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THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

REPORT ON THE CONSIDERATION OF THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL, 2023 (*NATIONAL ASSEMBLY BILL NO.  
73 OF 2023*)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 21 FEB 2024	DAY: <i>WED</i>
TABLED BY:	<i>Hon George Murugara, mp</i> Chairperson, JLAC
CLERK AT THE TABLE:	<i>Miriam Mudo</i>

CLERK'S CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

FEBRUARY 2024

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## **TABLE OF CASES**

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## **LIST OF ABBREVIATIONS AND ACRONYMS**

AG	-	Attorney-General
CAS	-	Chief Administrative Secretary
CS	-	Cabinet Secretary
ICT	-	Information, Communication and Technology
JSC	-	Judicial Service Commission
KLRC	-	Kenya Law Reform Commission
LSK	-	Law Society of Kenya
NIS	-	National Intelligence Service
OAG	-	Office of the Attorney-General
ODM	-	Orange Democratic Movement
PS	-	Principal Secretary
PSC	-	Public Service Commission
ODPP	-	Office of the Director of Public Prosecutions
SG	-	Solicitor-General
SRC	-	Salaries and Remuneration Commission
UDA	-	United Democratic Alliance
WDM	-	Wiper Democratic Movement

## **ANNEXURES**

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: National Government Administration Laws (Amendment) Bill, 2023
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- Annexure 5: Advertisement inviting the public to submit memoranda on the Bill
- Annexure 6: Letter from the Clerk of the National Assembly inviting stakeholders to submit memoranda on the Bill
- Annexure 7: Letters from the Clerk of the National Assembly inviting stakeholders to attend the public participation forums
- Annexure 8: Memoranda by Stakeholders

## **CHAIRPERSON'S FOREWORD**

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the National Government Administration Laws (Amendment) Bill (*National Assembly Bill No. 73 of 2023*) which was published on 24<sup>th</sup> November 2023.

The Bill seeks to amend four statutes: the Assumption of the Office of the President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Coordination Act, 2013. A majority of the amendments in the Bill relate to the administration of government. Specifically, it seeks to alter the role of governmental bodies and officials including the Assumption of the Office of the President Committee, the National Security Advisor, the National Security Council Committee, the Attorney General, the Head of Public Service and the offices of the Chief Administrative Secretary.

Given the significant constitutional and legal impact the amendments may have, the Rt. Hon Speaker vide a communication made on Thursday, 7<sup>th</sup> December 2023, committed the Bill to the Committee and directed that the Committee may sit jointly with the Departmental Committee on Administration and Internal Security to address matters in the Bill that require the latter's input. To this end, the Committee held sittings together with the Departmental Committee on Administration and Internal Security during its consideration of the Bill.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Committee placed an advertisement in the print media on Saturday, 9<sup>th</sup> December 2023, inviting the public to submit memoranda by way of written statements on the Bill.

In addition, the Committee invited key stakeholders to submit views on the Bill and attend public participation forums on Monday, 12<sup>th</sup> and Wednesday, 14<sup>th</sup> February 2024. The memoranda were to be received on or before Thursday, 28<sup>th</sup> December 2024 on or at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received twenty-one (21) memoranda.

The NIS, the SRC, the Cabinet Office, the Chief of Defence Forces, the State Department for Internal Security and National Administration, the Office of the National Security Advisor, the PSC, the OAG, the Ministry of Public Service, Performance and Delivery Management, the National Treasury, *Mzalendo* Trust, Rebuilding Pastoralist Livelihoods, Innovation Climate Adaptation Kenya, Stephen Lesoron Gambare, Jeremiah Kibet Korir, Mercy Nyambura Mushemi, Francis Habara Moroto, Daniel Kiptum, Joseph Odeph Omulo, Nancy Kariuki and Dennis Matayian Parsanka gave their views on the Bill which the Committee considered in the preparation of this report.

While considering the Bill, the Committee observed that the proposed amendment to the National Security Council Act, 2012 does not accord with the provisions of Article 240 (2) of the Constitution; the proposal to establish the office of the National Security Advisor is discretionary upon the President and should remain administrative; that there was no satisfactory justification made for transferring the public seal from the custody of the AG to the Head of Public Service; and that the establishment of the office of the CAS is necessary.

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 the NIS, the SRC, the Cabinet Office, the Chief of Defence Forces, the State Department for Internal Security and National Administration, the National Security Advisor, the PSC,

**Report of the Departmental Committee on Justice and Legal Affairs on the Consideration of the National Government Administration Laws (Amendment) Bill (*National Assembly Bill No. 73 of 2023*)**

the OAG, the Ministry of Public Service, Performance and Delivery Management, the National Treasury, the *Mzalendo* Trust, Rebuilding Pastoralist Livelihoods, Innovation Climate Adaptation Kenya, Stephen Lesoron Gambare, Jeremiah Kibet Korir, Mercy Nyambura Mushemi, Francis Habara Moroto, Daniel Kiptum, Joseph Odeph Omulo, Nancy Kariuki and Dennis Matayian Parsanka for submitting memoranda on the Bill. Finally, I wish to express my appreciation to the Honourable 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 Justice and Legal Affairs 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 National Government Administration Laws (Amendment) Bill (*National Assembly Bill No. 73 of 2023*).

It is my pleasure to report that the Committee has considered the National Government Administration Laws (Amendment) Bill (*National Assembly Bill No. 73 of 2023*) and have the honour to report back to the National Assembly with the recommendation that the House—

- (a) approves the provisions of the Bill relating to the Assumption of Office of the President Act, 2012 with amendments as contained in the Schedule to remove the National Security Advisor as a member of the Assumption of Office of the President Committee;
- (b) delete the provisions of the Bill relating to the National Security Council Act, 2012;
- (c) delete the provisions of the Bill relating to the Office of the Attorney-General Act, 2012; and
- (d) approves the provisions of the Bill relating to the National Government Co-ordination Act, 2013 with amendments contained in the Schedule to remove the establishment of the Head of Public Service and streamline the office of the Chief Administrative Secretary.

  
**Hon. Murugara George Gitonga, MP**  
**Chairperson, Departmental Committee on Justice and Legal Affairs**

## CHAPTER ONE

### 1 PREFACE

#### 1.1 Establishment of the Committee

1. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
- iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. *To study and review all legislation referred to it;*
- v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

## 1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider<sup>1</sup>:-
  - a) The Judiciary;
  - b) Tribunals;
  - c) Access to Justice;
  - d) Public prosecutions;
  - e) Ethics, Integrity and Anti-corruption;
  - f) Correctional services;
  - g) Community service orders and witness protection;
  - h) Constitutional affairs;
  - i) Sovereign immunity;
  - j) Elections including referenda;
  - k) Human rights;
  - l) Political parties; and
  - m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.
3. In executing its mandate, the Committee oversees the following Ministries, Departments and Agencies:
  - a) State Department of Correctional Services;
  - b) State Law Office and Department of Justice;
  - c) The Judiciary;
  - d) Judicial Service Commission;
  - e) Office of the Director of Public Prosecutions;
  - f) Ethics and Anti-Corruption Commission;
  - g) Independent Electoral and Boundaries Commission;
  - h) Commission on Administrative Justice;
  - i) Office of the Registrar of Political Parties;
  - j) Witness Protection Agency;
  - k) Kenya National Commission on Human Rights;

<sup>1</sup> National Assembly Standing Orders, 6<sup>th</sup> Edition.

- l) Kenya Law Reform Commission; and
- m) Council of Legal Education.

## Committee Membership

4. The Committee was constituted by the House on 27<sup>th</sup> October 2022 and comprises the following Members:

### **Chairperson**

Hon. Murugara George Gitonga, MP  
Tharaka Constituency

### **UDA Party**

### **Vice-Chairperson**

Hon. Mutuse Eckomas Mwengi, OGW, MP  
Kibwezi West Constituency

### **MCCP Party**

### **Members**

Hon. Maalim Farah, MP  
Dadaab Constituency  
**WDM-Kenya**

Hon. Muriu Wakili Edward, MP  
Gatanga Constituency  
**UDA Party**

Hon. Francis Kajwang' Tom Joseph, MP  
Ruaraka Constituency  
**ODM Party**

Hon. Maina Jane Njeri, MP  
Kirinyaga (CWR)  
**UDA Party**

Hon. Junet Mohamed, CBS, MP  
Suna East Constituency  
**ODM Party**

Hon. Gichohi Kaguchia John Philip, MP  
Mukurweini Constituency  
**UDA Party**

Hon. (Dr.) Otiende Amollo, SC, MP  
Rarieda Constituency  
**ODM Party**

Hon. Mogaka Stephen M, MP  
West Mugirango Constituency  
**Jubilee Party**

Hon. Onyiego Silvanus Osoro, CBS, MP  
South Mugirango Constituency  
**UDA Party**

Hon. Aden Daud, EBS, MP  
Wajir East Constituency  
**Jubilee Party**

Hon. Muchira Michael Mwangi, MP  
Ol Jorok Constituency  
**UDA Party**

Hon. Siyad Amina Udgoon, MP  
Garissa Township (CWR)  
**Jubilee Party**

Hon. Makali John Okwisia, MP  
Kanduyi Constituency  
**FORD-Kenya**

## **Committee Secretariat**

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Douglas Katho  
**Clerk Assistant I /Head of Secretariat**

Mr. Ronald Walala  
**Senior Legal Counsel**

Ms. Vivienne Ogega  
**Research Officer III**

Mr. Stanley Lagat  
**Senior Serjeant-At-Arms**

Ms. Faith Jully  
**Public Communication Officer III**

Ms. Winnie Kiziah  
**Media Relations Officer II**

Mr. Antony Kariuki  
**Serjeant-At-Arms**

Mr. Omar Abdirahim  
**Fiscal Analyst II**

Ms. Fridah Ngari  
**Media Relations Officer III**

Mr. Isaac Nabiswa  
**Legal Counsel II**

Mr. Peter Mutethia  
**Audio Officer III**

Ms. Jael Ayiego  
**Clerk Assistant III**

Mr. Alex Amwatta  
**Hansard Reporter III**

Mr. Abdikafar Abdi  
**Clerk Assistant III**

Mr. Silas Opanga  
**Hansard Reporter III**

## CHAPTER TWO

### 2 OVERVIEW OF THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (*NATIONAL ASSEMBLY BILL NO. 73 OF 2023*)

#### 2.1 Background

6. The Bill, which is sponsored by the Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP, was published on Friday, 24th November 2023 and read for a First Time in the House on Wednesday, 6<sup>th</sup> December 2023. It was thereafter committed to the Committee for review and reporting back to the House in line with the provision of Standing Order 127 (3).

#### 2.2 Summary of Legal Provisions

7. The Bill seeks to amend—
- a) Section 5(2) of the Assumption of the Office of the President Act, 2012 to include the National Security Advisor and the PS responsible for defence as members of the Assumption of the Office of the President Committee and increase the nominees of the President-elect within the Committee from three to six members.
  - b) Sections 2, 5 and 7 of the National Security Council Act, 2012 to introduce the Office of the National Security Advisor as the secretary to the National Security Council and to establish a National Security Council Committee.
  - c) Section 28 of the Office of the Attorney General Act, 2012 to replace the AG as the custodian of the public seal with the Head of Public Service.
  - d) Sections 2 and 28 and insert new sections to the National Government Coordination Act, 2013 to establish and delineate the functions of the Head of the Public Service and the office of the CAS.

## CHAPTER THREE

### 3 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

#### 3.1 Legal Framework on Public Participation

9. 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.”*

10. The National Assembly Standing Order 127 (3) and (3A) stipulates that:

*“(3) The Departmental Committee to which a Bill is committed shall facilitate public participation on the Bill through an appropriate mechanism including-*

*(a) inviting submission of memoranda;*

*(b) holding public hearings;*

*(c) consulting relevant stakeholders in a sector; and*

*(d) consulting experts on technical subjects.*

*(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House.”*

#### 3.2 Memoranda Received on the Bill

11. Pursuant to the aforementioned provisions of law, the Committee placed an advertisement in the print media on 9<sup>th</sup> December 2023 inviting the public to submit memoranda by way of written statements on the Bill.

12. On 30<sup>th</sup> January 2024, the Committee vide letters Ref. No. *NA/DDC/JLAC/2024/005, (007), (008), (009), (010), (012), (013), (014), (016), (017) and (018)* invited the PS responsible for the State Department for Internal Security and National Administration, the PSC, the Judiciary, the SG, the KLRC, the LSK, Transparency International, *Kituo cha Sheria, Katiba Institute, Uraia Trust* and the PS responsible for the State Department for Public Service respectively to submit views on the Bill and attend the public participation forum on 12<sup>th</sup> February 2024.

13. Additionally, on 5<sup>th</sup> February 2024, the Committee vide letters Ref. No. *NA/DDC/JLAC/2024/006, (018), (019), (020), (021), (022), (023), (024), (025), (026) and (027)* invited the Secretary to the Cabinet, the PS responsible for the Ministry of Defence, the PS responsible for Immigration and Citizen Service, the PS responsible for Foreign and Report of the Departmental Committee on Justice and Legal Affairs on the Consideration of the National Government Administration Laws (Amendment) Bill (*National Assembly Bill No. 73 of 2023*)

Diaspora Affairs, the PS responsible for ICT and the Digital Economy, the PS responsible for Culture, the Arts and Heritage, the Chief of Defence Forces, the NIS and the Inspector-General, the Intergovernmental Relations Technical Committee and the National Security Advisor, respectively to submit views on the Bill and attend the public participation forum on 12<sup>th</sup> February 2024.

14. Furthermore, on 12<sup>th</sup> February 2024, the Committee vide letters Ref. No. *NA/DDC/JLAC/2024/034, (034), (035) and (036)* invited the National Security Advisor, the PSC, the LSK and the PS responsible for National Treasury and Economic Planning to submit views on the Bill and attend the public participation forum on 14<sup>th</sup> February 2024.
15. To this end, the Committee received twenty-one (21) memoranda from the NIS, the SRC, the Cabinet Office, the Chief of Defence Forces, the State Department for Internal Security and National Administration, the National Security Advisor, the PSC, the OAG, the Ministry of Public Service, Performance and Delivery Management, the National Treasury, *Mzalendo* Trust, Rebuilding Pastoralist Livelihoods, Innovation Climate Adaptation Kenya, Stephen Lesoron Gambare, Jeremiah Kibet Korir, Mercy Nyambura Mushemi, Francis Habara Moroto, Daniel Kiptum, Joseph Odeph Omulo, Nancy Kariuki and Dennis Matayian Parsanka. The memoranda are annexed to this report as *Annexure 7*.
16. The Committee received memoranda from the Ministry of Public Service, Performance and Delivery Management, Rebuilding Pastoralist Livelihoods, Innovation Climate Adaptation Kenya, Stephen Lesoron Gambare, Jeremiah Kibet Korir, Mercy Nyambura Mushemi, Francis Habara Moroto, Daniel Kiptum, Joseph Odeph Omulo, Nancy Kariuki and Dennis Matayian Parsanka which were largely in agreement with the proposals referred to the Committee. However, the Committee received reservations and proposals from the NIS, the SRC, the Cabinet Office, the Chief of Defence Forces, the State Department for Internal Security and National Administration, the Office of the National Security Advisor, the PSC, the OAG and the National Treasury, and the *Mzalendo* Trust relating to the proposed amendments. They submitted as follows:

#### **The Assumption of Office of the President Act, 2012**

17. The PSC proposed that the membership of the Assumption of Office of the President Committee be amended to include the Chairperson of the PSC.

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18. The State Department of Internal Security and National Administration agreed with the proposed amendments to the Act. They proposed further amendments to replace the CS for registration of persons and immigration with the CS of internal security; replace the PS for constitutional affairs with the SG; and replace the PS for local government with the PS for devolution.
19. The Cabinet Office proposed that the membership of the Assumption of Office of the President Committee be amended to remove reference to the PSs in the Ministries of Constitutional Affairs; local government and Cabinet Office.
20. *Mzalendo* Trust proposed the deletion of the amendments while the SRC agreed with the proposed amendment.

### **Committee Observation**

21. The Committee observed that the addition of the National Security Advisor was not necessary. This is because the position of National Security Advisor is not established in any law and an advisor is and should remain a personal staff of the President.
22. The Committee observed that the inclusion of the PS in the State Department for Defence would be necessary since he or she would play a critical role in the Assumption of the Office of the President Committee.
23. The Committee observed that there is need to increase the number of nominees by the President-elect. This would give the President-elect adequate independent representation in the Assumption of the Office of the President Committee.

### **The National Security Council Act, 2012**

24. The PSC submitted that the proposed amendment to Section 5 of the Act should be deleted. They also proposed the deletion of the proposed amendment to Section 7. They submitted the inclusion of further provisions on the Office of the Secretary to the National Security Council to include functions of the office; qualifications for appointment; mode of appointment and tenure of office.
25. The State Department of Internal Security and National Administration agreed with the proposed amendments save for the proposal of having the Secretary of the National Security

- Council being the Secretary to the National Security Council Committee. They also recommended the replacement of the PS for Finance with the PS for National Treasury.
26. The SRC proposed the inclusion of a provision that the remuneration and benefits of the proposed National Security Advisor and members of the proposed National Security Council Committee shall be upon the advice of the SRC.
27. The Cabinet Office submitted that the Secretary to the Cabinet be included as a member of the National Security Council Committee. They also proposed the deletion of the function of commissioning and preparing reports and briefings in respect of the national security interests of Kenya and the re-drafting of the proposed clause 4 (6) in either singular or plural format.
28. The Chief of Defence Forces proposed that the Director-General of the Kenya Coast Guard Service be co-opted in the National Security Council Committee.
29. *Mzalendo* Trust submitted that the proposed amendments to the Act be deleted.

