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28/10/15



PARLIAMENT OF KENYA



Paper laid

for Hon. Florence
Lagat on
Wednesday

28/10/2015

Signature

THE NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT – THIRD SESSION

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No. 2) BILL,
2015

Clerks Chambers,
National Assembly,
Parliament Buildings,
Nairobi

October, 2015

V. 26

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A REPORT OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No. 2) BILL, 2015

1. PREFACE

Hon Speaker,

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

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

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

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

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

1.1. Committee Membership

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

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

1.3. First Reading of the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2015

The Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2015 was read for the first time on 7th October, 2015 and immediately committed to the Departmental Committee on Justice and Legal Affairs for scrutiny in line with Standing Order 127 (1) which states as follows:-

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

1.4. Public participation in the consideration of the Bill

Standing Order 127(3) states as follows:-

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

Pursuant to this Standing Order, the Committee invited the public through the Daily Nation and Standard newspapers of 9th October, 2015 as per appendix 3 of this report to make representations on the Bill by way of submission of memoranda. The Committee did not however receive any memoranda from the public.

1.5 Sittings of the Committee and adoption of report

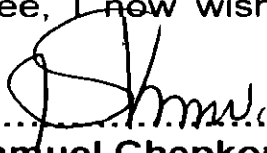
The Committee considered the Bill and adopted its report on Tuesday the 27th of October, 2015 at the Commonwealth Parliamentary Association (CPA) Room in the Main Parliament Building. The adoption of the report was proposed by Hon. John Waiganjo and seconded by Hon. Priscilla Nyokabi. There was no dissenting voice to the adoption of the report. Minutes of the Committee’s sitting adopting the report are annexed hereto as appendix 1. A list of Members who attended the sitting is also annexed hereto as appendix 2.

1.6. Acknowledgement

The Chairperson commends Committee Members for their devotion and commitment to duty which made the consideration of this Bill and production of a report a reality. The Committee further wishes to thank the Offices of the Speaker and Clerk of the National Assembly for providing guidance and technical support without which its work would not have been possible.

Hon. Speaker Sir,

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

SIGNED..........
Hon. Samuel Chepkong’a, MP
(Vice Chairperson)

Departmental Committee on Justice and Legal Affairs

DATE........

2.0. MEMORANDUM, OBJECTS AND REASONS OF THE BILL

The Bill is dated 18th September, 2015 and is sponsored by Hon. Aden Duale, Leader Majority Party. The principle objective of the Bill is keeping with the practice of making minor amendments which do not merit the publication of single Bills.

The Bill seeks to amend the following Acts of Parliament:-

- (i) The Industrial Training Act (Cap 237);
- (ii) The National Hospital Insurance Fund Act (No. 9 of 1999);
- (iii) The Copyright Act, 2001 (No. 12 of 2001);
- (iv) The Kenya Institute of Curriculum Development Act, 2013 (No. 4 of 2013); and
- (v) The Kenya Law Reform Commission Act, 2013 (No. 19 of 2013)

The Bill concerns County Governments in terms of the health sector which is devolved. The enactment of the Bill will not however occasion additional expenditure of public funds.

3.0. PUBLIC PARTICIPATION IN THE CONSIDERATION OF THE BILL

Standing Order 127(3) provides as follows:-

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

As required by this Standing Order, the Committee invited the public through the Daily Nation and Standard newspapers of 9th October, 2015 to make representations on the Bill by way of submission of memoranda. The newspaper advertisement is annexed hereto as appendix 3. The Committee did not however receive any memoranda.

4.0. PROPOSED AMENDMENTS TO THE BILL AND RATIONALE FOR THE AMENDMENTS

After considering the Bill, the Committee proposes the following amendments:-

SCHEDULE

A. THE KENYA LAW REFORM COMMISSION ACT, No. 19 of 2013

THAT, the Bill be amended in the Schedule in the proposed amendments to the Kenya Law Reform Commission Act, No. 19 of 2013 by deleting the proposed new section 8 (1) and substituting therefor the following—

" The Commission shall consist of-

- (a) a Chairperson appointed by the President from among persons qualified to be judges of the Court of Appeal;*
- (b) two members of opposite gender appointed by the Cabinet Secretary responsible for matters relating to justice,*
- (c) two members, being an advocates qualified to be appointed as judges of the High Court nominated by the Law Society of Kenya;*
- (d) one member, being an advocate qualifies to be appointed as a judge of the High Court and with relevant experience in devolution laws, nominated by the Council of Governors,*
- (e) one member nominated by the Council for Legal Education;*
- (f) one representative of the Director of Public Prosecutions appointed in writing; and*
- (g) one member, being a judge of the Court of Appeal, appointed in writing to represent the Chief Justice."*

Justification: To make the membership of the Commission more representative.

