigor Constituency
Jubilee Party

Hon. Qalicha Gufu Wario, MP
Moyale Constituency
Jubilee Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Secretariat:

Ms. Rose M. Wanjohi
Senior Clerk Assistant/Head of Secretariat

Ms. Jennifer Ndeto
Deputy Director, Legal Services

Ms. Lauren O. Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Senior Fiscal Analyst

Mr. Chelang'a Maiyo
Research Officer II

Mr. Gideon Kipkogei
Hansard Reporter III

Mr. Luka Mutua
Serjeant-At-Arms II

Mr. George Ndenjesho
Fiscal Analyst III

Ms. Terry Ondiko
Fiscal Analyst III

Ms. Christine Maeri
Audio Officer

PART TWO

2 OVERVIEW OF THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2020)

2.1 INTRODUCTION

6. The Bill has three (3) clauses and seeks to amend sections 7 and 9 of the Salaries and Remuneration Commission Act (No. 10 of 2011), to provide for notification of the expiry of term for commissioners in the *Gazette* and to provide for timelines for the filling of vacancies in the Commission upon the expiry of term for commissioners.
7. This is in view of the fact that the Salaries and Remuneration Commission Act does not provide for timelines for the process of selection of the commissioners by the various nominating bodies set out under Article 230 (2) (b) and (c) of the Constitution. There is therefore need for the law to be amended to clearly specify the timelines for the nomination process to ensure that the vacancies are filled as soon as possible, upon expiry of term for the existing commissioners.
8. Further, under section 9 of the Salaries and Remuneration Commission Act, the '*expiry of term for commissioners*' is not listed as one of the grounds for vacancy in the office of commissioner or chairperson. As such, there is no express requirement for notification of a vacancy, resulting from expiry of term, in the *Gazette* within fourteen days, as is provided for vacancies arising from the circumstances contemplated under section 9(1). A notification of vacancy in the *Gazette* is necessary to prompt the simultaneous nomination processes by all bodies required to nominate commissioners to the Salaries and Remuneration Commission.

2.2 ANALYSIS OF THE BILL

The Bill proposes the following amendments:

9. **Clauses 1** provides for the short title of the Bill.
10. **Clauses 2** of the Bill amends section 7 of the Act to provide that nominating bodies shall submit names of qualified persons for appointment as commissioners twenty-eight days after notification of a vacancy.
11. **Clause 3** of the Bill amends section 9 of the Act to recognize expiry of the term of a commissioner as one of the grounds for vacancy in the office of a commissioner.
12. The Bill does not limit fundamental rights and freedoms neither does it delegate any legislative power.
13. Under Article 230 (2) (b) (vii) of the Constitution, the Senate nominates a commissioner to the Salaries and Remuneration Commission, on behalf of county governments. Any matter touching on the Constitution of the Commission and the exercise of its mandate therefore directly affects the functions of county governments. The Bill is therefore one that concerns county governments in terms of Article 110 (1) (a) of the Constitution.
14. This Bill is not a money bill within the meaning of Article 114 of the Constitution.

PART THREE

3 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

15. Following the call for memoranda from the public through the placement of adverts in the print media on 10th February 2022 and vide a letter REF: NA/DDC/F&NP/2022/15 dated 14th March 2022 inviting stakeholders for a meeting, the Committee received memoranda from the following stakeholders:

- i. The Salaries and Remuneration Commission (SRC)
- ii. National Treasury

The stakeholders submitted as follows:

3.1 THE SALARIES AND REMUNERATION COMMISSION (SRC)

16. Mr. Kennedy Monyoncho, a Commissioner at SRC appeared before the Committee on Thursday, 24th March 2022 and submitted that the Commission was in support of the amendment proposed in clause 2 as it will provide a timeframe within which nominating bodies should nominate persons to represent them in SRC. The Commission however, did not support the amendment proposed in clause 3 noting that it was restating the tenure of the Chairperson and members of SRC as provided by the Constitution and was therefore inconsequential.