#### **Committee Observation**

30. The Committee observed that the establishment and composition of the proposed *National Security Council Committee* did not accord with the provisions of Article 240 of the Constitution. In their view, the membership of the *National Security Council Committee* includes persons who are not members of the National Security Council as outlined under Article 240(2) of the Constitution.
31. The Committee further observed that the position of the National Security Advisor is not provided for in any law and an advisor is and should remain a personal staff of the President. The Committee noted that the designation of the National Security Advisor as the secretary to the National Security Council through statute does not accord with the provisions of Article 240 of the Constitution.

#### **The Office of the Attorney General Act, 2012**

32. The State Department for Internal Security and National Administration and the SRC supported the proposal stating that it is logical for the Head of the Public Service, being the administrative head of the Executive Office, be the custodian of the Public Seal.

33. The Cabinet Office noted that the narrative of the public on the public seal appears to suggest a seal in the physical form and contemplated that it may be prudent to consider having a physical and electronic seal. Moreover, it added that the enactment of a separate statute, Public Seal Act, would enable the development of regulations governing the description, design, use, custody, authentication, restriction and display thereof as well as attendant offences.
34. The National Treasury objected the proposal noting that since the Head of Public Service is an appointee of the President and serves at the pleasure of the President, it would be prudent to vest the public seal which is a national symbol in the custody of the AG who is a State officer and is required by Article 156(6) of the Constitution to promote, protect and uphold the rule of law and defend public interest.
35. *Mzalendo* Trust noted that in light of the political and legal ramifications of the proposed amendments, it was essential to have justification and rationale for the proposed amendments as the changes would occasion a transfer of privileges and powers to the Head of Public Service.
36. The PSC proposed the deletion of the amendment to remove the public seal from the custody of the AG.

#### **Committee Observation**

37. The Committee observed that there was no satisfactory justification for transferring the public seal from the custody of the AG to the Head of Public Service. This is because the AG is the principal legal advisor to the government and should remain as the custodian of the Public Seal.

#### **The National Government Coordination Act, 2013**

38. Stephen Lesoron Gambare proposed amending the definition of 'Chief Administrative Secretary' to "*an officer appointed under Article 132(4)(a) of the Constitution and Section 12A of the Act designated as state officer under Article 260 of the Constitution.*"
39. The State Department for Internal Security and National Administration agreed to the amendments to the Act.

40. The Cabinet Office noted that the Public Seal and instruments of State are symbols of statehood responsible for upholding and representing the sovereignty and identity of a nation thus their existence and maintenance should never be in doubt. It, therefore, proposed the amendment of Section 7(c) to read as follows:

*“be the custodian of the Public Seal and any other instruments of State”*

41. The SRC submitted that given that the compliment of the CAS would have an impact on the total public wage bill, it was its view that the proposed clause 12A (2) be amended to include the maximum complement for the position of CAS.

42. The OAG noted that the Schedule of the Bill does not indicate the section of the Act being amended to insert the new paragraph (ba) on Head of Public Service and (ca) on CAS. It, therefore, proposed amending the Schedule to indicate the section being amended as Section 7(2) of the Act. Additionally, in respect of the proposed Section 12A(2), it proposed the deletion of the word “of” appearing immediately after the word “Chief” and in the proposed subsection 6(f), deletion of the words “office by”.

43. *Mzalendo* Trust opposed the proposed amendments because they do not align with fundamental constitutional provisions including Articles 10 and 201(d) of the Constitution. Further, the proposal shall occasion an additional expenditure of public finance and, in light of the existing financial strain on the taxpayer, the proposed amendments ought to be informed by a substantial justification and rationale.

#### **Committee Observation**

44. The Committee observed that the establishment of the office of the Head of Public Service would create conflict in the public service since the holder of the office would superintend offices which are created under the Constitution. It is the mandate of the PSC to oversee the officers in the public service.

45. The Committee observed that establishment of the office of the CAS was necessary. However, the functions and designation of the office of the CAS would require to be streamlined to avoid conflict of roles with PSs in State Departments. In addition, the complement of the CAS would require to be clearly stated to reflect the constitutional provision on the number of CSs.

## CHAPTER FOUR

### 4 COMMITTEE OBSERVATIONS

46. Upon reviewing the Bill and the submissions received, the Committee made the following observations:

- a) Various government agencies submitted conflicting views on the Bill. There was no consensus among government agencies on the contents of the Bill.
- b) That the proposal to amend the National Security Council Act, 2012 does not accord with the provisions of Article 240 (2) of the Constitution. This is because the proposed amendment seeks to establish a standing committee whose members are not members of the National Security Council. The effect of the amendment would be to expand the membership of the Council which would require consideration and passage of an appropriate constitutional amendment. Pursuant to Article 240 of the Constitution, the National Security Council is at liberty to co-opt persons whose knowledge and skills are necessary for the proper performance of its functions into the committees it deems fit. Therefore, the current sections 5 and 7 of the Act are sufficient
- c) The proposal to establish the office of the National Security Advisor is discretionary upon the President and any appointment should remain administrative. Anchoring it in law would take away the discretion given to the President to appoint an advisor.
- d) There is no satisfactory justification for transferring the public seal from the custody of the AG to the Head of Public Service. Since the AG is the principal legal advisor to the government, he or she should remain the custodian of the public seal.
- e) The establishment of the office of the Head of Public Service would create conflict in the public service since the holder of the office would superintend offices which are created under the Constitution. It is the mandate of the PSC to oversee the officers in the public service.
- f) The establishment of the office of the CAS is necessary. However, the functions and designation of the office of the CAS requires to be streamlined to avoid conflict of roles with PSs in State Departments. In addition, the complement of the CAS must be clearly stated to accord with Article 152 of the Constitution which limits the number of CSs.

**MINORITY/DISSENTING OPINION ON THE PROPOSED AMENDMENTS TO  
THE NATIONAL GOVERNMENT COORDINATION BILL, 2023 TO ESTABLISH  
THE OFFICE OF THE CHIEF ADMINISTRATIVE SECRETARY**

47. Pursuant to standing order 199(5) and (6) of the National Assembly Standing Orders, the Hon. (Dr.) Otiende Amollo, SC, MP recorded a minority/dissenting opinion against approval of the provisions amending the National Government Co-ordination Act, 2013 to establish the Office of the Chief Administrative Secretary.
48. The Hon. Member noted the basis for the dissenting opinion as follows—
- a) That the functions ascribed to the office of the CAS are a duplication of those already assigned to CSs and PSs. Establishment of the office was therefore likely to result in conflict of roles.
  - b) That, having been a member of the Committee of Experts on Constitutional Review and having undertaken public participation around the country, it was his view that Kenyans intended to do away with the position of Assistant Ministers. The office of the CAS is akin to that of Assistant Ministers thus, the proposal offends the spirit of the Constitution of Kenya and the will of the Kenyan people.
  - c) That even the courts have pronounced themselves on the unconstitutionality of the office of the CAS as was determined in *Matindi & 3 others v The National Assembly of Kenya & 4 others; Controller of Budget & 50 others (Interested Parties) (Petition E080, E084 & E150 of 2023 (Consolidated)) [2023] KEHC 19534 (KLR) (Constitutional and Human Rights) (3 July 2023) (Judgment) (with dissent - HI Ong'udi, J)..*
  - d) That the Constitution under Article 152(1)(d) limits the number of Cabinet Secretaries to twenty-two. Consequently, the proposal to introduce an uncapped number of CASs is indeed an affront to the Constitution and would occasion additional expense on public finances and pose an unnecessary burden on Kenyan taxpayers.
49. Consequently, the Hon. Member **proposed the deletion of new clause 12A in the provisions of the Bill relating to the National Government Co-ordination Act, 2013.**

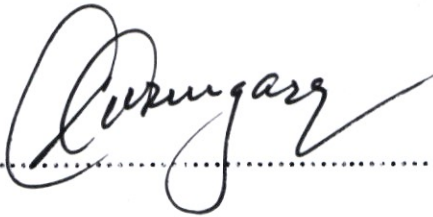
CHAPTER FIVE

5 COMMITTEE RECOMMENDATIONS

50. The Committee, having considered the National Government Administration Laws (Amendment) Bill (*National Assembly No. 73 of 2023*), by a majority of its Members, recommends that the House—

- (a) approves the provisions of the Bill relating to the Assumption of Office of the President Act, 2012 and the National Government Co-ordination Act, 2013 with amendments as proposed in the Schedule of Amendments; and
- (b) deletes the provisions of the Bill relating to the National Security Council Act, 2012 and the Office of the Attorney-General Act, 2012.

SIGNED.....



DATE.....

21.2.2024

HON. GEORGE GITONGA MURUGARA, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

## CHAPTER SIX

### 6 SCHEDULE OF AMENDMENTS

51. In view of the observations made, the Committee proposed the following amendments to the Bill:

52. **THAT** the Schedule to the Bill be amended —

(a) in the proposed amendments to the **Assumption of the Office of the President Act, 2012 (No. 21 of 2012)** by—

(i) deleting the proposed new paragraph (ca) appearing in the proposed amendment to section 5(2);

**Rationale:** To remove the National Security Advisor as a member of the Assumption of the Office of the President Committee. The office of the National Security Advisor is not a statutory office.

(ii) inserting the following new amendments immediately after the proposed amendments to section 5(2)—

s. 5(2) Delete the words “Cabinet Secretary” appearing in paragraph (c) and substitute therefor the words “Principal Secretary”;

Delete paragraph (h);

Delete paragraph (j);

Delete paragraph (t)

s. 5(3) Delete

s. 5(4) Delete the words “the commencement of this Act” and substitute therefor the words “declaration of a President elect”.

s.8(2) Delete the word “three” and substitute therefor the word “six”.

**Rationale:** To regularize the membership of the Assumption of the Office of the President Committee in line with the current provisions of law and allow broader representation of the President-elect in the membership of the Committee.

(b) by deleting the proposed amendments to the National Security Council Act, 2012 (No. 23 of 2012);

**Rationale:** To ensure conformity of the proposals in the Bill with the Article 240 of the Constitution.

(c) by deleting the proposed amendment to the **Office of the Attorney General Act, 2012 (No. 49 of 2012);**

**Rationale:** No satisfactory justification has been given for transferring the public seal from the custody of the AG to the Head of Public Service.

(d) by deleting the proposed amendments to the **National Government Co-ordination Act, 2013 (No. 1 of 2013)** and substituting therefor the following amendments—

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>	
National Government Co-ordination Act, 2013 (No. 1 of 2013)	s. 2	Insert the following new definition in proper alphabetical sequence—  “Chief Administrative Secretary” means a Chief Administrative Secretary appointed under section 12A.	
	7(2)	Insert the following new paragraph immediately after paragraph (c)—  “(ca) Chief Administrative Secretary:”	
	New	Insert the following new section immediately after section 12—	
		Chief Administrative Secretaries.	<b>12A.</b> (1) There is established the Office of the Chief Administrative Secretary which shall be an office in the public service.
			(2) The complement of Chief Administrative secretaries shall not be more than twenty-two.
			(3) The President shall on the recommendation of the Public Service Commission appoint Chief Administrative Secretaries, observing regional and gender balance.
			(4) A person shall be eligible to be appointed as a Chief Administrative Secretary if that person—
			(a) holds a degree from a university recognized in Kenya;

			(b) has knowledge of and experience in the public service; and
			(c) satisfies the requirements of Chapter Six of the Constitution.
			(5) A person is not qualified to be appointed as a Chief Administrative Secretary if the person—
			(a) has been convicted of an offence carrying a penalty of imprisonment for a term of at least six months without the option of a fine;
			(b) has been adjudged bankrupt by a court of competent jurisdiction;
			(c) holds any office in a political party;
			(d) is a public officer; or
			(e) has been removed from any public office by impeachment or conviction by a court of competent jurisdiction.
			(6) A Chief administrative Secretary shall be responsible for—
			(a) responding to issues relating to the portfolio assigned to the office;
			(b) representing the Cabinet Secretary at any meeting as directed by the Cabinet Secretary; and
			(c) performing any other duties assigned by the relevant Cabinet Secretary.
			(7) Functions assigned to a Chief Administrative Secretary shall not include matters relating to parliamentary affairs.
			(8) Remuneration of the Chief Cabinet Secretaries shall be determined by the Public Service Commission on the recommendation of the Salaries and Remuneration Commission.

**Rationale:** To delete the establishment of the Head of Public Service; streamline the functions of CASs and the maximum complement of CASs.

# ANNEXURES

# Annexure 1: Adoption Schedule



**THE NATIONAL ASSEMBLY**  
**13<sup>TH</sup> PARLIAMENT THIRD SESSION - 2024**  
**JUSTICE AND LEGAL AFFAIRS COMMITTEE**

**ADOPTION SCHEDULE**

**AGENDA: Adoption of the report on the National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) sponsored by Hon. Kimani Ichung'wah, MP**

No.	HON MEMBER	SIGNATURE
1.	HON. MURUGARA GEORGE GITONGA, CBS, MP – <i>Chairperson</i>	
2.	HON. MUTUSE ECKOMAS MWENGI, MP – <i>Vice Chairperson</i>	
3.	HON. MAALIM FARAH, MP	
4.	HON. FRANCIS KAJWANG' TOM JOSEPH, MP	
5.	HON. JUNET MOHAMED, CBS, MP	
6.	HON. ONYIEGO SILVANUS OSORO, CBS, MP	
7.	HON. (DR.) OTIENDE AMOLLO, SC, MP	
8.	HON. MUCHIRA MICHAEL MWANGI, MP	
9.	HON. MAKALI JOHN OKWISIA, MP	
10.	HON. MURIU WAKILI EDWARD, MP	
11.	HON. MAINA JANE NJERI, MP	
12.	HON. GICHOHI KAGUCHIA JOHN PHILIP, MP	
13.	HON. MOGAKA STEPHEN M, MP	
14.	HON. ADEN DAUD, EBS, MP	
15.	HON. SIYAD AMINA UDGOON, MP	

## Annexure 2: Minutes



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – THIRD SESSION - 2024  
DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

**MINUTES OF THE 4<sup>th</sup> JOINT SITTING OF THE COMMITTEE ON JUSTICE AND  
LEGAL AFFAIRS AND COMMITTEE ON ADMINISTRATION AND INTERNAL  
SECURITY HELD ON SATURDAY 17<sup>TH</sup> FEBRUARY, 2024 AT 10.00AM IN THE  
MAIN CONFERENCE, ENGLISHPOINT MARINA, MOMBASA COUNTY**

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**PRESENT**

1. Hon. Murugara George Gitonga, M.P. - Chairperson
2. Hon. Mutuse Eckomas Mwengi, OGW, M.P. - Vice- Chairperson
3. Hon. Maalim Farah, M.P.
4. Hon. Onyiego Silvanus Osoro, M.P.
5. Hon. Francis Kajwang' Tom Joseph, M.P.
6. Hon. (Dr.) Otiende Amollo, SC, M.P.
7. Hon. Muchira Michael Mwangi, M.P.
8. Hon. Gichohi Kaguchia John Philip, M.P.
9. Hon. Muriu Wakili Edward, M.P.
10. Hon. Mohamed Aden Daudi, M.P.
11. Hon. Maina Jane Njeri, M.P.
12. Hon. Mogaka Stephen M, M.P.
13. Hon. Makali John Okwisia, M.P.
14. Hon. Siyad Amina Udgoon, M.P.

**MEMBERS OF THE COMMITTEE ON ADMINISTRATION AND INTERNAL  
SECURITY**

**PRESENT**

1. Hon. Gabriel Koshal Tongoyo, MP - Chairperson
2. Hon. Kaluma George Peter, MP
3. Hon. Fred C. Kapondi, MP
4. Hon. Aduma Owuor, MP
5. Hon. Liza Chepkorir Chelule, MP
6. Hon. Mburu Kahangara, MP
7. Hon. Oku Kaunya, MP
8. Hon. Rozaah Akinyi Buyu, MP
9. Hon. Amb. Francis Kipyegon Sigei, EBS, MP
10. Hon. Fatuma Abdi Jehow, MP

11. Hon. Caroline Jeptoo Ng'elechei, MP
12. Hon. Hussein Weytan Mohammed, MP

### **APOLOGIES**

1. Hon. Col (Rtd) Dido Rasso, MBS, MP -Vice-Chairperson
2. Hon. Junet Mohamed, CBS, M.P.
3. Hon. Sarah Paulata Korere, MP
4. Hon. Protus Ewesit Akujah, MP

### **SECRETARIAT**

1. Mr. Douglas Katho - Clerk Assistant I
2. Mr. John Mugoma - Clerk Assistant I
3. Mr. Ronald Walala - Senior Legal Counsel
4. Mr. Abdikafar Abdi - Clerk Assistant III
5. Ms. Jael Ayiego - Clerk Assistant III
6. Ms. Grace Wahu - Clerk Assistant III
7. Mr. Gideon Kipkoech - Clerk Assistant III
8. Ms. Vivienne Ogega - Research Officer III
9. Mr. Isaac Nabiswa - Legal Counsel
10. Ms. Judith Kanyoku - Legal Counsel
11. Ms. Jully Malala - Public Communications Officer III
12. Mr. Antony Kariuki - Serjeant-at-arms

### **AGENDA**

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Consideration and Adoption of the report on the National Government Administration Laws (amendment) Bill (National Assembly Bills No. 73 of 2023) sponsored by the Leader of the Majority Party Hon. Kimani Ichung'wah, MP.**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

#### **MIN. NO/DC/JLAC/2024/015: PRELIMINARIES**

The meeting was called to order at ten o'clock by the Chairperson of the Committee on Justice and Legal Affairs followed by a word of prayer and thereafter Members of the Committees introduced themselves.

#### **MIN.NO/DC/JLAC/2024/016: CONFIRMATION OF MINUTES**

The agenda was deferred.