-END-

APPENDIX 1

MINUTES OF THE SIXTY SEVENTH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, 27TH OCTOBER, 2015 AT 10.30 A.M. AT THE COMMONWEALTH PARLIAMNETARY ASSOCIATION (CPA) CENTRE, MAIN PARLIAMENT BUILDING

PRESENT:-

Hon. Samuel Chepkonga, M.P. - **Chairperson**
Hon. Priscilla Nyokabi, M.P. - **Vice Chairperson**
Hon. Benson Mutura, M.P.
Hon. John M. Waiganjo, M.P.
Hon. Olago Aluoch, M.P.
Hon. Ndirangu Waihenya, M.P.
Hon. Mohamed Abdi Haji, M.P.
Hon. Moses Cheboi, M.P.
Hon. (Bishop) Robert Mutemi, M.P.
Hon. John Njoroge Chege, M.P.
Hon. Florence Kajuju, M.P.
Hon. Fatuma Ibrahim, M.P.
Hon. Sammy Koech, M.P.
Hon. Paul K. Bii, M.P.
Hon. Peter Kaluma, M.P.

ABSENT:-

Hon. Njoroge Baiya, M.P.
Hon. David Ochieng, M.P.
Hon. James Bett, M.P.
Hon. Boniface Otsiula, M.P.
Hon. Dr. Christine Ombaka, M.P.
Hon. Munuve Mati John, M.P.
Hon. William Cheptumo, M.P.
Hon. Neto Agostinho, M.P.
Hon. Ben Momanyi, M.P.
Hon. Charles Gimose, M.P.
Hon. Kang'ata Irungu, M.P.
Hon. Johanna Ngeno, M.P.
Hon. Kamoti Mwamkale William, M.P.
Hon. Tom J. Kajwang', M.P.

SECRETARIAT:-

Mr. George Gazemba - Senior Clerk Assistant
Mr. Ahmed Salim - Clerk Assistant III
Mr. Ronald Walala - Legal Counsel II

MIN No. 229/2015:- PRELIMINARIES

The Chairperson called the meeting to order at 10.39 a.m. with a word of prayer from Hon. (Bishop) Robert Mutemi.

MIN No. 230/2015:- CONSIDERATION AND ADOPTION OF REPORTS ON BILLS

(i) The Legal Aid Bill, 2015.

The Committee considered and adopted its report on the Legal Aid Bill, 2015. The adoption of the report was proposed by Hon. (Bishop) Robert Mutemi and seconded by Hon. Florence Kajuju. There was no dissenting voice to the adoption of the report.

(ii) The Statute Law (Miscellaneous Amendments) Bill, 2015

The Committee considered and adopted its report on the Statute Law (Miscellaneous Amendments) Bill, 2015. The adoption of the report was proposed by Hon. John Waiganjo and seconded by Hon. Priscilla Nyokabi. There was no dissenting voice to the adoption of the report.

(iii) The Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2015

The Committee considered and adopted its report on the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2015. The adoption of the report was proposed by Hon. Sammy Koech and seconded by Hon. Fatuma Ibrahim. There was no dissenting voice to the adoption of the report.

(iv) The Constitution of Kenya (Amendment (No. 5) Bill, 2015

The Committee considered and adopted its report on the Constitution of Kenya (Amendment (No. 5) Bill, 2015. The adoption of the report was proposed by Hon. Fatuma Ibrahim and seconded by Hon. John Waiganjo. There was no dissenting voice to the adoption of the report.

MIN No. 231/2015:- CONSIDERATION AND ADOPTION OF REPORTS ON LEGISLATIVE PROPOSALS

(i) The Constitution of Kenya (Amendment) Bill, 2015

The Committee considered and adopted its report on the Constitution of Kenya (Amendment) Bill, 2015 Legislative Proposal. The adoption of the report was proposed by Hon. Sammy Koech and seconded by Hon. John Waiganjo. There was no dissenting voice to the adoption of the report.