Committee Observations

- i. The Committee agreed with the Commission's position on clause 2.
- ii. The Committee observed that the amendment proposed in clause 3 of the Bill was an important addition to the Act.

3.2 THE NATIONAL TREASURY

17. The Chief Administrative Secretary, Hon. Nelson Gaichuhie appeared before the Committee on Thursday, 24th March 2022 and submitted that the Bill provides timelines for the process of selection of commissioners to ensure vacancies are duly filled upon expiry of term of existing commissioners. In view of the need to ensure continuity in service provision, they supported the Bill in its entirety.

Committee's Observation

The Committee agreed with the National Treasury.

PART FOUR

4 COMMITTEE OBSERVATIONS

18. Upon considering the Bill, the Committee observed that its enactment will ensure vacancies in the Salaries and Remuneration Commission are filled as soon as they fall vacant. This will ensure continuity of service by the Commission.

PART FIVE

5 COMMITTEE RECOMMENDATION

19. The Committee having reviewed the Salaries and Remuneration Commission (Amendment) Bill (Senate Bill No. 31 of 2020) recommends that the House passes the Bill without amendments.

SIGNED.....

DATE.....

29/03/2022

HON. GLADYS WANGA, CBS, MP
CHAIRPERSON

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

ANNEXURES

1. Adoption Schedule
2. Minutes of the 17th Sitting
3. Minutes of the 15th Sitting
4. Newspaper Advert
5. Salaries and Remuneration Commission (Amendment) Bill (Senate Bill No. 31 of 2020)





REPUBLIC OF KENYA

NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE

ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SENATE BILL NO. 31 OF 2020)

DATE: 24TH MARCH 2022

NAME	SIGNATURE
1. HON. GLADYS WANGA, CBS, MP - CHAIRPERSON	
2. HON. ISAAC W. NDIRANGU, MP - VICE- CHAIRPERSON	virtual
3. HON. JIMMY O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, CBS, MP	virtual
5. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
6. HON. DANIEL E. NANOK, MP	
7. HON. (DR.) CHRISTINE OMBAKA, MP	
8. HON. ANDREW A. OKUOME, MP	virtual
9. HON. DAVID M. MBONI, MP	
10. HON. FRANCIS KURIA KIMANI, MP	virtual
11. HON. JOSEPH M. OYULA, MP	
12. HON. JOSHUA KANDIE, MP	
13. HON. STANLEY M. MUTHAMA, MP	
14. HON EDITH NYENZE, MP	
15. HON. CATHERINE WARUGURU, MP	virtual
16. HON. JAMES GICHUHI MWANGI, MP	virtual
17. HON. (PROF.) MOHAMUD SHEIKH MOHAMED, MP	virtual
18. HON. PETER LOCHAKAPONG, MP	
19. HON. QALICHA GUFU WARIO, MP	



MINUTES OF THE 17TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN THE MINI CHAMBER, FIRST FLOOR, COUNTY HALL, PARLIAMENT BUILDINGS AND VIRTUALLY ON THURSDAY, 24TH MARCH 2022 AT 10:00 A.M.

PRESENT

1. Hon. Isaac W. Ndirangu, MP - Vice-Chairperson
2. Hon. Jimmy O. Angwenyi, MGH, MP
3. Hon. Christopher Omulele, CBS, MP
4. Hon. Daniel E. Nant, MP
5. Hon. Andrew A. Okuome, MP
6. Hon. David M. Mboni, MP (Chairing)
7. Hon. Francis K. Kimani, MP
8. Hon. Joseph M. Oyula, MP
9. Hon. Joshua C. Kandie, MP
10. Hon. Edith Nyenze, MP
11. Hon. Catherine Waruguru, MP
12. Hon. James Gichuhi Mwangi, MP
13. Hon. (Prof.) Mohamud Sheikh Mohamed, MP

ABSENT WITH APOLOGY

1. Hon. Gladys Wangi, CBS, MP - Chairperson
2. Hon. Shakeel Shabbir Ahmed, CBS, MP
3. Hon. (Dr.) Christine Ombaka, MP
4. Hon. Stanley M. Muthama, MP
5. Hon. Peter Lochakapong, MP
6. Hon. Qalicha Gufu Wario, MP