#### **MIN.NO/DC/JLAC/2024/017: ADOPTION OF THE AGENDA**

The agenda was adopted having been proposed by Hon. Mutuse Eckomas Mwangi, OGW, M.P and seconded by Hon. Gichohi Kaguchia John Philip, M.P.

MIN.NO/DC/JLAC/2024/018:

**CONSIDERATION AND ADOPTION OF  
THE REPORT ON THE NATIONAL  
GOVERNMENT ADMINISTRATION  
LAWS (AMENDMENT) BILL (NATIONAL  
ASSEMBLY BILLS NO. 73 OF 2023)  
SPONSORED BY THE LEADER OF THE  
MAJORITY PARTY HON. KIMANI  
ICHUNG'WAH, MP.**

**1. COMMITTEE OBSERVATIONS**

Upon reviewing the Bill and the submissions received, the Committee made the following observations:

- a. That there is no consensus among the government agencies as they have submitted conflicting views on the Bill.
- b. That the proposal to amend the National Security Council Act, 2012 contravenes Article 240 (2) of the Constitution. This is because the proposed amendment seeks to establish a standing committee whose members are not members of the National Security Council. The effect of the amendment would be to expand the membership of the Council which cannot be done without a constitutional amendment. The Council is at liberty to co-opt into the committees, persons whose knowledge and skills are necessary for the proper performance of the functions of the Council. Therefore, the sections 5 and 7 of the Act are sufficient.
- c. The proposal to establish the office of the National Security Advisor is discretionary upon the President and should remain administrative. Anchoring it in law would take away the discretion given to the President to appoint their various advisors.
- d. There was no satisfactory justification for transferring the Public Seal from the custody of the AG to the Head of Public Service. Since the AG is the principal legal advisor to the government, he or she should remain the custodian of the Public Seal.
- e. The establishment of the office of the Head of Public Service would create conflict in the public service since the holder of the office would superintend officers which are created under the Constitution. It is the mandate of the PSC to oversee the officers in the public service.
- f. The establishment of the office of the CAS was necessary. However, the functions and designation of the office of the CAS should be streamlined to avoid conflict of roles with PSs in State Departments. In addition, the

complement of the CAS should be clearly stated to reflect the constitutional provision on the number of CSs.

## **2. COMMITTEE RECOMMENDATION**

The Committee, having considered the National Government Administration Laws (Amendment) Bill (*National Assembly No. 73 of 2023*) recommends that the House: —

- (a) approves the provisions of the Bill relating to the Assumption of Office of the President Act, 2012 with amendments as contained in the Schedule to remove the National Security Advisor as a member of the Assumption of Office of the President Committee;
- (b) delete the provisions of the Bill relating to the National Security Council Act, 2012;
- (c) delete the provisions of the Bill relating to the Office of the Attorney-General Act, 2012; and
- (d) approves the provisions of the Bill relating to the National Government Co-ordination Act, 2013 with amendments contained in the Schedule to remove the establishment of the Head of Public Service and streamline the office of the CAS.

### **Dissenting opinion on the proposal to establish the office of CAS:**

Hon. Otiende Amollo rejected the proposal on the establishment of the office of CAS because it is an attempt to introduce an office akin to an assistant Cabinet Secretary which is against the spirit of the Constitution. In addition, the functions of the CAS are not clear and that there are officers in the Ministries that already play the functions of the proposed office of the CAS. This will in turn create a conflict of roles.

The report was adopted having being proposed by Hon. Mutuse Eckomas Mwengi, OGW, M.P and seconded by Hon. Gichohi Kaguchia John Philip, M.P.

**MIN. NO/DC/JLAC/2024/019:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at twenty minutes past twelve o'clock. The next meeting will be held on notice.

SIGNED..........DATE..........

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – THIRD SESSION - 2024  
DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

**MINUTES OF THE 3<sup>rd</sup> JOINT SITTING OF THE COMMITTEE ON JUSTICE AND  
LEGAL AFFAIRS AND COMMITTEE ON ADMINISTRATION AND INTERNAL  
SECURITY HELD ON WEDNESDAY 14<sup>TH</sup> FEBRUARY, 2024 AT 10.00AM IN THE  
MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS, NAIROBI**

---

**PRESENT**

1. Hon. Murugara George Gitonga, M.P. - Chairperson
2. Hon. Mutuse Eckomas Mwengi, OGW, M.P. -Vice- Chairperson
3. Hon. Maalim Farah, M.P.
4. Hon. Onyiego Silvanus Osoro, M.P.
5. Hon. Francis Kajwang' Tom Joseph, M.P.
6. Hon. (Dr.) Otiende Amollo, SC, M.P.
7. Hon. Muchira Michael Mwangi, M.P.
8. Hon. Gichohi Kaguchia John Philip, M.P.
9. Hon. Muriu Wakili Edward, M.P.
10. Hon. Mohamed Aden Daudi, M.P.
11. Hon. Maina Jane Njeri, M.P.
12. Hon. Mogaka Stephen M, M.P.
13. Hon. Makali John Okwisia, M.P.
14. Hon. Siyad Amina Udgoon, M.P.

**MEMBERS OF THE COMMITTEE ON ADMINISTRATION AND INTERNAL  
SECURITY**

**PRESENT**

1. Hon. Gabriel Koshal Tongoyo, MP - Chairperson
2. Hon. Col (Rtd) Dido Rasso, MBS, MP -Vice-Chairperson
3. Hon. Kaluma George Peter, MP
4. Hon. Fred C. Kapondi, MP
5. Hon. Aduma Owuor, MP
6. Hon. Sarah Paulata Korere, MP
7. Hon. Mburu Kahangara, MP
8. Hon. Protus Ewesit Akujah, MP
9. Hon. Oku Kaunya, MP
10. Hon. Rozaah Akinyi Buyu, MP

11. Hon. Fatuma Abdi Jehow, MP
12. Hon. Hussein Weytan Mohammed, MP

### **APOLOGIES**

1. Hon. Junet Mohamed, CBS, M.P.
2. Hon. Liza Chepkorir Chelule, MP
3. Hon. Amb. Francis Kipyegon Sigei, EBS, MP
4. Hon. Caroline Jeptoo Ng'elechei, MP

### **SECRETARIAT**

- |                        |   |                                   |
|------------------------|---|-----------------------------------|
| 1. Mr. Douglas Katho   | - | Clerk Assistant I                 |
| 2. Mr. John Mugoma     | - | Clerk Assistant I                 |
| 3. Mr. Ronald Walala   | - | Senior Legal Counsel              |
| 4. Mr. Abdikafar Abdi  | - | Clerk Assistant III               |
| 5. Ms. Jael Ayiego     | - | Clerk Assistant III               |
| 6. Ms. Grace Wahu      | - | Clerk Assistant III               |
| 7. Mr. Gideon Kipkoech | - | Clerk Assistant III               |
| 8. Ms. Vivienne Ogega  | - | Research Officer III              |
| 9. Mr. Isaac Nabiswa   | - | Legal Counsel                     |
| 10. Ms. Judith Kanyoku | - | Legal Counsel                     |
| 11. Ms. Jully Malala   | - | Public Communications Officer III |
| 12. Mr. Antony Kariuki | - | Serjeant-at-arms                  |

### **IN ATTENDANCE**

- |                           |   |   |
|---------------------------|---|---|
| 1. Amb (Dr) Monica Juma   | - | National Security Advisor               |
| 2. Brig. C. Mutisya       | - | Office of the National Security Advisor |
| 3. Mr. Paul Muthangya     | - | Office of the National Security Advisor |
| 4. Mr. Linus Ofware       | - | Office of the National Security Advisor |
| 5. Mr. George Kagoro      | - | Private Citizen, Advocate               |
| 6. Amb. Salma Ahmed       | - | Public Service Commission               |
| 7. Dr. Joyce Nyabuti      | - | Public Service Commission               |
| 8. Mr. Remmy Mulati       | - | Public Service Commission               |
| 9. Mr. Musa Cherogony     | - | Public Service Commission               |
| 10. Mr. Patrick Wamotu    | - | Public Service Commission               |
| 11. Mr. Reuben Chirchir   | - | Public Service Commission               |
| 12. Dr. Mary C. Mwiandi   | - | Public Service Commission               |
| 13. Ms. Jacqueline Manani | - | Public Service Commission               |

### **AGENDA**

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Public Hearing of the National Government Administration Laws (amendment) Bill (National Assembly Bills No. 73 Of 2023) sponsored by the Leader of the Majority Party Hon. Kimani Ichung'wah, MP.**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

**MIN. NO/DC/JLAC/2024/010: PRELIMINARIES**

The meeting was called to order at ten o'clock by the Chairperson of the Committee on Justice and Legal Affairs followed by a word of prayer and thereafter Members of the Committees introduced themselves.

**MIN.NO/DC/JLAC/2024/011: CONFIRMATION OF MINUTES**

The agenda was deferred.

**MIN.NO/DC/JLAC/2024/012: ADOPTION OF THE AGENDA**

The agenda was adopted having been proposed by Hon. Mutuse Eckomas Mwengi, OGW, M.P and seconded by Hon. Col (Rtd) Dido Rasso, MBS, MP.

**MIN.NO/DC/JLAC/2024/013: PUBLIC HEARING OF THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 73 OF 2023) SPONSORED BY THE LEADER OF THE MAJORITY PARTY HON. KIMANI ICHUNG'WAH, MP.**

**1. OFFICE OF THE NATIONAL SECURITY ADVISOR EXECUTIVE OFFICE OF THE PRESIDENT**

National Security Council Act 2012

Under Section 7 is amended to read as follows:

Sub-section (1) There is hereby established the Office of the National Security Advisor which is an Office in the Executive Office of the President, this codifies, by an act of Parliament, the Office of the National Security Advisor (ONSA) AND by extension the position of the National Security Advisor (NSA)

Sub-section (2) The President shall appoint the National Security Advisor the position of the NSA is a presidential /Head of State appointment and the holder serves at the discretion of the President or Prime Minister. In line with the best practice, the office holder does not enjoy security of tenure and holds the office at the behest of the appointing authority. The current proposal suggests that the NSA shall be subjected to Public Service Commission recruitment procedures- a practice that would come with the security of tenure.

Sub-section (3) The National Security Advisor shall be the Secretary to the National Security Council Article 240(5) of the CoK provides that, "The Council shall appoint its secretary." It does not require that the Secretary be appointed from among the substantive members of the Council.

Sub-section (4) the National Security Advisor shall- Advise the President on National Security matters, Head the Joint Security Secretariat, Integrate the conception of National Security and create cohered national security priorities, Coordinate the formulation of the

National Security Policy and National Security strategy, Coordinate the production of the president's annual report to Parliament on the State of National Security.

Any other function as directed by the President. The proposed amendment aligns with best practices in other jurisdictions across the world where the NSA heads the Secretariat of the NSC.

Each Member of the Council as designated in the Constitution has a substantive mandate and leads in a specific docket this proposal creates a separation of functions and avoid any possible conflict of Interest.

In all jurisdiction with this establishment, the NSA tenure runs concurrent to that of the Appointment Authority and serve at their discretion. They also form part of the staff of the Executive Office of the President/PM.

## **2. PUBLIC SERVICE COMMISSION**

The Assumption of Office of the President Act, 2012 (No. 21 of 2012)

Add a new clause (CC) Chairperson of Public Service Commission- the President Elect need to be briefed and advised on the structure of Government.

The National Security Advisor 7

The Commission proposed to delete because the appointments of advisors are at the discretion of the State Officer requesting based on the kind of advisory that is required. Each administration determines the kind of advisors it requires. Legislating the position of an advisors would tie the hands of subsequent administrations as they would be bound to appoint the legislated advisors which may not be necessary for them at the time.

Legislation should not provide for the position of specific advisors as the President should have free hand to determine the kind of advisors he requires.

Under section 8 of National Government Co-ordination Act, 2013 (No. 1 of 2013) Add a new sub clause as follows: (2) a person is eligible for appointment as Head of Public Service if the person- being an Office in the public service, qualification should be included and the appointment be done on recommendation from the Public Service Commission and subjected to parliamentary approval.

Under section 8(7)(a) delete and add a new clause (7) to read as follows;

The Head of the Public Service shall

- i. Be the administrative head of the Executive head of the Executive Office of the President;
- ii. Be the custodian of the Presidential Seal;
- iii. Transmit Executive Directives, Orders and Presidential Proclamations to Ministries, State Organs, State Departments and State Agencies for their Information, Implementation or other action.
- iv. Perform such other function ancillary to the functions provided in this section as may be assigned by the President.

Under Section 8(7)(a), the Head of Public Service should not be the Chief of staff to the president as well. The two offices should be separate as they carry different responsibilities.

The Chief of Staff is personal and private to the President hence serving in that capacity defeats the public nature of the office of Head of Public Service.

Under Section 8(7)(c), delete considering the fact that the Public Seal is a national symbol as per Article 9 of the Constitution, the same should not be placed under the custody of the Head of Public Service who shall be serving at the President's discretion. This in turn takes away the approval that is required from the Attorney General before the seal is affixed on important Government documents for their authentication.

Under section 8(7)(d), deleting the Act should clearly state the function of the Office, leaving it open-ended may lead to the Office being assigned functions assigned to other bodies by the Constitution or Legislation.

Under section 12A (4), add a new sub clause(c) to read as follows: Has at least ten years relevant professional experience, five years of which should have been in a leadership position or at a top management level in the public service or private sector; Sub-clause (c) be amended to be a new sub-clause (d), there is need to provide for years of professional experience in view of the fact that this is a senior position in the public service.

Under section 12A (6)(b), liaising with parliament on behalf of the Cabinet Secretary, the proposed role of Chief Administrative Secretary will be in conflict with section 9(4) of the current Act on the responsibility of a Cabinet Secretary.

#### **COMMITTEE OBSERVATIONS**

- a) The Committee agreed to the inclusion of the PS for defence and the increase of the number of nominees by the President elect. However, the inclusion of the National Security advisor is subject to the Committee's verdict on the creation of the Office of the National security Advisor under the proposed amendment to the National Security Council Act.
- b) The Committee observed that section 5 and 7 of the National Security Council Act are sufficient in providing for the establishment of Committees of the National Security Council and the secretary to the Council.
- c) The Committee observed that there was no satisfactory justification for transferring the Public Seal from the custody of the Attorney general to the Head of Public Service.
- d) The creation of the Office of Secretary by statute would remove the discretion to appoint a secretary given by Article 240(5) of the Constitution.

**MIN. NO/DC/JLAC/2024/014:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at twenty minutes past eleven o'clock. The next meeting will be held on notice.

SIGNED..........DATE.....*21. 2. 024*.....  
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – THIRD SESSION - 2024  
DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

**MINUTES OF THE 2<sup>nd</sup> JOINT SITTING OF THE COMMITTEE ON JUSTICE AND  
LEGAL AFFAIRS AND COMMITTEE ON ADMINISTRATION AND INTERNAL  
SECURITY HELD ON MONDAY 12<sup>TH</sup> FEBRUARY, 2024 AT 2.00PM IN THE MINI  
CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS, NAIROBI**

---

**PRESENT**

1. Hon. Murugara George Gitonga, CBS, M.P. - Chairperson
2. Hon. Mutuse Eckomas Mwengi, OGW, M.P. - Vice- Chairperson
3. Hon. Maalim Farah, M.P.
4. Hon. Onyiego Silvanus Osoro, M.P.
5. Hon. Francis Kajwang' Tom Joseph, M.P.
6. Hon. (Dr.) Otiende Amollo, SC, M.P.
7. Hon. Muchira Michael Mwangi, M.P.
8. Hon. Gichohi Kaguchia John Philip, M.P.
9. Hon. Muriu Wakili Edward, M.P.
10. Hon. Mohamed Aden Daudi, M.P.
11. Hon. Maina Jane Njeri, M.P.
12. Hon. Mogaka Stephen M, M.P.
13. Hon. Makali John Okwisia, M.P.
14. Hon. Siyad Amina Udgoon, M.P.

**MEMBERS OF THE COMMITTEE ON ADMINISTRATION AND INTERNAL  
SECURITY**

**PRESENT**

1. Hon. Gabriel Koshal Tongoyo, MP - Chairperson
2. Hon. Col (Rtd) Dido Rasso, MBS, MP - Vice-Chairperson
3. Hon. Liza Chepkorir Chelule, MP
4. Hon. Mburu Kahangara, MP
5. Hon. Protus Ewesit Akujah, MP
6. Hon. Oku Kaunya, MP
7. Hon. Amb. Francis Kipyegon Sigei, EBS, MP
8. Hon. Fatuma Abdi Jehow, MP
9. Hon. Caroline Jeptoo Ng'elechei, MP
10. Hon. Hussein Weytan Mohammed, MP

## APOLOGIES

1. Hon. Junet Mohamed, CBS, M.P
2. Hon. Kaluma George Peter, MP
3. Hon. Fred C. Kapondi, MP
4. Hon. Aduma Owuor, MP
5. Hon. Sarah Paulata Korere, MP
6. Hon. Rozaah Akinyi Buyu, MP

## SECRETARIAT

- |                        |   |                                   |
|------------------------|---|-----------------------------------|
| 1. Mr. Douglas Katho   | - | Clerk Assistant I                 |
| 2. Mr. John Mugoma     | - | Clerk Assistant I                 |
| 3. Mr. Ronald Walala   | - | Senior Legal Counsel              |
| 4. Mr. Abdikafar Abdi  | - | Clerk Assistant III               |
| 5. Ms. Jael Ayiego     | - | Clerk Assistant III               |
| 6. Ms. Grace Wahu      | - | Clerk Assistant III               |
| 7. Mr. Gideon Kipkoech | - | Clerk Assistant III               |
| 8. Ms. Vivienne Ogega  | - | Research Officer III              |
| 9. Mr. Isaac Nabiswa   | - | Legal Counsel                     |
| 10. Ms. Judith Kanyoku | - | Legal Counsel                     |
| 11. Ms. Jully Malala   | - | Public Communications Officer III |
| 12. Mr. Antony Kariuki | - | Serjeant-at-arms                  |

## IN ATTENDANCE

- |                          |   |  |
|--------------------------|---|--|
| 1. Ms. Mercy Wanjau      | - | Secretary to the Cabinet                               |
| 2. Dr. Amani Yuda Komora | - | Vice Chairperson, Salaries and Remuneration Commission |
| 3. Ms. Jennifer Gitari   | - | Salaries & Remuneration Commission                     |
| 4. Brig. Yvonne Kerubo   | - | KDF  |
| 5. Mr. Benard Kakumu     | - | Mzalendo Trust   |
| 6. Mr. Mwamburi Benjamin | - | Mzalendo Trust   |

## AGENDA

1. Prayers
2. Preliminaries
3. Confirmation of Minutes
4. **Public Hearing of the National Government Administration Laws (amendment) Bill (National Assembly Bills No. 73 Of 2023) sponsored by the Leader of the Majority Party Hon. Kimani Ichung'wah, MP.**
5. Any Other Business
6. Adjournment/ Date of the Next Meeting

**MIN. NO/DC/JLAC/2024/005:**

## **PRELIMINARIES**

The meeting was called to order at thirty minutes past two o'clock by the Chairperson of the Committee on Justice and Legal Affairs followed by a word of prayer and thereafter Members of the Committees introduced themselves.