(ii) The Constitution of Kenya (Amendment) (No. 6) Bill, 2015

The Committee considered and adopted its report on the Constitution of Kenya (Amendment) (No. 6) Bill, 2015 Legislative Proposal. The adoption of the report was proposed by Hon. John Waiganjo and seconded by Hon. Priscilla Nyokabi. There was no dissenting voice to the adoption of the report.

(iii) The Constitution of Kenya (Amendment) (No. 7) Bill, 2015

The Committee considered and adopted its report on the Constitution of Kenya (Amendment) (No. 7) Bill, 2015 Legislative Proposal. The adoption of the report was proposed by Hon. John Waiganjo and seconded by Hon. Sammy Koech. There was no dissenting voice to the adoption of the report.

(iv) The Institute of Directors of Kenya Bill, 2015

The Committee considered and adopted its report on the Institute of Directors of Kenya Bill, 2015, Legislative Proposal. The adoption of the report was proposed by Hon. Priscilla Nyokabi and seconded by Hon. Sammy Koech. There was no dissenting voice to the adoption of the report.

(v) The Public Benefits Organization Bill, 2015

The Committee considered and adopted its report on the Public Benefits Organization Bill, 2015 Legislative Proposal by Hon. Agostinho Netto. The adoption of the report was proposed by Hon. Fatuma Ibrahim and seconded by Hon. Sammy Koech. There was no dissenting voice to the adoption of the report.

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

The Committee considered and adopted its report on the Ethics and Anti-Corruption Commission (Amendment) Bill, 2015 Legislative Proposal. The adoption of the report was proposed by Hon. John Waiganjo and seconded by Hon. Fatuma Ibrahim. There was no dissenting voice to the adoption of the report.

(vii) The Sexual Offences Bill, 2015

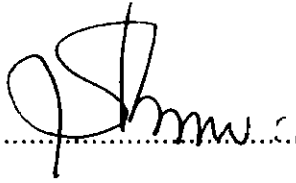
The Committee considered and adopted its report on the Sexual Offences Bill, 2015, Legislative Proposal. The adoption of the report was proposed by Hon. Priscilla Nyokabi and seconded by Hon. Sammy Koech. There was no dissenting voice to the adoption of the report.

MIN No. 232/2015:-

ADJOURNMENT

There being no other business to transact, the sitting adjourned at forty four minutes past eleven o'clock in the morning.

Signed.....

A handwritten signature in black ink, appearing to be 'J. Shm...' written over a dotted line.

(Chairperson)

Date.....

28th October, 2015

APPENDIX 2



KENYA NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON JUSTICE & LEGAL AFFAIRS


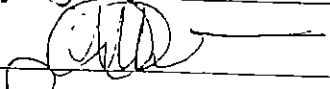
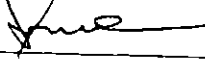

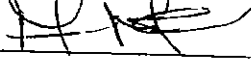
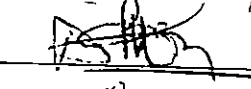
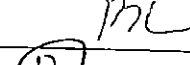


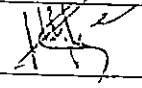
MEMBERS ATTENDANCE

Date: 27th October, 2015

Venue: CPA ROOM, MAIN PARLIAMENT BUILDING, 10AM

Agenda: CONSIDERATION OF THE STATUTE LAW (MISCELLANEOUS AMENDMENT) BILL, 2015
AND THE STATUTE LAW (MISCELLANEOUS AMENDMENT) (NO.2) BILL, 2015

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

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

George Gazemba

For: The Clerk of the National Assembly

APPENDIX 3



NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT – THIRD SESSION

In the Matters of consideration by the National Assembly –
The Statute Law (Miscellaneous Amendments) Bill, 2015
The Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2015

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that “*Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.*” Standing Order 127(3) states that “*the Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account views and recommendations of the public when the Committee makes its report to the House.*”

The Statute Law (Miscellaneous Amendments) Bill, 2015 and the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2015 have undergone First Reading pursuant to Standing Order 127(3) and are now committed to the Departmental Committee on Justice and Legal Affairs for consideration and thereafter report to the House.

Pursuant to Article 118(1)(b) and Standing Order 127(3), the Committee invites interested members of the Public to submit any representations they may have on the said bills. The representations may be forwarded to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday 16th October, 2015 at 5.00 pm.

A handwritten signature in black ink, appearing to read 'Justin Bundi'.

JUSTIN BUNDI, CBS
CLERK OF THE NATIONAL ASSEMBLY