IN ATTENDANCE

SECRETARIAT

1. Ms. Jennifer Ndeto - Deputy Director, Legal Services
2. Ms. Rose Wanjohi - Senior Clerk Assistant
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Mr. Gideon Kipkogei - Hansard Officer III
5. Mr. George Ndenjeshe - Fiscal Analyst III
6. Ms. Terry Ondiko - Fiscal Analyst III
7. Ms. Caroline Waweru - Hansard Officer III
8. Ms. Christine Maeri - Audio Officer III
9. Mr. Vitalis Augo - Office Assistant

SALARIES AND REMUNERATION COMMISSION (SRC)

1. Mr. J. K. Monyoncho - Commissioner
2. Ms. Amina Abdalla - Commissioner
3. Ms. Anne Gitau - CEO/Commission Secretary
4. Mr. James Sitienei - Legal

THE NATIONAL TREASURY

1. Hon. Nelson Gaichuhie - Chief Administrative Secretary
2. Mr. Victor Onyango - Ag. Director Budget
3. Ms. Eunice Remoi - Administration

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes from the previous sitting(s) and Matters Arising
4. **Meeting to consider the Salaries and Remuneration Commission (Amendment) Bill (Sen. Bill No. 31 of 2020) with:**
 - i. **The Salaries and Remuneration Commission; and**
 - ii. **The National Treasury**
5. **Clause by clause consideration of the Salaries and Remuneration Commission (Amendment) Bill (Sen. Bill No. 31 of 2020)**
6. **Adoption of the Report on the Consideration of the Salaries and Remuneration Commission (Amendment) Bill (Sen. Bill No. 31 of 2020)**
7. Any Other Business
8. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2022/88: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at half past ten o'clock and the Chairperson said the Prayer before calling for self-introduction of those present. He then invited stakeholders to make their submissions on the Salaries and Remuneration Commission (Amendment) Bill (Sen. Bill No. 31 of 2020).

MIN.NO.NA/F&NP/2022/89: CONFIRMATION OF MINUTES
Agenda deferred.

MIN.NO.NA/F&NP/2022/90: STAKEHOLDER ENGAGEMENT ON THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SEN. BILL NO. 31 OF 2020)

The stakeholders appeared before the Committee in the following order:

1. The Salaries and Remuneration Commission

Mr. Kennedy Monyoncho, a Commissioner at SRC submitted that the Commission was in support of the amendment proposed in clause 2 as it will provide a timeframe within which nominating bodies should nominate persons to represent them in SRC. The Commission however, did not support the amendment proposed in clause 3 noting that it was restating the tenure of the Chairperson and members of SRC as provided by the Constitution and was therefore inconsequential.

OBSERVATIONS

- i. The Committee agreed with the Commission's position on clause 2.
 - ii. The Committee observed that the amendment proposed in clause 3 of the Bill was an important addition to the Act.
- 2. The National Treasury**
- The Chief Administrative Secretary, Hon. Nelson Gaichuhie submitted that the Bill provides timelines for the process of selection of commissioners to ensure vacancies are duly filled upon expiry of term of existing commissioners. In view of the need to ensure continuity in service provision, they supported the Bill in its entirety.

MIN.NO.NA/F&NP/2022/91:

CLAUSE BY CLAUSE CONSIDERATION OF THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SEN. BILL NO. 31 OF 2020)

Clause 1: Agreed to

Clause 2: Agreed to

Clause 3: Agreed to

MIN.NO.NA/F&NP/2022/92:

ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE SALARIES AND REMUNERATION COMMISSION (AMENDMENT) BILL (SEN. BILL NO. 31 OF 2020)

The Committee adopted the Report on the Consideration of the Salaries and Remuneration Commission (Amendment) Bill (Sen. Bill No. 31 of 2020) having been proposed by Hon. Daniel Nanok, MP and seconded by Hon. Jimmy Angwenyi, MGH, MP.