**MIN.NO/DC/JLAC/2024/006:**

**CONFIRMATION OF MINUTES**

The agenda was deferred.

**MIN.NO/DC/JLAC/2024/007:**

**ADOPTION OF THE AGENDA**

The agenda was adopted having been proposed by Hon. Mutuse Eckomas Mwengi, OGW, M.P and seconded by Hon. Col (Rtd) Dido Rasso, MBS, MP.

**MIN.NO/DC/JLAC/2024/008:**

**PUBLIC HEARING OF THE NATIONAL  
GOVERNMENT ADMINISTRATION  
LAWS (AMENDMENT) BILL (NATIONAL  
ASSEMBLY BILLS NO. 73 OF 2023)  
SPONSORED BY THE LEADER OF THE  
MAJORITY PARTY HON. KIMANI  
ICHUNG'WAH, MP.**

**1. CABINET OFFICE**

The Assumption of Office of the President Act, 2012

Under Section 2

Insert the following new definitions in their proper alphabetical sequence\_

“Committee” means the National Security Council Committee established by Section 5; the Cabinet Office recommends to draft this section under the law in either singular or plural format because this will safeguard consistency in the interpretation of the law.

Under Section 5

Delete and Substitute with there is established a Committee of the Council which shall be known as the National Security Council Committee. The inclusion of the Secretary to the Cabinet as a member of the Committee for the purpose of alignment and progression of recommendations from the National Security Council into Cabinet for approval. This will also close the governance gap.

Under section 5 sub-section 4

Delete (f) which reads “Commission or prepare reports and briefings in respect of the national security interests of Kenya”, this is because it is not an active function, it is an activity assumed in the exercise of the functions of the Committee.

Under Section 28

The Attorney General shall have custody of the public seal of the Republic of Kenya, a desktop study indicates the president as the custodian of the Public Seal, with powers to appoint a person holding service to be custodian and to give directions as to the manner it will be kept and used. Might this be the time for Kenya to anticipate a physical and electronic seal? This is because enactment of the Public Seal Act would enable development of regulations governing the description, design, use, custody, authentication, restriction and display thereof. This Act will also cater for attendant Offences.

Under Section 8

Delete the marginal note and substitute therefor the following new marginal note "The Executive Office of the President", 7(c) to read "be the custodian of the Public Seal and any other instruments of State". This is because the Public Seal and instruments of State are symbols of statehood responsible for upholding and representing the sovereignty and identity of a nation. Their existence and maintenance should never be in doubt.

## **2. SALARIES AND REMUNERATION COMMISSION**

Assumption of Office of the President Act 2012

Under Section 5

Amending thereof to include Secretary to the Security Council and the Principal Secretary in the State Department for Defence to the assumption of office of the president committee and increasing the number of persons nominated by president-elect from three to six this is because the proposed amendment is in order as it aims at strengthening the membership of the assumption of office of the president committee.

National Security Council Act 2012

SRC is not opposed to the proposed amendments, noting that it will be required to advise on the remuneration and benefits for the positions, SRC further stated that the remuneration and benefits shall be as advised pursuant to article 240(4) (b) of the Constitution.

Office of the Attorney General Act 2012

SRC notes that the amendment relates to validation of decision made by government, it does not affect SRC's mandate and therefore takes no position on it.

National Government Co-ordination Act 2013

The position of CAS is pursuant to Article 260 of the Constitution designated as a State Office. This means SRC will be responsible for setting and review of the remuneration and benefits for the position. SRC recommends that the proposed clause 12 A (2) to amend the National Government Co-ordination Act, 2013 vide the Bill, be amended to include the maximum compliment for the position of CAS.

Given that the Compliment of the CASs would have an impact on the total public wage bill, it would for purposes of providing for the cumulative remuneration and benefits for the holder of the office be appropriate to provide for the maximum number in the Bill. Further, for purposes of grading the job and setting remuneration and benefits for the position, the job responsibilities should be clearly spelt out.

## **3. MZALENDO**

The Assumption of Office of the President Act, 2012

Mzalendo highlighted that the Bill aims to incorporate the secretary to the National Security Council and the Principal Secretary responsible for Defence as additional members of the Committee and increase the representation of the President-elect from three to six, it was noted that the proposed amendment to this Bill do not seek to align them with Constitutional

provisions and further occasion an additional expenditure of public finance as it has been grouped as a money Bill.

#### The National Security Council Act, 2012

The Bill seeks to amend the National Security Council Act, 2012 to provide for the appointment of the National Security Advisor, to designate the National Security Advisor the National Security Council, to prescribe functions of the National Security Advisor, to establish National Security Council Committee and to prescribe functions of the National Security Council Committee. The proposed amendment to this Bill do not seek to align them with Constitutional provisions and further occasion an additional expenditure of public finance as it has been grouped as a money Bill.

#### The Office of the Attorney General Act, 2012

This Bill proposes to amend the Office of the Attorney General Act, 2012, to remove the Attorney General as the custodian of the Public Seal. The proposed amendments to this Bill also have no justification provided for. Given the political and legal ramifications of the proposed amendments, it would be essential to have justification and rationale for the proposed amendments as the changes would occasion a transfer of privileges and powers to the Head of Public Service.

#### The National Government Co-ordination Act, 2013

The Bill proposes to amend the National Government Co-ordination Act, 2013 and provide for establishment and functions of the Head of Public Service and offices of the Chief Administrative Secretary. The proposed amendment to this Bill does not seek to align them with Constitutional provisions and further occasion an additional expenditure of public finance as it has been grouped as a money Bill. Further, laws and policies are not made in vacuum, but rather to address or cure an existing problem or ill in the society. This is therefore ensuring that legislation is not only made on a need basis but also that they are citizen-centric and seek to address the citizens' concerns. Kenya takes pride in having such responsive laws and policies, purpose is not clear-cut solutions to existing problems.

#### **4. Ministry of Defence**

The Ministry of defence concurred with the entire proposed amendments except in the National Security Council Act, 2012 under section 5 which was to consider co-opting the Director General Kenya Coast Guard Service to the National Security Council Committee on need basis, Kenya Coast Guide Service is a National Security Organ established pursuant to Article 238(4) of the Constitution with the primary mandate of enforcing maritime safety and security in Kenya's territorial waters.

#### **COMMITTEE OBSERVATIONS**

- a) That there is no consensus among the government agencies as they have submitted conflicting views on the Bill.
- b) That the proposal to amend the National Security Council Act, 2012 contravenes Article 240 (2) of the Constitution. This is because the proposed amendment seeks to establish a standing committee whose members are not members of the National Security Council. The effect of the amendment would be to expand the membership of the Council which

cannot be done without a constitutional amendment. The Council is at liberty to co-opt into the committees, persons whose knowledge and skills are necessary for the proper performance of the functions of the Council. Therefore, the sections 5 and 7 of the Act are sufficient.

**MIN. NO/DC/JLAC/2024/009:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at twenty minutes past four o'clock. The next meeting will be held on notice.

SIGNED.  ..... DATE 21. 2. 0 24 .....  
(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – THIRD SESSION - 2024  
DIRECTORATE OF DEPARTMENTAL COMMITTEES**

**DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

**MINUTES OF THE 1<sup>ST</sup> JOINT SITTING OF THE COMMITTEE ON JUSTICE AND LEGAL AFFAIRS AND COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY HELD ON MONDAY 12<sup>TH</sup> FEBRUARY, 2024 AT 10.00AM IN THE MINI CHAMBER, COUNTY HALL, PARLIAMENT BUILDINGS, NAIROBI**

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**PRESENT**

1. Hon. Murugara George Gitonga, M.P. - **Chairperson**
2. Hon. Mutuse Eckomas Mwangi, OGW, M.P. - **Vice- Chairperson**
3. Hon. Maalim Farah, M.P.
4. Hon. Onyiego Silvanus Osoro, M.P.
5. Hon. Francis Kajwang' Tom Joseph, M.P.
6. Hon. (Dr.) Otiende Amollo, SC, M.P.
7. Hon. Muchira Michael Mwangi, M.P.
8. Hon. Gichohi Kaguchia John Philip, M.P.
9. Hon. Muriu Wakili Edward, M.P.
10. Hon. Mohamed Aden Daudi, M.P.
11. Hon. Maina Jane Njeri, M.P.
12. Hon. Mogaka Stephen M, M.P.
13. Hon. Makali John Okwisia, M.P.
14. Hon. Siyad Amina Udgoon, M.P.

**MEMBERS OF THE COMMITTEE ON ADMINISTRATION AND INTERNAL SECURITY**

**PRESENT**

1. Hon. Gabriel Koshal Tongoyo, MP - **Chairperson**
2. Hon. Col (Rtd) Dido Rasso, MBS, MP - **Vice-Chairperson**
3. Hon. Liza Chepkorir Chelule, MP
4. Hon. Protus Ewesit Akujah, MP
5. Hon. Oku Kaunya, MP
6. Hon. Amb. Francis Kipyegon Sigei, EBS, MP
7. Hon. Fatuma Abdi Jehow, MP

8. Hon. Caroline Jeptoo Ng'elechei, MP
9. Hon. Hussein Weytan Mohammed, MP

### **APOLOGIES**

1. Hon. Junet Mohamed, CBS, M.P.
2. Hon. Kaluma George Peter, MP
3. Hon. Fred C. Kapondi, MP
4. Hon. Aduma Owuor, MP
5. Hon. Sarah Paulata Korere, MP
6. Hon. Mburu Kahangara, MP
7. Hon. Rozaah Akinyi Buyu, MP

### **SECRETARIAT**

- |                        |   |                                   |
|------------------------|---|-----------------------------------|
| 1. Mr. Douglas Katho   | - | Clerk Assistant I                 |
| 2. Mr. John Mugoma     | - | Clerk Assistant I                 |
| 3. Mr. Ronald Walala   | - | Senior Legal Counsel              |
| 4. Mr. Abdikafar Abdi  | - | Clerk Assistant III               |
| 5. Ms. Jael Ayiego     | - | Clerk Assistant III               |
| 6. Ms. Grace Wahu      | - | Clerk Assistant III               |
| 7. Mr. Gideon Kipkoech | - | Clerk Assistant III               |
| 8. Ms. Vivienne Ogega  | - | Research Officer III              |
| 9. Mr. Isaac Nabiswa   | - | Legal Counsel                     |
| 10. Ms. Judith Kanyoku | - | Legal Counsel                     |
| 11. Ms. Jully Malala   | - | Public Communications Officer III |
| 12. Mr. Antony Kariuki | - | Serjeant-at-arms                  |

### **IN ATTENDANCE**

- |                        |   |   |
|------------------------|---|---|
| 1. Mr. Raymond Omollo  | - | Principal Secretary, Ministry of Interior & National Administration |
| 2. Mr. Noordin Haji    | - | Director General, National Intelligence Service                     |
| 3. Ms. Agnes Shikuku   | - | Deputy Director General, National Intelligence Service              |
| 4. Dr. Agnes C. Kirui  | - | Ag. Director, Chief of staff National Intelligence Service          |
| 5. Ms. Damaris Lukuo   | - | Head of Legal   |
| 6. Mr. Njenga Miiri    | - | PAS, Ministry of Interior and National Coordination                 |
| 7. Mr. Kepha Onyiso    | - | Legal Counsel   |
| 8. Mr. Charles Otiende | - | National Police Service, Director Legal Affairs                     |

### **AGENDA**

1. Prayers
2. Preliminaries
3. **Public Hearing of the National Government Administration Laws (amendment) Bill (National Assembly Bills No. 73 Of 2023) sponsored by the Leader of the Majority Party Hon. Kimani Ichung'wah, MP.**
4. Any Other Business

5. Adjournment/ Date of the Next Meeting

**MIN. NO/DC/JLAC/2024/001:**

**PRELIMINARIES**

The meeting was called to order at ten o'clock by the Chairperson of the Committee on Justice and Legal Affairs followed by a word of prayer and thereafter Members of the Committees introduced themselves.

**MIN.NO/DC/JLAC/2024/002:**

**ADOPTION OF THE AGENDA**

The agenda was adopted having been proposed by Hon. Mutuse Eckomas Mwengi, OGW, M.P and seconded by Hon. Col (Rtd) Dido Rasso, MBS, MP.

**MIN.NO/DC/JLAC/2024/003:**

**PUBLIC HEARING OF THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 73 OF 2023) SPONSORED BY THE LEADER OF THE MAJORITY PARTY HON. KIMANI ICHUNG'WAH, MP.**

**1. NATIONAL INTELLIGENCE SERVICE**

The National Security Council Act, 2012

Under Section 2(b)(c)(d) Members of the Council Committee proposed changes and stated as follows: -

- i. the Chief of the Kenya Defence Forces or his/her alternate;
- ii. the Director General of the National Intelligence Service or his/her alternate;
- iii. the Inspector General of the National Police Service or his/her alternate

therefore, the Committee should be an administrative function of the Council.

Under Section 5(2)(j)

Proposed to delete and substitute thereof:

(3) the Committee may call upon any person whose presence, participation, knowledge or skills are necessary for the proper performance of the functions of the Committee the justification was that the Committee should be an administrative function of the Council.

Under Section 5(4)

Proposed to change from the "Committee shall" to the "Committee may" this is because the Committee is an administrative function and is already provided for.

Under Section 5(4)(c)

Be responsible for the day-to-day co-ordination of national security matters under the direction of the Council the purpose of the amendment is to ensure the Committee works under the direction of the Council.

Under section 5 (5)

The Council may establish such Committees as it may consider necessary for the effective discharge of its functions under the Constitution, this Act or any other written law, the purpose of the amendment is to propose to adopt current provision as in in section 5 of the NSC Act.

Under section 7(1)

The following are the justification for the proposed changes in the review of the proposed amendment in view of the jurisdiction: -

- i. Advisory offices are already provided for under executive order
- ii. National security is a constitutional function
- iii. The ONSA may be established pursuant to Article 234(2)(a)(i) of the Constitution of Kenya

Under section 7(4)

The purpose for the amendment is because the provision is unconstitutional, Article 240(5) of the Constitution of Kenya provides that the Council shall appoint its secretary. To prescribe the appointment of the secretary to the Council through legislation may be a contravention of the Constitution as it takes away the Council's power to appoint its secretary.

## **2. MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION**

### **State Department for Internal Security and National Administration**

The Assumption of the Office of the President Act, 2012

Under Section 5(2), Clause 2

The purpose of the amendment is to expand and strengthen the composition of the Assumption of the Office of the President Committee to include the National Security Advisor (Clause 'CA') and the Principal Secretary for the State Department responsible for matters relating to defence (Clause 'cb') and the Justification is because the National Security Advisor will advise the incoming president on security matters.

The National Security Council Act, 2012

Under Section 2, Clause 2

The amendment seeks to introduce the definition of 'Committee' and the 'National Security Advisor' in the definitive section of the act i.e., section 2 this is because the definitions are missing in the Act and their inclusion is therefore necessary.

Under Section 5, Clause 2

The amendment seeks to establish a Committee of the Council known as the National Security Council Committee, its composition and functions. It states that the secretary to the Committee shall be the Secretary of the National Security Council, the justification for this is that the National Security Council Committee, by virtue of the duties assigned to it, will greatly assist the Council in the discharge of its mandate. However, having the National Security Advisor as the

secretary to both the Council and the Committee may pose challenges and conflict of interest. The Committee makes recommendations to the Council and hence the National Security Advisor will be deliberating on recommendations to which she is party to.

Under Section 7, Clause 2

The amendment seeks to establish the Office of the National Security Advisor who shall be the Secretary to the Council. As noted above, having the National Security Advisor as the Secretary of both the Council and the Committee is likely to pose difficulties.

The Office of the Attorney General Act, 2012

Under Section 28, Clause 2

The amendment seeks to remove the custody of the public seal from the Attorney General to the Head of Public Service, being the administrative head of the Executive Office of the President, it is only logical that the Head of Public Service be the custodian of the Public Seal and any Instrument of State not in the custody of any person.

The National Government Co-ordination Act, 2013

Under Section 2, Clause 2

The amendment seeks to introduce the definition of 'Chief Administrative Secretary' and the 'Head of Public Service' in the definitive section of the Act i.e., section 2, this is because the definitions are missing in the Act and therefore their inclusion is necessary.

Under section 7 (2), Clause 2 and Section 8, Clause 2

The Principal Secretary highlighted that the two offices are vital in the execution of government business.