MIN.NO.NA/F&NP/2022/93:

ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at five minutes past eleven o'clock. The next meeting will be held on Tuesday, 29th March 2022 at 10.00 a.m.

SIGNED.....

.....DATE.....

29/03/2022

For

HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)

MINUTES OF THE 15TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD VIRTUALLY ON THURSDAY, 17TH MARCH 2022 AT 10:00 A.M.

PRESENT

1. Hon. Gladys Wanga, CBS, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice-Chairperson (Chairing)**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Christopher Omulele, CBS, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Daniel E. Nanok, 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. Edith Nyenze, MP
13. Hon. Catherine Waruguru, MP
14. Hon. James Gichuhi Mwangi, MP
15. Hon. (Prof.) Mohamud Sheikh Mohamed, MP
16. Hon. Peter Lochakapong, MP

ABSENT WITH APOLOGY

1. Hon. (Dr.) Christine Ombaka, MP
2. Hon. Stanley M. Muthama, MP
3. Hon. Qalicha Gufu Wario, MP

IN ATTENDANCE

SECRETARIAT

1. Ms. Jennifer Ndeto - Deputy Director, Legal Services
2. Ms. Lauren Wesonga - Clerk Assistant II
3. Ms. Christine Maeri - Audio Officer III

MEMBER OF PARLIAMENT

Hon. John Njuguna, Wanjiku, MP - Member of Parliament, Kiambaa Constituency

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes from the previous sitting(s) and Matters Arising
4. **Consideration of the following Legislative Proposals with the Sponsors:**
 - i. **The proposed Public Procurement and Asset Disposal (Amendment) Bill, 2021 by Hon. Ayub Savula, MP; and**
 - ii. **The proposed Public Procurement and Asset Disposal (Amendment) Bill, 2019 by Hon. John Njuguna Wanjiku, MP.**
5. **Briefing on the following Bills:**
 - i. **The Prompt Payment Bill (Senate Bill No. 16 of 2021); and**
 - ii. **The Salaries and Remuneration Commission (Amendment) Bill (Senate Bill No. 31 of 2020)**
6. Any Other Business
7. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2022/77: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at seventeen minutes past ten o'clock and the Chairperson said the Prayer before calling for self-introduction of those present. He then invited Hon. John Wanjiku, MP to brief the Committee on his proposed Bill.

MIN.NO.NA/F&NP/2022/78: CONFIRMATION OF MINUTES
Agenda deferred.

MIN.NO.NA/F&NP/2022/79: CONSIDERATION OF THE PROPOSED PUBLIC PROCUREMENT AND DISPOSAL (AMENDMENT) BILL, 2021 BY HON. JOHN NJUGUNA WANJIKU, MP

Hon. Wanjiku informed the Committee that the proposed Bill seeks to amend the Public Procurement and Asset Disposal Act (No. 33 of 2015) to provide that a procuring entity shall pay a supplier within the timelines proposed in the contract or within ninety days where the timelines are not prescribed in the contract.

This will especially be important after elections when a new government takes office either in counties or the National Government.

Committee Observation

The Committee observed the Legislative Proposal will cure the problem that has been experienced by suppliers where goods or services are delivered but payment is made after a long time by the procuring entities.

Committee Resolution

The Committee resolved that the proposed Public Procurement and Asset Disposal (Amendment) Bill, 2022 be published.

MIN.NO.NA/F&NP/2022/80: CONSIDERATION OF THE PROPOSED PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL, 2021 BY HON. AYUB SAVULA, MP

Hon. Savula did not attend the meeting and the agenda was therefore stepped down.

MIN.NO.NA/F&NP/2022/81: BRIEFING ON THE PROMPT PAYMENT (SENATE BILL NO. 16 OF 2021)

1. Ms. Jennifer Ndeto, Committee Legal Counsel informed the meeting that the Bill was setting out the prescribed date for payment of a supplier. A supplier will either be paid within the timelines set out in a contract or within ninety days where the timelines are not provided in the contract.
2. Additionally, the Bill provides that if a supplier is not paid within the stipulated timelines, then the amount due to the supplier attracts an interest at a rate prescribed by CBK.
3. Further, it provides for offences to procurement officers who fail to pay suppliers within the timelines.

Committee Observations

The Committee observed THAT:

1. The payment of interest to monies owed to suppliers will have an impact on public funds, this therefore ought to be looked at carefully by the Committee during consideration of the Bill.
2. The offences need to be interrogated carefully because payment will be done by public officers though at times the delays are out of their control e.g. delay in exchequer releases.
3. The Bill will bring sanity and prudence in use of public funds.
4. The Bill will ensure that MDAs stick to their procurement plans.
5. Amendments proposed by the Committee will lead to Mediation given that it is a Senate Bill.

MIN.NO.NA/F&NP/2022/82:

**BRIEFING ON THE SALARIES AND
REMUNERATION COMMISSION
(AMENDMENT) BILL (SENATE BILL NO. 31
OF 2020)**

Ms. Jennifer Ndeto, the Committee Legal Counsel informed the meeting that the Bill sets out timelines for the filling of vacancies in the Salaries and Remuneration Commission upon expiry of term for commissioners. It also provides that expiry of term is one of the grounds under which a vacancy is declared in the Commission.

Committee Observation

The Committee observed THAT:

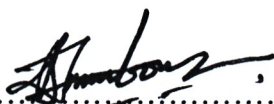

1. the amendment proposed in the Bill was straight forward.
2. amendments proposed by the Committee will lead to Mediation because the Bill originates from the Senate.

MIN.NO.NA/F&NP/2022/83:

**ADJOURNMENT/DATE OF NEXT
MEETING**

There being no other business to deliberate on, the meeting was adjourned at twenty-six minutes past eleven o'clock. The next meeting will be held on Tuesday, 22nd March 2022 at 10.00 a.m.

SIGNED.....

DATE.....

29/03/2022

HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)



SPECIAL ISSUE

Kenya Gazette Supplement No. 218 (Senate Bills No. 31)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2020

NAIROBI, 4th December, 2020

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**THE SALARIES AND REMUNERATION COMMISSION
(AMENDMENT) BILL, 2020**

A Bill for

AN ACT of Parliament to amend the Salaries and Remuneration Commission Act; and for connected purposes.

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Salaries and Remuneration Commission (Amendment) Act, 2020.

Short title.

2. Section 7 of the Salaries and Remuneration Commission Act is amended in subsection (2) by inserting the words “within twenty-eight days of publication of an advertisement under subsection (1),” immediately after the words “The relevant body shall”.

Amendment of section 9 of No.10 of 2011.

3. Section 9 of the Salaries and Remuneration Commission Act is amended in subsection (1) by inserting the following new paragraph immediately after paragraph (b)—

Amendment of section 9 of No.10 of 2011.

(ba) ceases to hold office by virtue of expiry of the term of the office holder under Article 250 (6) (a) of the Constitution; or

MEMORANDUM OF OBJECTS AND REASONS

Statement of the objects and reasons for the Bill

The principal object of this Bill is to amend sections 7 and 9 of the Salaries and Remuneration Act, No. 10 of 2011, to provide for notification of the expiry of term for Commissioners in the *Gazette* and to provide for timelines for the filling of vacancies in the Commission upon the expiry of term for Commissioners.

This is in view of the fact that the Salaries and Remuneration Act does not provide for timelines for the process of selection of the Commissioners by the various nominating bodies set out under Article 230 (2) (b) and (c) of the Constitution. There is therefore need for the law to be amended to clearly specify the timelines for the nomination process to ensure that the vacancies are filled as soon as possible, upon the expiry of term for the existing Commissioners.

Further, under section 9 of the Salaries and Remuneration Commission Act, the "*expiry of term for commissioners*" is not listed as one of the grounds for vacancy in the office of commissioner or chairperson. As such, there is no express requirement for notification of a vacancy, resulting from expiry of term, in the *Gazette* within fourteen days, as is provided for vacancies arising from the circumstances contemplated under section 9 (1). A notification of vacancy in the *Gazette* is necessary to prompt the simultaneous nomination processes by all bodies required to nominate Commissioners to the Salaries and Remuneration Commission.