Under Section 2, Clause 3

Deleting the definition of "national government function" and substituting therefore the following new definition-

"National government function assigned by the Constitution, this Act or any other written law to the national government and for the purpose of national government service;

Under Section 3, Clause 4

Section 3 of the Principal Act is amended by deleting paragraph (a) and substituting his/her duties are specified in the amendments and therefore there is need to cite additional articles in the constitution.

Under Section 7 (2) (a)

Delete the 'Office of the President' and replace it with the Executive Office of the President" in order to conform Clause 2 of the Bill where it is proposed that the 'Executive Office of the President' should replace 'Office of the President'.

Under Section 15, Clause 11

The Principal Act is amended by inserting a new section so as to ensure effective coordination of government business.

Under Section 19(2), Clause 12

Amend Section 19 (2) on appointment of mediators by the relevant Cabinet Secretary this is because the Cabinet Secretary referred to is the Cabinet Secretary responsible for National Government Coordination and not the Cabinet Secretary responsible for Internal Security.

Under Section 20, Clause 13

The principal Act is amended by repealing section 20, this is because it was a transitional clause that has been overtaken by events.

**COMMITTEE OBSERVATIONS**

- a) The inclusion into a Committee the Council of persons who are not members of the National Security Council would expand the Membership of the Council beyond the membership provided under Article 240(2), and would amount to amending the Constitution via statute.
- b) The proposal to establish the office of the National Security Advisor is discretionary upon the President and should remain administrative. Anchoring it in law would take away the discretion given to the President to appoint their various advisors.
- c) There was no satisfactory justification for transferring the Public Seal from the custody of the Attorney general to the Head of Public Service. There was a concern on the hierarchy of the Chief Administrative Secretary, an office pro

**MIN. NO/DC/JLAC/2024/004:**

**ADJOURNMENT**

There being no other business, the meeting was adjourned at twenty minutes past eleven o'clock. The next meeting will be held on notice.

SIGNED: .....



DATE: .....

~~13~~ 21.2.024

(CHAIRPERSON: HON. MURUGARA GEORGE GITONGA, MP)

Annexure 3: National Government  
Administration Laws (Amendment) Bill,  
2023

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 233 (National Assembly Bills No. 73)*



REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2023**

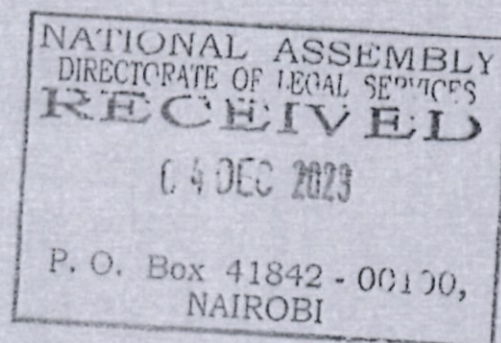
**NAIROBI, 24th November, 2023**

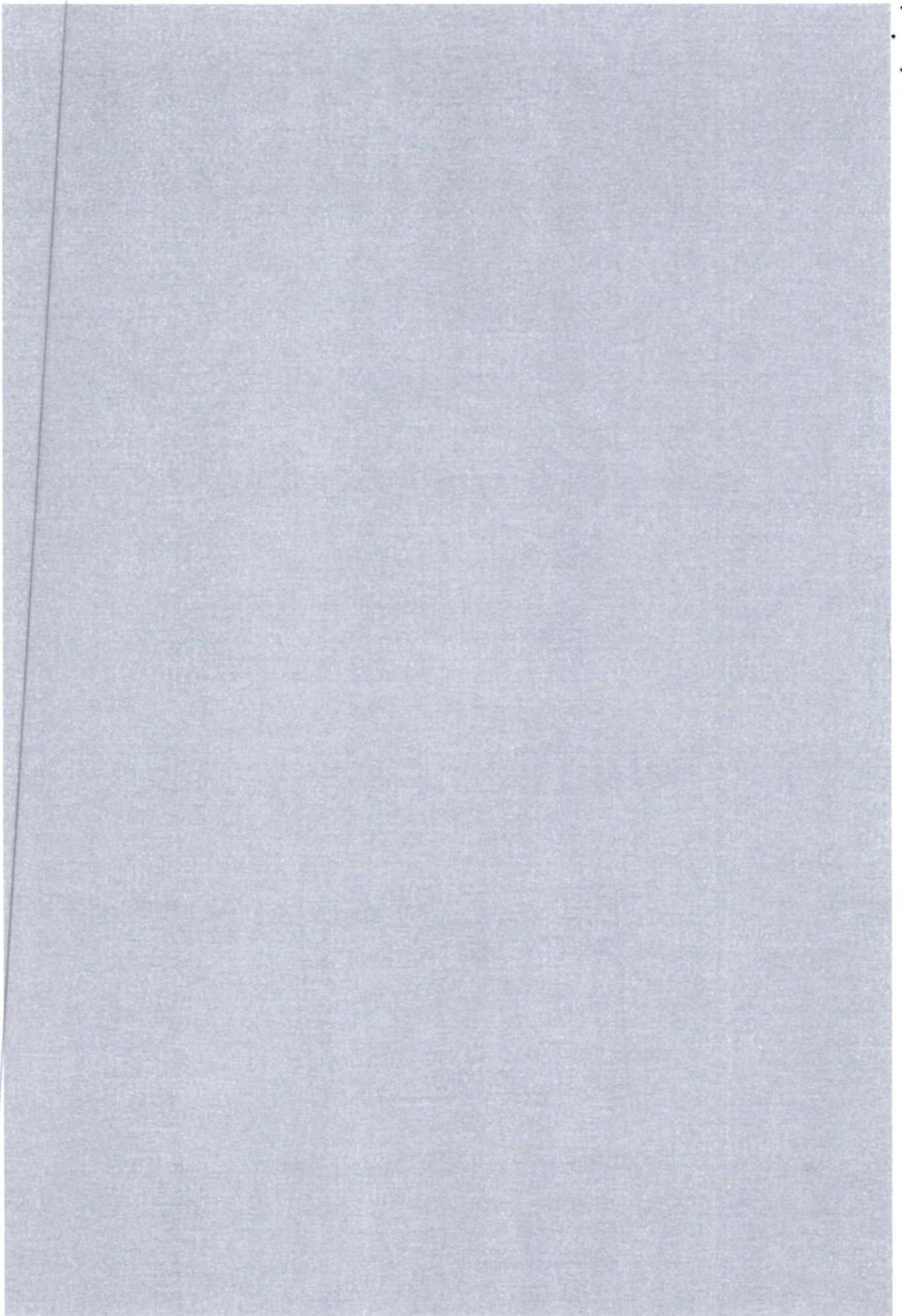
CONTENT

Bill for Introduction into the National Assembly —

PAGE

The National Government Administration Laws (Amendment) Bill, 2023 2047





**THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL,  
2023**

**A Bill for**

**AN ACT of Parliament to make various amendments to  
statute law on national government administration,  
and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

1. This Act may be cited as the National Government Administration Laws (Amendment) Act, 2023.

Short title.

2. The several laws specified in the first column of the Schedule are amended in the provisions specified in the second column thereof, in the manner specified in the third column.

Amendment of  
written laws.

**SCHEDULE**

<i>Written law</i>	<i>Provision</i>	<i>Amendment</i>
The Assumption of the Office of President Act, 2012 (No. 21 of 2012).	s. 5(2) New	Insert the following new paragraphs immediately after paragraph (c)—  (ca) the National Security Advisor; (cb) the Principal Secretary in the State Department responsible for matters relating to defence.
	s. 5(2)(r)	Delete and substitute therefor the following new paragraph: (r) six persons nominated by the President-elect.
The National Security Council Act, 2012 (No. 23 of 2012).	s. 2	Insert the following new definitions in their proper alphabetical sequence—

“Committee” means the National Security Council Committee established by section 5;

“National Security Advisor” means the National Security Advisor appointed under section 7.

s. 5 Delete and substitute therefor the following new section—

Committees of  
the Council

5. (1) There is established a committee of the Council which shall be known as the National Security Council Committee.

(2) The Committee shall consist of—

- (a) the Head of the Public Service, who shall be the Chairperson;
- (b) the Chief of the Kenya Defence Forces;
- (c) the Director-General of the National Intelligence Service;
- (d) the Inspector-General of the National Police Service;
- (e) the Solicitor-General;
- (f) Principal Secretary in the

State Department responsible for matters relating to Defence;

- (g) the Principal Secretary in the State Department responsible for matters relating to internal security;
- (h) the Principal Secretary in the State Department responsible for matters relating to foreign affairs;
- (i) the Principal Secretary to the National Treasury; and
- (j) any other persons whose knowledge and skills are considered necessary for the functions of the Committee as authorized by the National Security Council.

(3) The Secretary of the National Security Council shall be the secretary to the Committee.

(4) The Committee shall—

- (a) recommend to the Council policies, programmes and activities in respect of the national security interests of Kenya in internal affairs, foreign relations and national defence;
- (b) oversee the implementation of the decisions of the Council;
- (c) be responsible for the day-to-day co-ordination of national security matters;
- (d) monitor and give advance warning on national security matters;
- (e) monitor and give advance warning on threats to Kenya's national interests;
- (f) commission or prepare reports and briefings in respect of the national security interests of Kenya; and
- (g) perform such other functions

as may be  
conferred on it  
by the Council.

(5) The Council may establish any other committees of the Council as it may consider necessary for the effective discharge of its functions under the Constitution, this Act or any other written law.

(6) The Council may co-opt into the committees established under subsection (1) other persons whose presence, participation, knowledge or skills are necessary for the proper performance of the functions of the Council.

(7) A person co-opted under subsection (6) may attend the meetings of the committee and participate in the deliberations but shall have no right to vote at the meeting.

s. 7 Delete and substitute therefor  
the following new section —

National  
Security  
Advisor.

7. (1) There is established the office of the National Security Advisor, which shall be an office in the public service.

(2) The President shall nominate the National Security Advisor on the recommendation of the Public Service Commission.

(3) The National Security Advisor shall be appointed by the President with the approval of the National Assembly.

(4) The National Security Advisor shall be the Secretary to the Council.

The Office of s. 28  
the Attorney-  
General Act,  
2012 (No. 49  
of 2012).

Delete

The National s. 2  
Government  
Co-ordination  
Act, 2013 (No.  
1 of 2013).

Insert the following new definitions in proper alphabetical sequence—

“Chief Administrative Secretary” means a Chief Administrative Secretary appointed under section 12A;

“Head of the Public Service” means the Head of the Public Service appointed under section 8(4).

New

Insert the following new paragraph immediately after paragraph (c)—

(ba) the Head of the Public Service.

New Insert the following new paragraph immediately after paragraph (b)—

(ca) Chief Administrative Secretary.

s. 8 Delete the marginal note and substitute therefor the following new marginal note—

“The Executive Office of the President”

Add the following new subsections immediately after subsection (2)—

(3) There is established the office of the Head of Public Service.

(4) The Head of the Public Service shall support the President in facilitating the organisation and execution of Government business.

(5) The President shall appoint the Head of the Public Service.

(6) The Head of the Public Service shall serve at the President’s pleasure.

(7) The Head of the Public Service shall—

- (a) be the Chief of Staff to the President;
- (b) be the administrative head of the Executive Office of the President;
- (c) be the custodian of the Public Seal and any other instruments of State that are not in the custody of any other person; and

(d) perform such other functions as may be assigned by the President.

New

Insert the following new section immediately after section 12--

Chief Administrative Secretaries. 12A. (1) There is established the office of the Chief Administrative Secretary which shall be an office in the public service.

(2) The complement of Chief of Administrative Secretaries shall be as determined by the Public Service Commission.

(3) The President shall, on the recommendation of the Public Service Commission and approval of the National Assembly, appoint Chief Administrative Secretaries.

(4) A person shall be eligible to be appointed as a Chief Administrative Secretary if that person--

(a) has a Bachelor's degree from a university recognized in Kenya;

(b) has knowledge of and experience in the public service; and

(c) satisfies the requirements of Chapter Six of the Constitution.

(5) A person is not qualified to be appointed as a Chief Administrative Secretary if that person—

(a) has been convicted of an offence carrying a penalty of imprisonment for a term of at least six months without the option of a fine;

(b) has been adjudged bankrupt by a court of competent jurisdiction;

(c) holds any office in a political party;

(d) is a member of any legislature;

(e) is a public officer;

(f) holds any State office; or

(g) has been removed from any public office by impeachment or conviction by a court of competent jurisdiction.

(6) A Chief Administrative Secretary shall be responsible for—

(a) responding to issues relating to the portfolio assigned to the office;

(b) liaising with Parliament;

(c) liaising with County Governments on matters of concurrent mandate;

(d) providing inter-ministerial and sectoral co-ordination;

(e) representing the Cabinet Secretary at any meeting as directed by the Cabinet Secretary; and

(f) performing any other duties assigned by the office by

Attorney-  
General or the  
relevant the  
Cabinet  
Secretary.

(7) Each Chief  
Administrative  
Secretary shall be  
responsible to the  
Attorney-General or the  
respective Cabinet  
Secretary in the  
performance of his or  
her duties.

(8) The office of  
Chief Administrative  
Secretary shall be a  
State office.

### **MEMORANDUM OF OBJECTS AND REASONS**

The National Government Administration Laws (Amendment) Bill, 2023, seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012, and the National Government Co-ordination Act, 2013.

The Bill contains amendments to the following statutes—

#### **The Assumption of Office of the President Act, 2012 (No. 21 of 2012)**

This Bill aims to amend the Assumption of the Office of President Act with the objective of strengthening the composition of the Assumption of the Office of the President Committee by incorporating the Secretary to the National Security Council and the principal secretary responsible for Defence as additional members of the Committee.

Additionally, the Bill also seeks to enhance the representation of the President-elect in the Committee by increasing the number of representatives of the President-elect from three to six.

#### **The National Security Council Act, 2012 (No. 23 of 2012)**

The Bill proposes to amend the National Security Council Act, 2012, to provide for the appointment of the National Security Advisor, to designate the National Security Advisor as the Secretary to the National Security Council, to prescribe the functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

#### **The Office of the Attorney-General Act, 2012 (No. 49 of 2012)**

The Bill proposes to amend the Office of the Attorney-General Act, 2012, to remove the Attorney-General as the custodian of the public seal.

#### **The National Government Co-ordination Act, 2013 (No. 1 of 2013)**

The Bill proposes to amend the National Government Co-ordination Act, 2013, to provide for the establishment and functions of the Head of the Public Service and offices of Chief Administrative Secretary.

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

The Bill does not delegate legislative powers, and does not limit fundamental rights and freedoms.

**Statement on whether the Bill concerns county governments**

The Bill does not affect the functions and powers of county governments, and is not a Bill concerning counties for purposes of the Standing Orders.

**Statement on the financial implications of the Bill**

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 24th November, 2023.

KIMANI ICHUNG'WAH,  
*Leader of the Majority Party.*

*Section 5 of No. 21 of 2012 which it is proposed to amend—*

5. (1) There is established a committee to be known as the Assumption of the Office of President Committee.

Establishment of the Assumption of the Office of President Committee.

(2) The Committee shall be an ad hoc committee and shall consist of—

- (a) the Secretary to the Cabinet who shall be the chairperson;
- (b) the Attorney-General;
- (c) the Cabinet Secretary of the Ministry responsible for matters relating to the registration of persons and immigration;
- (d) the Principal Secretary in the Ministry responsible for matters relating to internal security;
- (e) the Principal Secretary in the Ministry responsible for matters relating to finance;
- (f) the Principal Secretary in the Ministry responsible for matters relating to foreign affairs;
- (g) the Principal Secretary in the Ministry responsible for matters relating to information and communication;
- (h) the Principal Secretary in the Ministry for the time being responsible for matters relating to constitutional affairs;
- (i) the Principal Secretary in the Ministry responsible for matters relating to the Cabinet Office;
- (j) the Principal Secretary in the Ministry responsible for matters relating to local government;
- (k) the Principal Secretary in the Ministry responsible for matters relating to culture and social services;
- (l) the Chief of the Kenya Defence Forces;
- (m) the Director-General of the National Intelligence Service;
- (n) the Inspector-General of the National Police Service;

- (o) the person in charge of the administration of the affairs of State House;
- (p) the Clerk of the National Assembly;
- (q) the Chief Registrar of the Judiciary;
- (r) three persons nominated by the President-elect;
- (s) the Clerk of the Senate; and
- (t) the Secretary to the Intergovernmental Relations Secretariat, appointed under the law relating to intergovernmental relations.

(3) For the purposes of the assumption of office of the President elected during the first general elections under the Constitution, the members of the Committee referred to under paragraphs (s) and (t) shall not constitute the membership of the Committee.

(4) The chairperson of the Committee shall convene the first meeting of the Committee upon the commencement of this Act.

(5) The Principal Secretary in the Ministry responsible for matters relating to the Cabinet Office shall be the secretary to the Committee.

(6) A vacancy in the membership of the Committee shall not affect the decisions of the Committee.

(7) The quorum for the conduct of the business at a meeting of the Committee shall be two thirds of all the members of the Committee.

*Section 2 of No. 23 of 2012 which it is proposed to amend—*

2. In this Act, unless the context otherwise requires — Interpretation

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to internal security;

"classified information" has the meaning assigned to it under section 14 (2);

"Council" means the National Security Council established by Article 240 (1) of the Constitution;

"national security" has the meaning assigned to it under Article 238(1) of the Constitution;

"national security organs" means the Kenya Defence Forces, the National Intelligence Service and the National Police Service established by Articles 241, 242, and 243 of the Constitution respectively;

"public officer" has the meaning assigned to it under Article 260 of the Constitution;

"Republic" has the meaning assigned to it under Article 260 of the Constitution;

"Secretariat" means the Joint Security Secretariat established under section 9;

"secretary" means the secretary to the Council appointed by the Council under Article 240(5) of the Constitution and in accordance with section 7;

"State officer" has the meaning assigned to it under Article 260 of the Constitution.

*Section 5 of No. 23 of 2012 which it is proposed to amend—*

5. (1) The Council may, from time to time, establish such committees of the Council as it may consider necessary for the effective discharge of its functions under the Constitution, this Act or any other written law.

Committees of the Council.

(2) The Council may co-opt into the committees established under subsection (1) other persons whose presence, participation, knowledge or skills are necessary for the proper performance of the functions of the Council.

(3) A person co-opted under subsection (2) may attend the meetings of the committee and participate in the deliberations but shall have no right to vote at the meeting.

*Section 7 of No. 23 of 2012 which it is proposed to amend—*

7. Until the Council appoints its secretary, the Secretary to the Cabinet shall be the secretary to the Council.

Secretary to the Council.

*Section 28 of No. 49 of 2012 which it is proposed to delete—*

28. The Attorney-General shall have custody of the public seal of the Republic of Kenya.

The public seal.

*Section 2 of No. 1 of 2013 which it is proposed to amend—*

2. (1) In this Act, unless the context otherwise requires—

Interpretation.

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to the co-ordination of national government functions;

"county" means any one of the counties into which the territory of Kenya is divided as specified in the First Schedule to the Constitution;

"national government administrative officer" means an officer recruited and appointed as such under section 15;

"national government function" means a function assigned by the Constitution, this Act or any other law to the executive arm of government;

"Principal Secretary" means a Principal Secretary appointed under Article 155 of the Constitution.

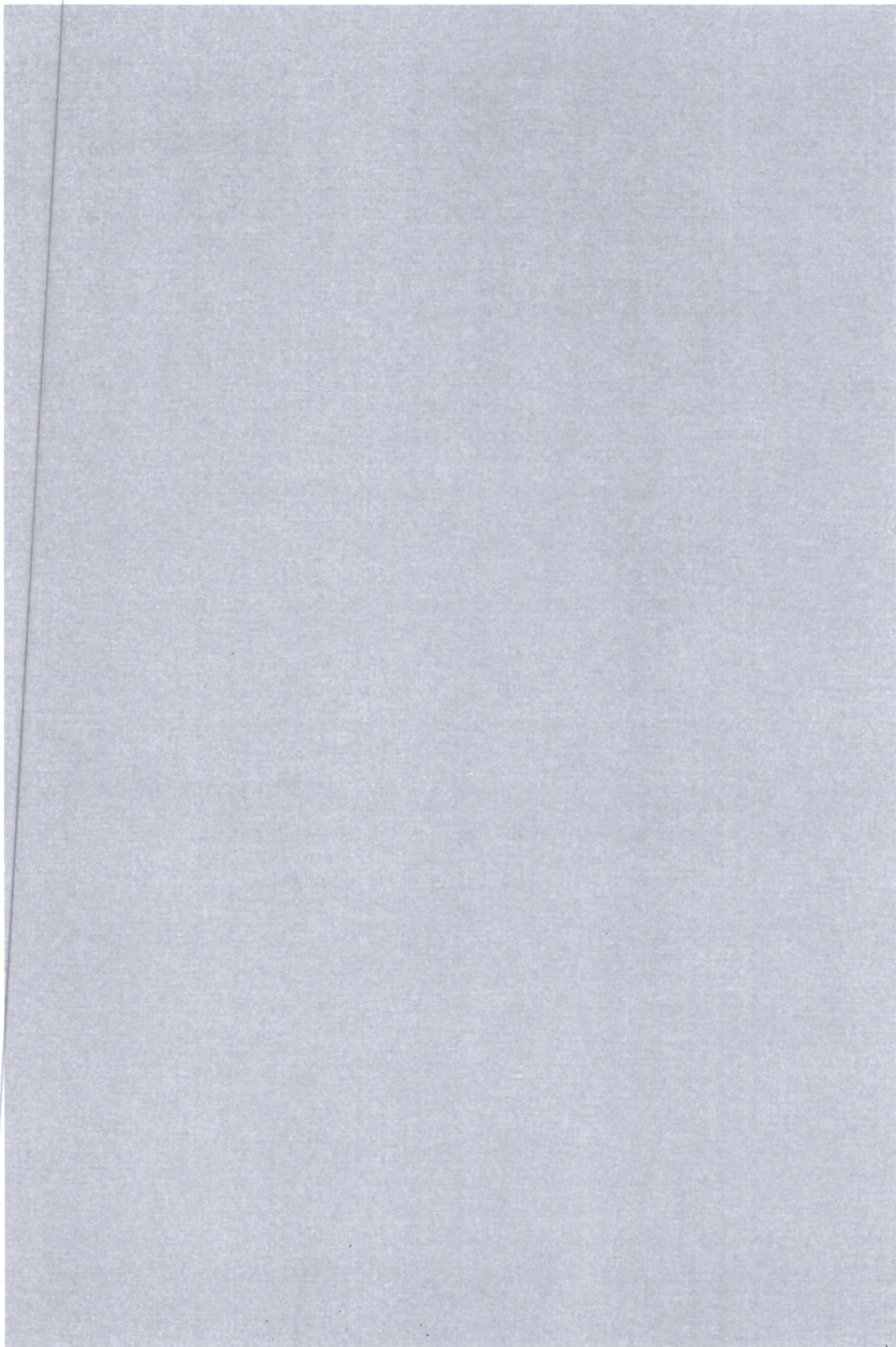
(2) Despite subsection (1), until after the first general elections under the Constitution, references in this Act to the expression "Cabinet Secretary" shall be construed to mean "Minister".

*Section 8 of No. 1 of 2013 which it is proposed to amend—*

8. (1) Pursuant to Article 132(3)(b) of the Constitution, the President shall be responsible for the co-ordination of functions of Ministries, State and government departments.

The Office of the  
President.

(2) For purposes of co-ordination of national government functions under the Constitution, this Act or any other written law, the Office of the President shall have such number of National Government Administrative Officers as shall be necessary for the effective and efficient co-ordination of national government functions.



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REPUBLIC OF KENYA



PARLIAMENT OF KENYA  
THE NATIONAL ASSEMBLY

THE THIRTEENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

**BILL ANALYSIS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL, 2023 (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

<b>Title of the Bill</b>	National Government Administration Laws (Amendment) Bill, 2023 <i>(National Assembly Bill No. 73 of 2023)</i>
<b>Date of Publication</b>	24 <sup>th</sup> November 2023
<b>Sponsor</b>	Hon. Kimani Ichung'wah, MGH, MP
<b>First Reading</b>	Wednesday 6 <sup>th</sup> December 2023
<b>Object of the Bill</b>	To make various amendments to the Assumption of the Office of the President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney General Act, 2012; and the National Government Coordination Act, 2013.

**A. BACKGROUND**

1. The Bill seeks to amend four statutes including the Assumption of the Office of the President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Coordination Act, 2013.

**B. OBJECTS OF THE BILL**

2. The object of the Bill is to amend various statutes to provide for the organization and administration of national government.

**C. CONTENTS OF THE BILL**

3. The Bill contains amendments to the following statutes:

**i. The Assumption of the Office of the President Act, 2012**

4. The Bill aims to amend the Act to strengthen the composition of the Assumption of the Office of the President Committee by incorporating the National Security Advisor (Secretary to the National Security Council); the Principal Secretary responsible for defence; and three additional persons nominated by the President-elect as additional members of the Committee.

**ii. The National Security Council Act, 2012**

5. The Bill proposes to amend the Act to provide for the appointment and functions of the National Security Advisor and designate the National Security Advisor as the Secretary to the National Security Council. The Bill provides that the President shall appoint the National Security Advisor on the recommendation of the Public Service Commission and with the approval of the National Assembly.
6. It also seeks to establish the National Security Council Committee and its functions. The Committee comprises the Head of the Public Service (Chairperson); the Chief of the Kenya Defence Forces; the Director-General of the National Intelligence Service; the Inspector-General of the National Police Service; the Solicitor-General; the Principal Secretary responsible for defence; the Principal Secretary responsible for internal security; the Principal Secretary responsible for foreign affairs; the Principal Secretary to the National Treasury; and any other persons with the requisite skills and knowledge necessary for performing the functions of the Committee as authorized by the Council.

**iii. The Office of the Attorney General Act, 2012**

7. The Bill seeks to amend the Act to remove the Attorney-General as the custodian of the public seal of the Republic of Kenya.

**iv. The National Government Coordination Act, 2013**

8. The Bill proposes to amend the Act to provide for the establishment, appointment and functions of the Head of the Public Service and the office of the Chief Administrative Secretary (CAS).
9. The Bill provides that the Head of the Public Service shall be appointed by the President and shall be the custodian of the Public Seal.
10. The Chief Administrative Secretary shall be appointed by the President on the recommendation of the PSC and approved by the National Assembly.

11. It further provides for the qualifications for appointment as CAS if a person has a Bachelor's degree from a recognized university; has knowledge of and experience in public service; and satisfies the requirements of Chapter Six of the Constitution.
12. It also outlines the disqualifications for appointment as CAS if a person has been convicted of an offence carrying a penalty of imprisonment for a term of at least six months without a fine option; has been adjudged as bankrupt by a court of competent jurisdiction; holds office in a political party; is a member of any legislature; holds any State office; or has been removed from any public office by impeachment or conviction by a court of competent jurisdiction.
13. The functions of the CAS shall be as follows:
  - a) respond to issues relating to the portfolio assigned;
  - b) liaise with Parliament;
  - c) liaise with County Governments on matters of concurrent mandate;
  - d) provide interministerial and sectoral coordination;
  - e) represent the CS at any meeting as directed by the CS; and
  - f) perform any other duties assigned by the office of the AG or relevant CS.
14. The CAS shall be a State office and will be responsible to the CS and/or AG.

#### **D. SITUATIONAL ANALYSIS & COMPARATIVE STUDY**

##### **i. On the assumption of the Office of the President Committee**

15. Currently, the Assumption of the Office of the President Committee is an *ad hoc* committee comprising—
  - a) the Secretary to the Cabinet (Chairperson);
  - b) the Attorney-General;
  - c) the CS of the Ministry responsible for matters relating to the registration of persons and immigration;
  - d) the PS responsible for internal security;
  - e) the PS responsible for finance;
  - f) the PS responsible for matters relating to foreign affairs;
  - g) the PS responsible for matters relating to information and communication;
  - h) the PS responsible for matters relating to constitutional affairs;
  - i) the PS responsible for matters relating to the Cabinet Office;
  - j) the PS responsible for matters relating to local government;

- k) the PS responsible for matters relating to culture and social services;
  - l) the Chief of the Kenya Defence Forces;
  - m) the Director-General of the National Intelligence Service;
  - n) the Inspector-General of the National Police Service;
  - o) the person in charge of the administration of the affairs of State House;
  - p) the Clerk of the National Assembly;
  - q) the Chief Registrar of the Judiciary;
  - r) three persons nominated by the President-elect; and
  - s) the clerk of the Senate; and
  - t) the Secretary to the Intergovernmental Relations Secretariat, appointed under the law relating to intergovernmental relations.
17. The Assumption of Office of the President Act, 2012 generally provides for a framework for power transfers. The Committee acts as a transition Committee and is the focal point for the planning of a formal handover. Moreover, it is mandated to oversee the process of executive power transfer in the handover of power from an incumbent President to a President-elect.
18. The Committee is responsible for organizing the swearing-in ceremony and thereafter prepares a report within one month. The Committee is also required to publicize all important information within their mandate relating to matters affecting the nation. This indicates the significance of this Committee in the governance and political stability of the country. For instance, the power transfer that took place in August 2022 between the incumbent President Uhuru Kenyatta and the new President William Samoei Ruto. The handover involved a power transfer between two different political groupings that had not occurred before and was therefore a significant landmark in the governance of the country.
19. In its 2022 report<sup>1</sup>, the Committee assessed the framework for the assumption of the Office of the President and made several recommendations aimed at achieving clarity in the procedure of assumption of the Office of the President and the process of power transfer. The Committee's recommendations can be grouped into three categories<sup>2</sup>—

<sup>1</sup> The Report of the Assumption of the Office of the President, 13<sup>th</sup> October 2022. Retrieved from [file:///C:/Users/nyame/Downloads/Assumption%20of%20the%20Office%20of%20the%20President%20Committee%20the%20Report%20of%20the%20Committee%20\(2022\)%20Submitted%20to%20Parliament%20Pursuant%20to%20Section%2019%20of%20the%20Assumption%20of%20the%20Office%20of%20the%20President%20Act,%202012.pdf](file:///C:/Users/nyame/Downloads/Assumption%20of%20the%20Office%20of%20the%20President%20Committee%20the%20Report%20of%20the%20Committee%20(2022)%20Submitted%20to%20Parliament%20Pursuant%20to%20Section%2019%20of%20the%20Assumption%20of%20the%20Office%20of%20the%20President%20Act,%202012.pdf)

<sup>2</sup> Wnagai, M., Orwaru, K., & Muiru, A. (2023). Democratic Transitions in Africa: A Case Study of National Executive Power Transfer in Kenya. *Strathmore University Centre for Law and Policy*. <https://doi.org/https://law.strathmore.edu/wp-content/uploads/2023/07/Democratic-Transitions.pdf>

**a) Recommendations relating to the operations of the Committee**

20. The Committee recommended that the Act—

a) includes an express provision on whether the mandate of the Committee is suspended when a petition is filed in court or whether the Committee should proceed to prepare for the inauguration notwithstanding the filing of a petition and the possibility of a repeat election. This will address the question of whether the Committee's activities stand suspended pending the decision of the Supreme Court regarding Presidential Election Petitions filed because a successful petition would reverse the mandate of the Committee.

b) be amended under Section 1 to provide for when the mandate of the Committee commences. It proposed amending Section 1 as follows:

*"1 This Act may be cited as the Assumption of the Office of President Act, 2012.*

*1A. The Chairperson shall convene the first meeting of the Committee within seven days upon the nomination and clearance of Presidential Candidates by the Independent Electoral and Boundaries Commission pursuant to Article 138 of the Constitution."*

c) be amended to provide for an additional function of the Committee to give a recommendation to the President on the place and date for the first sitting of the new House of Parliament, not later than thirty days after the election as set out in Article 126(6) of the Constitution. The Committee noted that this function will be feasible as both Clerks of the National Assembly and the Senate are members of the Committee.

d) be amended to provide for an alternative Chairperson should the Office of the Secretary to the Cabinet, who acts as Chairperson of the Committee, is vacant or a holder of that office is absent. This was attributed to the fact that during the 2022 assumption of the President process, the Office of the Secretary to the Cabinet was vacant thus, the Head of the Public Service acted as Chairperson.

e) be amended to provide for budget appropriations to support the activities of the Committee. Further, that Parliament should provide for a budget in every fifth financial year, coinciding with the period of the General Election, to finance Committee activities. This will ensure predictability and certainty in the financing

of the Committee's activities and also provide a clear framework for accountability and independence.

- f) be amended under Section 5(2)(b) and (c) which respectively enlist the Attorney-General and the CS responsible for matters relating to the registration of persons as members of the Committee. This will create coherence and homogeneity in the ranks of the membership which generally comprises PSs and the Solicitor General.

**b) Recommendations on the scope of the executive power during the election stage**

21. The Committee proposed—

- a) that the Act be amended under Section 18 to ensure proper succession and affirm the enduring nature of the government by expressly providing that all CSs and PSs shall continue to serve in office until their successors are appointed, notwithstanding the limited executive authority as may be directed by the President.
- b) amendment of the Constitution under Article 134 to remove the limitations imposed on the powers of the President during temporary incumbency. Instead, have the President's powers restored in full, to ensure continuity in the event that the election and declaration of a President-Elect is nullified following a petition to the Supreme Court. This will ensure that the President has an express constitutional basis to exercise executive power during the period leading up to a fresh election.

**c) Recommendations of a symbolic nature intended to underline the evolution of Kenya's political democracy**

22. The Committee also proposed amending the Act under Section 14 regarding the handing over of instruments of power and authority to better illustrate Kenya's constitutional democracy. It proposed that the change of order of precedence in hand-over be:

- a) the Constitution;
- b) the Presidential Ceremonial Sword; and finally
- c) the encased medal for the highest national honour – the Order of the Golden Heart – First Class – Chief of the Order of the Golden Heart (C.G.H).

23. From the foregoing, the Act requires some key amendments following the recommendations of the 2022 Committee. Notably, the role of the National Security Advisor is a critical one and has a great impact on the president's national security and foreign policy decision-making. It is important to ensure the establishment of a robust

foundation for sound decision-making and positive policy outcomes during the President's transition to office.

24. Therefore, the instant proposal to include the National Security Advisor and the PS responsible for defence as members of the Committee is a step towards creating a coherent and comprehensive framework on the assumption of the Office of the President.

**ii. On the National Security Advisor and the National Security Council Committee**

25. Across different jurisdictions, the key roles and responsibilities of a National Security Advisor include: analysing security issues, assessing expected trends and prioritising activities; advising on national security matters and making recommendations to the Prime Minister and President; making policies, reviewing and making recommendations for policy-making; and coordinating and integrating work between different ministries.
26. In the United States, the National Security Advisor is a member of the National Security Council which is stipulated as a statutory body in legislation and sanctioned by an Act of Congress.
27. The Council consists of statutory members including the President, Vice President, the Secretaries of State, Defence and Energy. the Chairman of the Joint Chiefs of Staff is the statutory military advisor to the Council while the Director of National Intelligence is the intelligence advisor. Its non-statutory members include the National Security Advisor responsible for determining the agenda in consultation with the other regular attendees of the National Security Council.
28. In Canada, the Office of the National Security Advisor was created to improve coordination and integration of security efforts among government departments. Its main function is to support the Cabinet Committee on Security, Public Health and Emergency Preparedness, coordinate integrated threat assessment and inter-agency cooperation among security organizations, and brief the Prime Minister and his deputy on national security from an integrated, government-wide perspective.
29. Additionally, in 2004 the Advisory Council on National Security was established to be composed of security experts external to government. It was tasked with providing confidential advice on issues related to national security; and strategies, mechanisms and activities required to develop, implement, evaluate and improve a fully integrated security system.