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

The Bill does not limit fundamental rights and freedoms neither does it delegate any legislative power.

Statement on how the Bill concerns county governments

Under Article 230 (2) (b) (vii) of the Constitution, the Senate nominates a Commissioner to the Salaries and Remuneration Commission, on behalf of county governments. The Commission is mandated to—

- (a) set and regularly review the remuneration and benefits of all state officers; and
- (b) advise the national and county governments on the remuneration and benefits of all public officers.

Any matter touching on the constitution of the Commission and the exercise of its mandate therefore directly affects the functions of county

governments. The Bill is therefore one that concerns county governments in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 24th November, 2020.

CHARLES KIBIRU,
Chairperson, Committee on Finance and Budget.

Section 7 of No. 10 of 2011 which it is proposed to amend—

Procedure for nominations

7. (1) Within fourteen days of the commencement of this Act, or of the occurrence of a vacancy in the Commission relating to the members under Article 230 (2) (b) and (c) of the Constitution, the relevant nominating body shall, by advertisement in at least two local daily newspapers of national circulation, invite applications from persons who qualify for nomination under the Constitution and this Act for nomination as a member of the Commission.

(2) The relevant nominating body shall consider the applications received under subsection (1) to determine their compliance with the provisions of the Constitution and this Act, interview the applicants and forward the names of two persons so qualified, who shall be of opposite gender, to the Cabinet Secretary for onward transmission to the President.

(3) Within fourteen days of the commencement of this Act, or of the occurrence of a vacancy in the office of the chairperson, the President shall convene a selection panel (hereinafter referred to as “the panel”) for the purpose of selecting suitable candidates for appointment as the chairperson.

(4) Until the first general election after the commencement of this Act, the President shall consult with the Prime Minister on the nomination of the selection panel under subsection (3).

(5) The panel shall comprise a chairperson and four other members drawn from the executive and professional organisations.

(6) The panel shall, subject to this section, determine its own procedure and the Ministry responsible for Public Service shall provide it with such facilities and other support as it may require for the discharge of its functions.

(7) The panel shall, within seven days of its convening, invite applications from qualified persons and publish the names and qualifications of all applicants in the *Gazette* and two daily newspapers of national circulation.

(8) The selection panel shall consider the applications, and shortlist and interview the applicants.

(9) After carrying out the interviews, the panel shall select three persons qualified to be appointed as chairperson of the Commission and forward the names to the President.

(10) Until after the first general election after the commencement of this Act, the President, in consultation with the Prime Minister shall, within seven days of receipt of the names forwarded under subsections (2) and (9), nominate a chairperson and other members of the Commission and forward the names of the nominees to the National Assembly.

(11) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the names of the nominees under subsection (9), consider all nominations and may approve or reject any nomination.

(12) Where the National Assembly approves the nominees, the Speaker shall forward the names of the approved nominees to the President for appointment.

(13) The President shall, within seven days of the receipt of the approved nominees from the National Assembly, by notice in the *Gazette*, appoint the chairperson and members approved by the National Assembly.

(14) Where the National Assembly rejects any nomination, the Speaker shall communicate the decision to the President to submit fresh nominations.

(15) In appointing members under this section, the President shall observe the principle of gender equity, regional and ethnic balance and equal opportunities for persons with disabilities and shall ensure that at least one-third of the members are of either gender.

Section 9 of No. 10 of 2011 which it is proposed to amend—

Vacancy in the office of chairperson and member

9. (1) The office of the chairperson or a member of the Commission shall become vacant if the holder—

- (a) dies;
- (b) by notice in writing addressed to the President resigns from office;
- (c) is removed from office under any of the circumstances specified in Article 251 and Chapter Six of the Constitution.

(2) The President shall notify every resignation, vacancy or termination in the *Gazette* within fourteen days.