30. On the other hand, the United Kingdom does not have a formal National Security Council but a network of committees around the Prime Minister and Cabinet Ministers serve this function. However, its national security governance framework provides for the Office of the National Security Advisor whose role is to advise on national security issues.
31. Israel also has the National Security Council as the headquarters for issues related to foreign affairs and national security of the Prime Minister and government. The Council is headed by the National Security Advisor and derives its authority from the National Security Council laws and acts in accordance with the Prime Minister's instructions.
32. In Sierra Leone, the Office of National Security was established under the National Security and Central Intelligence Act, 2002. Its mandate is to encompass the specific responsibilities of the National Security Coordinator and other assigned and implied tasks/responsibilities provided in the Act. The Office of the National Security is headed by the National Security Coordinator and acts as the secretariat for the National Security Council
33. The Council is headed by the President and is non-political. It receives advice from the National Security Council Coordinating Group comprising senior representatives from the police, the Armed Forces through the Ministry of Defence, the security agencies and the United Nations Mission in Sierra Leone.
34. The office of the National Security Council was established in 2000 in South Africa as an inter-ministerial committee mandated to deal with threats to national security and stability.
35. In India, the National Security Advisor is the chief executive of the National Security Council and primary advisor to the Prime Minister. In December 1998, the Indian government set up a three-tier structure consisting of a National Security Council as the apex body, a Strategic Policy Group and a National Security Advisory Board. The Prime Minister heads the National Security Council with the National Security Advisor as its Secretary.
36. On the other hand, the Strategic Policy Group is chaired by the Cabinet Secretary and consists of serving senior officials charged with policy-making and follow-up action in matters concerning national security i.e. the Chiefs of Armed Forces, the Intelligence Bureau and the Research and Analysis Wing. Its main task is to make policy recommendations to the Council.
37. Concerning the National Security Advisory Board, it comprises senior retired officials, both civilians and military; academics and distinguished members of civil society drawn from and having expertise in Internal and External Security, Foreign Affairs, Defence,

Science & Technology and Economic Affairs. Its main function is to undertake long-term analysis of and provide perspectives on issues of national security.<sup>3</sup>

38. From the foregoing, the National Security Advisor is a significant non-political office within the public service and thus requires to be anchored in legislation. These legislative safeguards support the National Security Advisor's and the Council's role as the advisory body to the President and the coordinating body for national security as a whole.
39. Moreover, the procedure for the appointment of the National Security Advisor as prescribed in the Bill is in accordance with the requisite requirements of other high-level non-political public offices.
40. Regarding the establishment of the National Security Council Committee and other relevant Council Committees and given the similarity of the legal system and political culture of Kenya and India, the proposed amendments mirror that of India which has a three-tier national security governance structure.

### **iii. On the Custodian of the Public Seal**

41. Article 9(2) as read together with the Second Schedule of the Constitution stipulates that the national symbols for the Republic include the national flag, the national anthem, the coat of arms and the public seal.
42. The public seal is special as it signifies the authority, authenticity and concurrence of government decisions in the documents to which it is affixed. The seal contains the coat of arms featuring two lions holding spears and a traditional East African shield; is encircled by the words 'Kenya' at the top and 'Government' at the bottom; and images of agricultural produce grown in various parts of the country dotted around it. The lions are a symbol of protection while the shield and spears symbolize unity and the defence of freedom.
43. Currently, the Attorney General is the custodian of the public seal whose main role is to safeguard it from loss or improper use. The rationale for making the Attorney General the custodian of the public seal was to ensure the Attorney General's approval in key decisions relating to public matters prior in an aim to avoid improper use.
44. Public Seals are a practice handed down from old English law, whereby officials from the King used a distinctive seal to authenticate documents.<sup>4</sup> In Tanzania, the National Emblems

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<sup>3</sup> National Security Office and Responsibilities and Functions – gov.uk. (n.d. -a)  
[https://assets.publishing.service.gov.uk/media/5980885ded915d022b000040/K4D\\_HDR\\_National\\_Security\\_Advisor\\_Office.pdf](https://assets.publishing.service.gov.uk/media/5980885ded915d022b000040/K4D_HDR_National_Security_Advisor_Office.pdf)

<sup>4</sup> Lyte. (n.d.). *Historical notes on the use of the Great Seal of England* / by sir H.C. Maxwell-Lyte. HathiTrust.  
<https://babel.hathitrust.org/cgi/pt?id=mdp.39015008927983&view=1up&seq=21&skin=2021>

Act, 1971 under Section 11 prescribes that the President has the authority to appoint the custodian of the public seal and in default, shall be the custodian.<sup>5</sup> Similarly, in Uganda, under Section 2 of the Public Seal Act, Cap 256, the President shall be the custodian of the seal and through a statutory instrument under his/her hand may assign such custody to a Minister.<sup>6</sup>

45. From the foregoing, most Heads of State have the power to appoint who to keep custody of the public seal. The instant proposal seeks to provide that the Head of Public Service, who is appointed by the President, shall be the custodian of the public seal which is essentially similar to Uganda's and Tanzania's model. It is, however, vital to consider the rationale for placing the public seal under the Attorney General vis-à-vis the Head of Public Service.

**iv. On the Head of Public Service**

46. The Head of Public Service, being mandated to manage operations, coordinate policies, supervise staff and handle communication with ministries, state departments and agencies, is a critical office and ought to be anchored in legislation. Hence, the proposal to amend the National Government Coordination Act, 2013 to establish the office.

**v. On the Office of the CAS**

47. The office of the CAS was first established on 24<sup>th</sup> January 2018. It was, however, declared unconstitutional by the High Court in *Okiya Omtatah Okoiti & Another v Public Service Commission & 73 Others; Law Society of Kenya & Another (Interested Parties) [2021] eKLR<sup>7</sup> (Okiya case)* on 20<sup>th</sup> April 2021. Nonetheless, the decision was stayed by the Court of Appeal pending the hearing and determination of the *Public Service Commission & 72 Others v Okiya Omtatah Okoiti & 4 Others [2021] eKLR<sup>8</sup>*.
48. Vide letter dated 19<sup>th</sup> September 2022, H.E. the President proposed the regularization of the office of the CAS. The letter outlined—
- a) that there be 23 CASs; one in each Ministry and two in the Ministry of Interior and Coordination of National Government due to its significance and wide scope; and
  - b) the job description and qualifications of the office of CAS.

<sup>5</sup> National Emblems Act, 1971. Retrieved <https://tanzlii.org/akn/tz/act/1971/15/eng@2002-07-31>

<sup>6</sup> Public Seal Act, Cap 256. Retrieved <https://ulii.org/akn/ug/act/1963/65/eng@2000-12-31>

<sup>7</sup> [2021] KEHC 464 (KLR).

<sup>8</sup> Civil Application No E131 of 2021. Retrieved <http://kenyalaw.org/caselaw/cases/view/216693/>

49. This prompted the PSC to, on 21<sup>st</sup> September 2022, place an advertisement inviting comments on the proposed establishment of the office of the CAS. The Law Society of Kenya challenged the validity of the advertisement in *Law Society of Kenya v Public Service Commission & Others*<sup>9</sup> in the Employment and Labour Relations Court (ELRC) (unreported). The Court held that PSC had complied with the appropriate process to hire the 23 CASs.
50. Following the public participation exercise, the PSC vide letter dated 11<sup>th</sup> October 2022 wrote to the President informing him of the outcome of the exercise by stating—
- a) that it received 108 applications for the position of CAS;
  - b) 161 people supported the establishment of the office of the CAS; and
  - c) 226 opposed the creation of the office of the CAS because—
    - i. the office was declared unconstitutional;
    - ii. it would result in a bloated wage bill;
    - iii. of the resultant economic burden to taxpayers; and
    - iv. the role would be a duplication of the CS and PS.
51. On 12<sup>th</sup> October 2022, the PSC invited applications for 23 positions for the office of the CAS of job grade CSG3 in the public service for one term of five years vide Gazette Notice No. 12432. Consequently, the PSC shortlisted 240 candidates for interview. The interviews were to be conducted between 1<sup>st</sup> to 7<sup>th</sup> March 2023.
52. On 23<sup>rd</sup> February 2023, the President wrote to the PSC seeking a review of the complement of CASs within the public service. This prompted the PSC to write to the National Treasury, vide letter dated 23<sup>rd</sup> February 2023, seeking concurrence on the availability of funds to meet the resultant expenditure of additional employment of CASs before approving the complement of the 50.
53. The Principal Secretary to the National Treasury advised PSC that he had no objection and in light of the fiscal framework the effective date for engaging CASs should be from 1<sup>st</sup> April 2023. Hence, vide letter dated 27<sup>th</sup> February 2023, the PSC acceded to the variation of the complement of the CASs as requested by the President.
54. Vide one letter dated 18<sup>th</sup> October 2022 and two dated 10<sup>th</sup> March 2023, the PSC requested pay information/advice from the Salaries and Remuneration Commission (SRC). As a result, the SRC responded vide letter dated 14<sup>th</sup> March 2023 advising the PSC on the job

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<sup>9</sup> Petition No E174 of 2022

evaluation, grading remuneration and benefits structure for the position of CAS in public service.

55. The President, in his resolution dated 16<sup>th</sup> March 2023, nominated fifty (50) persons for appointment as CASs and the list was transmitted to the National Assembly. Accordingly, the Speaker of the National Assembly vide letter dated 22<sup>nd</sup> March 2023 declined to vet the nominees on the ground that there was no legal framework for Parliament to vet the new 50 CASs under the Public Appointment (Parliamentary Approval) Act, 2011. Therefore, he referred the matter to the appointing authority.
56. Vide Special Gazette Notice No. 3664 of 2023 Vol CXXV-No. 68 dated 22<sup>nd</sup> March 2023 appointed the 50 CASs who were sworn in on 23<sup>rd</sup> March 2023 in a ceremony presided over by H.E. the President.
57. The High Court in hearing and determining the consolidated petitions considered the following main issues:

**a) Whether there was adequate public participation in the creation of the office of the Chief Administrative Secretary in respect of the additional 27 posts?**

58. The Court held that public participation was only conducted for the initial 23 positions. Additionally, that the sequence and procedure that led to the establishment of the 27 additional posts did not adhere to the constitutional principle under Articles 10 and 232 of the Constitution and conditions set out in Section 27 of the Public Service Commission Act, 2017. The process did not satisfy the guiding principles set out by the Supreme Court in the *British American Tobacco Kenya, PLC (formerly British American Tobacco Kenya Limited) v Cabinet Secretary for the Ministry of Health & 2 Others; Kenya Tobacco Control Alliance & another (interested parties); Mastermind Tobacco Kenya Limited (The affected party)* [2019] eKLR<sup>10</sup>. Therefore, establishing the extra 27 posts was unconstitutional.

**b) Whether the President and the PSC have the power to create the current office of Chief Administrative Secretary in the manner in which it was created?**

59. The Court agreed with the finding of the learned judge in the *Okiya Case*<sup>11</sup> where he stated that the procedure for establishing an office in public service is based on Article 132(4)(a)

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<sup>10</sup> The guidelines for public participation are outlined in this case. Retrieved from <http://kenyalaw.org/caselaw/cases/view/185959>

<sup>11</sup> [2021] KEHC 464 (KLR).

- of the Constitution and in law. Further, the President and the PSC must comply with the Constitution in undertaking such duties as provided in Articles 3 and 10 of the Constitution.
60. Moreover, the court was of the view that the office of the CAS falls somewhere between two constitutional or State offices of the CS and PS whose nominees are vetted by the National Assembly. Thus, found that the newly created office of the CAS did not satisfy the required constitutional threshold.
61. It also noted that it was not the intention of the framers of the Constitution to create 50 CASs deputizing 22 CSs. It expressly stated as follows:

*“Furthermore, the stay in the Court of Appeal preserved the original office created on January 24, 2018. Once that office was abolished on September 21, 2022, the newly created office and complement of 23 office holders could no longer benefit from that stay. Accordingly, the newly created office and fresh complement of 50 had to comply with the Constitution and the criteria set out earlier in Okiya’s case (supra) in order to be lawfully established. They did not comply. For the avoidance of doubt, the entire complement of 50 CASs is therefore unconstitutional.”*

**c) What are the financial implications of the creation of the office of the Chief Administrative Secretary, is the same a waste of public funds contrary to Article 10 of the Constitution?**

62. The court stated that PSC ought to have consulted SRC to ascertain the resultant financial implications. It declined to delve any deeper into this issue by stating as follows:

*“It is our considered view that based on the separation of powers doctrine, budgetary concerns fall within the realm of policy, and rightly belong to the other relevant arms of government as may be appropriate. We thus decline the invitation to delve any deeper into that arena.”*

63. The final disposition of the court was that:

- a) the current office of the CAS in Special Issue Gazette Notice No. 12432 dated 12<sup>th</sup> October 2022 is unconstitutional;
- b) while there was some reasonable public participation on the first complement of the 23 CASs, there was no such participation regarding the additional complement of 27 officeholders;
- c) the entire complement of 50 CASs posts is unconstitutional; and
- d) the notification by the President dated 16<sup>th</sup> March 2023 appointing the 50 CASs is quashed.

64. However, Lady Justice Ong'undi gave a dissenting minority opinion.<sup>12</sup>

#### **E. OBSERVATIONS**

65. The Bill seeks to enhance good governance through the enhancement of national government administrative operations.

#### **F. WAY FORWARD**

66. Going forward, the Committee may undertake public participation to get the views of the public, experts and stakeholders and prepare a comprehensive report outlining key recommendations on the proposed amendments.

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<sup>12</sup> Matindi & 3 others v The National Assembly of Kenya & 4 others; Controller of Budget & 50 others (Interested Parties) (Petition E080, E084 & E150 of 2023 (Consolidated)) [2023] KEHC 19534 (KLR) (Constitutional and Human Rights) (3 July 2023) (Judgment) (with dissent - HI Ong'udi, J). Retrieved from <http://kenyalaw.org/caselaw/cases/view/262389/>

# Annexure 4: Communication from the Speaker



**REPUBLIC OF KENYA  
THIRTEENTH PARLIAMENT - (SECOND SESSION)  
THE NATIONAL ASSEMBLY**

**COMMUNICATION FROM THE CHAIR**

*(No. 092 of 2023)*

**ON**

**CONSIDERATION OF THE NATIONAL GOVERNMENT ADMINISTRATION  
LAWS (AMENDMENT) BILL, 2023**

**Honourable Members,**

**1.** The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) was read a First Time yesterday, Wednesday, 6<sup>th</sup> December 2023, during the morning sitting. Members will note that the Bill seeks to amend the following four (4) statutes—

- (1) The Assumption of Office of the President Act, 2012;
- (2) The National Security Council Act, 2012;
- (3) The Office of the Attorney-General Act, 2012; and
- (4) The National Government Co-ordination Act, 2013.

**2. Honourable Members,** I note that determining the appropriate Committee of the House to which the Bill should be referred requires a careful examination of the purpose that the Bill seeks to accomplish. From a reading of the Memorandum and Objects and Reasons of the Bill, the proposals in the Bill seek to—

- (1) Include the Secretary to the National Security Council and the principal secretary responsible for Defence as members of the Assumption of Office of the President Committee and increase the

nominees of the President-elect within the Committee from three to six members;

- (2) Introduce a National Security Advisor as the Secretary to the National Security Council and establishing a National Security Council Committee;
- (3) Replace the Attorney-General as the custodian of the public seal with the Head of Public Service; and
- (4) Establish and delineate the functions of the Head of the Public Service and the offices of the Chief Administrative Secretary.

**3. Honourable Members,** A majority of the amendments in the Bill relate to the administration of government. However, the changes that the Bill ultimately seeks to achieve relate to significant constitutional and legal matters. In seeking to alter the role of governmental bodies and officials, the Bill affects the independence of the bodies and existing checks and balances within the government. Any change proposed to the functions of entities such as the Assumption of the Office of President Committee; the National Security Council; and the Office of the Attorney-General may infringe upon their constitutional and statutory mandates.

**4. Hon. Members** are aware of the ongoing litigation on the constitutionality of the office of the Chief Administrative Secretaries (CAS). Whereas Parliament may consider a proposal to establish the position of CAS, knowledge of the pending court matter must inform any such consideration.

5. In my considered view, it is imperative for the Committee of the House charged with overseeing constitutional affairs to thoroughly scrutinize the proposed amendments in the Bill and ensure their consonance with the Constitution and the written law.
6. In this regard, and pursuant to the provisions of Standing Order 127(1), **I therefore refer the National Government Administration Laws (Amendment) Bill, 2023 to the Departmental Committee on Justice and Legal Affairs (JLAC)**. The Committee is encouraged to facilitate public participation on the Bill in the usual manner during the recess period that is about to commence.
7. Where necessary, the Committee may sit jointly with the Departmental Committee on Administration and Internal Security to address specific matters in the Bill that require the input of their counterpart Committee. In its consideration of the Bill, JLAC should lend particular weight to the underlying legal issues in the proposals made by the Bill.

The House is accordingly guided.

I thank you!

  
**THE RT. HON. (DR.) MOSES F.M. WETANG'ULA, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

Thursday, 7<sup>th</sup> December, 2023

**Annexure 5: Advertisement inviting the public to submit memoranda on the Bill**



**REPUBLIC OF KENYA**  
**THIRTEENTH PARLIAMENT- SECOND SESSION (2023)**  
**THE NATIONAL ASSEMBLY**

**IN THE MATTER OF ARTICLE 118(1) (b) OF THE CONSTITUTION**  
**AND**

**IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF:**

- 1. THE BASIC EDUCATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 59 OF 2023);**
- 2. THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 66 OF 2023);**
- 3. THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023);**
- 4. THE LAND LAWS (AMENDMENT) (NO. 2) BILL (NATIONAL ASSEMBLY BILL NO. 76 OF 2023); AND**
- 5. THE NATIONAL EMPLOYMENT AUTHORITY (AMENDMENT) BILL (SENATE BILL NO. 48 OF 2023)**

**INVITATION TO SUBMIT MEMORANDA**

**WHEREAS**, Article 118(1) (b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

**AND WHEREAS** the Basic Education (Amendment) Bill (National Assembly Bill No. 59 of 2023); the Environmental Management and Co-ordination (Amendment) Bill (National Assembly Bill No. 66 of 2023); the National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023); the Land Laws (Amendment) (No. 2) Bill (National Assembly Bill No. 76 of 2023); and the National Employment Authority (Amendment) Bill (Senate Bill No. 48 of 2023) have been read a First Time and referred to various Committees for consideration and reporting to the House;

**IT IS NOTIFIED** that:

**1. The Basic Education (Amendment) Bill (National Assembly Bill No. 59 of 2023) sponsored by the Hon. Mary Wamaua, MP,** seeks to amend the Basic Education Act, No. 14 of 2013 to provide for the establishment of Sub-county Education Boards.

**2. The Environmental Management and Co-ordination (Amendment) Bill (National Assembly Bill No. 66 of 2023)** sponsored by the **Hon. Irene Nyakerario Mayaka, MP,** seeks to amend Section 147 of the Environmental Management and Co-ordination Act No. 8 of 1999 to permit the Cabinet Secretary responsible for matters relating to the environment to make regulations prohibiting the planting of eucalyptus trees along rivers, lakes, seas and wetlands. This is meant to remove the water-intensive eucalyptus trees from water catchment areas; preserve ground water and prevent the reduction of water levels.

**3. The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023)** sponsored by the **Leader of Majority Party, the Hon. Kimani Ichung'wah, MGH, MP,** seeks to amend provisions of the Assumption of Office of the President Act, 2012; the National Security Council Act 2012; the Office of the Attorney-General Act, 2012 and the National Government Co-ordination Act, 2013 to-

- (a) include the Secretary to the National Security Council and the Principal Secretary responsible for Defence as members of the Assumption of Office of the President Committee and increase the nominees of the President-elect within the Committee from three to six members;
- (b) introduce a National Security Advisor as the Secretary to the National Security Council and establish a National Security Council Committee;
- (c) replace the Attorney-General as the custodian of the public seal with the Head of Public Service; and
- (d) establish and delineate the functions of the Head of the Public Service and the offices of the Chief Administrative Secretary.

**4. The Land Laws (Amendment) (No.2) Bill (National Assembly Bill No. 76 of 2023) sponsored by the Leader of the Majority Party, the Hon. Kimani Ichung'wah, MGH, MP,** seeks to amend the Registration of Documents Act, the Land Control Act, the Land Registration Act, 2012, Community Land Act, 2016, and the Sectional Properties Act, 2020 as follows-

**(i) The Registration of Documents Act**

The Bill seeks to inter-alia amend the Registration of Documents Act by decentralizing land registries for registration of documents across the country and align the Registration of Documents Act to the Constitution of Kenya, 2010.

**(ii) The Land Control Act**

The Bill seeks to reconstitute and align Land Control Boards with the governance structure in the Constitution and enable granting consents to transact in agricultural land in accordance with Article 65 of the Constitution which allows non-citizens to own land on leasehold terms not exceeding 99 years.

**(iii) The Land Registration Act, 2012**

The Bill seeks to streamline the registration of long-term leases within the provisions of the Sectional Properties Act, 2020 and to widen the scope under which the Land Registrar can revoke

a title obtained through fraud.

**(iv) The Land Act, 2012**

The Bill proposes to clarify the process of allocation of public land and the respective roles played by the National and County governments. The Bill also seeks to separate the roles of renewal and extension of leases and assign them to the National Land Commission and the Cabinet Secretary responsible for matters relating to land.

**(v) The Community Land Act, 2016**

The Bill seeks to allow the Cabinet Secretary responsible for land to complete pending adjudication programmes under the Land Adjudication Act beyond the 2-year period currently permitted by the Act.

**(vi) The Sectional Properties Act, 2020**

The Bill seeks to widen the scope of the Act to include phased developments and introduce a second-tier corporation known as Umbrella Corporation to deal with management issues associated with a big or mixed-use sectional development.

**5. The National Employment Authority (Amendment) Bill (Senate Bill No. 48 of 2023) sponsored by the Senator Crystal Asige, MP,** seeks to amend the National Employment Authority Act to introduce provisions to protect the rights, welfare and well-being of Kenyans working overseas.

**NOW THEREFORE**, in compliance with Article 118(1) (b) of the Constitution and National Assembly Standing Order 127(3) the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the respective Committees listed below:-

S/No.	BILL	COMMITTEE
1.	The Basic Education (Amendment) Bill (National Assembly Bill No. 59 of 2023)	Education
2.	The Environmental Management and Co-ordination (Amendment) Bill (National Assembly Bill No. 66 of 2023)	Environment, Forestry and Mining
3.	The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023)	Justice and Legal Affairs
5.	The Land Laws (Amendment) (No.2) Bill (National Assembly Bill No. 76 of 2023)	Lands
6.	The National Employment Authority (Amendment) Bill (Senate Bill No. 48 of 2023)	Committee on Labour & Committee on Diaspora Affairs and Migrant Workers

Copies of the Bills are available at the National Assembly Table Office, Main Parliament Buildings and on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The memoranda 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 [cna@parliament.go.ke](mailto:cna@parliament.go.ke) to be received on or before **Thursday 28<sup>th</sup> December, 2023 at 5.00 p.m.**

**S. NJOROGE**  
**CLERK OF THE NATIONAL ASSEMBLY**  
9<sup>th</sup> December, 2023

*"For the Welfare of Society and the Just Government of the People"*

**Annexure 6: Letter from the Clerk of the  
National Assembly inviting  
stakeholders to submit memoranda  
on the Bill**



THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

Telephone: +254202848000 ext. 3300  
Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

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When replying, please quote

Ref: NA/DDC/JLAC/2024/025

5<sup>th</sup> February, 2024

**Mr. Japeth N. Koome, EBS, HSC 'ndc' (K)**  
Inspector General  
National Police Service  
Vigilance House, Harambee Ave  
**NAIROBI**

Dear *Mr Koome*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

---

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, "*study and review all legislation referred to it*".

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) sponsored by the **Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP** seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Co-ordination Act, 2013. The Bill contains amendments to the following statutes: -

**1) The Assumption of Office of the President Act, 2012 (No. 21 of 2012)**

The Bill aims to amend the Assumption of the Office of the President Act with the objective of strengthening the composition of the Assumption of the Office of the President Committee by incorporating the Secretary to the National Security Council and the principal secretary responsible for Defence as additional members of the Committee.

Additionally, the Bill also seeks to enhance the representation of the President-elect in the Committee by increasing the number of representatives of the President-elect from three to six.

2) **The National Security Council Act, 2012 (No. 23 of 2012)**

The Bill proposes to amend the National Security Council Act, 2012, to provide for the appointment of the National Security Advisor, to designate the National Security Advisor as the Secretary to the National Security Council, to prescribe the functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

3) **The Office of the Attorney-General Act, 2012 (No. 49 of 2012)**

The Bill proposes to amend the Office of the Attorney-General Act, 2012, to remove the Attorney-General as the custodian of the public seal.

4) **The National Government Co-ordination Act, 2013 (No. 1 of 2013)**

The Bill proposes to amend the National Government Co-ordination Act, 2013, to provide for the establishment and functions of the Head of Public Service and offices of Chief Administrative Secretary.

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) was published on 24<sup>th</sup> November 2023 and Read a First Time in the House on Wednesday 6<sup>th</sup> December, 2023. Pursuant to Standing Order 127(1), the Bill was committed to the Departmental Committee on Justice & Legal Affairs of the National Assembly for consideration and table its report the House.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

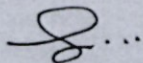
In this regard, the Committee requests your views to enrich the content of the Bill and invites you to a physical meeting to be held in Nairobi on **Monday 12<sup>th</sup> February, 2024 at 10:00 am at the Mini Chamber, First Floor, County Hall, Parliament Buildings.**

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be sent to the Office of the Clerk, Main Parliament Building by 10<sup>th</sup> February, 2024 or email a soft copy of the same to [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

Hard copies of the Bill are available at the National Assembly Table Office, Main Parliament Building while an electronic copy may be accessed on the Parliament website: [www.parliament.go.ke/the-national-assembly/house-bills](http://www.parliament.go.ke/the-national-assembly/house-bills) for reference.

Our Liaison Officers on this matter are **Mr. Douglas Katho** who may be contacted on tel. no. **0722333145** or email: [douglas.katho@parliament.go.ke](mailto:douglas.katho@parliament.go.ke) or **Ms. Jael Ayiego Kilaka** on tel. no. **0725385945** or email: [jael.kilaka@parliament.go.ke](mailto:jael.kilaka@parliament.go.ke) or **Mr. Abdikafar Abdi Sheikh** on tel. no. **0715456503** or email: [abdikafar.sheikh@parliament.go.ke](mailto:abdikafar.sheikh@parliament.go.ke)

Yours



**JEREMIAH W. NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**



THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

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[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

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When replying, please quote

Ref: NA/DDC/JLAC/2024/006

5<sup>th</sup> February, 2024

**Ms. Mercy Kiiru Wanjau**  
Secretary to the Cabinet  
Harambee House, 3<sup>rd</sup> Floor  
**NAIROBI**

Dear

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 73 OF 2023)**

---

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, "*study and review all legislation referred to it*".

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) sponsored by the **Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP** seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Co-ordination Act, 2013. The Bill contains amendments to the following statutes: -

**1) The Assumption of Office of the President Act, 2012 (No. 21 of 2012)**

The Bill aims to amend the Assumption of the Office of the President Act with the objective of strengthening the composition of the Assumption of the Office of the President Committee by incorporating the Secretary to the National Security Council and the principal secretary responsible for Defence as additional members of the Committee. Additionally, the Bill also seeks to enhance the representation of the President-elect in the Committee by increasing the number of representatives of the President-elect from three to six.

**2) The National Security Council Act, 2012 (No. 23 of 2012)**

The Bill proposes to amend the National Security Council Act, 2012, to provide for the

appointment of the National Security Advisor, to designate the National Security Advisor as the Secretary to the National Security Council, to prescribe the functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

**3) The Office of the Attorney-General Act, 2012 (No. 49 of 2012)**

The Bill proposes to amend the Office of the Attorney-General Act, 2012, to remove the Attorney-General as the custodian of the public seal.

**4) The National Government Co-ordination Act, 2013 (No. 1 of 2013)**

The Bill proposes to amend the National Government Co-ordination Act, 2013, to provide for the establishment and functions of the Head of Public Service and offices of Chief Administrative Secretary.

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) was published on 24<sup>th</sup> November 2023 and Read a First Time in the House on Wednesday 6<sup>th</sup> December, 2023. Pursuant to Standing Order 127(1), the Bill was committed to the Departmental Committee on Justice & Legal Affairs of the National Assembly for consideration and table its report the House.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

In this regard, the Committee requests your views to enrich the content of the Bill and invites you to a physical meeting to be held in Nairobi on **Monday 12<sup>th</sup> February, 2024** at **10:00 am** at the **Mini Chamber, First Floor, County Hall, Parliament Buildings**.

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be sent to the Office of the Clerk, Main Parliament Building by 10<sup>th</sup> February, 2024 or email a soft copy of the same to [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

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Yours



**JEREMIAH W. NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**



THE NATIONAL ASSEMBLY  
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When replying, please quote

Ref: NA/DDC/JLAC/2024/023

5<sup>th</sup> February, 2024

Gen. Francis Omondi Ogolla, EGH, EBS, HSC 'ndc' (K) 'PSC' (FRA)  
Chief of Kenya Defence Forces (KDF)  
Ulinzi House, Lenana Road  
**NAIROBI**

Dear Gen Omondi,

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, *"study and review all legislation referred to it"*.

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Yours



**JEREMIAH W. NDOMBI, MBS**  
**For: CLERK OF THE NATIONAL ASSEMBLY**



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Ref: NA/DDC/JLAC/2024/024

5<sup>th</sup> February, 2024

**Mr. Noordin Mohammed Haji, OGW, CBS**  
Director-General  
National Intelligence Service  
Maruruis  
**NAIROBI**

Dear *Noordin*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

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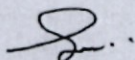
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Ref: NA/DDC/JLAC/2024/027

5<sup>th</sup> February, 2024

**Amb. Dr. Monica Kathina Juma CBS, EGH, MBS**  
National Security Advisor  
**NAIROBI**

Dear *Amb Kathina*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

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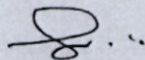
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When replying, please quote

Ref: NA/DDC/JLAC/2024/026

5<sup>th</sup> February, 2024

**Hon. Dr. Kipkurui S. Chepkwony**  
The Intergovernmental Relations Technical Committee (IGRTC)  
Chief Executive Officer  
Parklands Plaza, Off Muthithi Road  
**NAIROBI**

Dear *Hon Chepkwony*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

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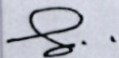
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Ref: NA/DDC/JLAC/2024/018

5<sup>th</sup> February, 2024

**Hon. Patrick Mariru, CBS**  
Principal Secretary  
Ministry of Defence  
Ulinzi House, Lenana Road  
**NAIROBI**

Dear *Hon Mariru*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
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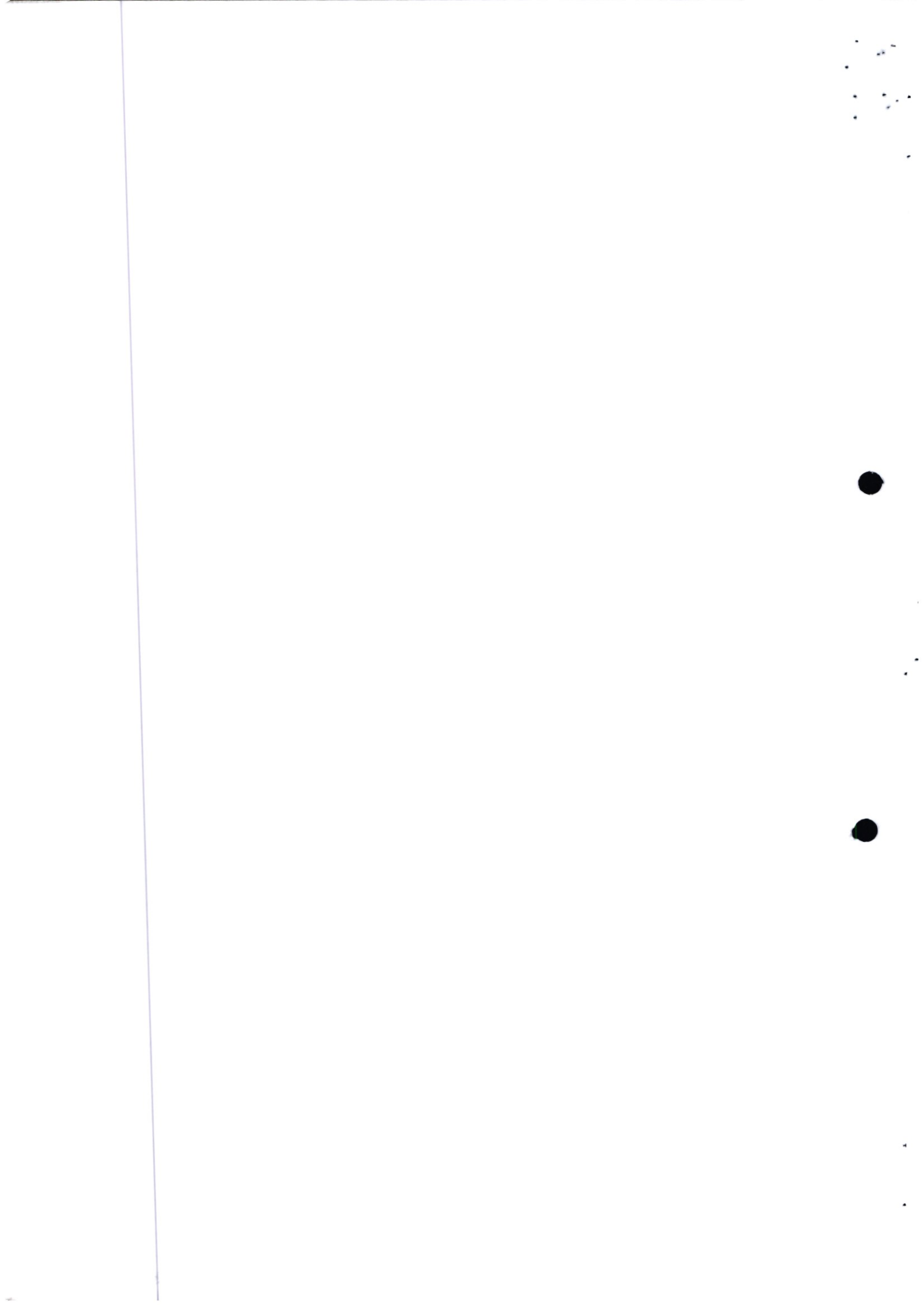
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**For: CLERK OF THE NATIONAL ASSEMBLY**

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Cabinet Secretary  
Ministry of Defence  
Ulinzi House, Lenana Road  
**NAIROBI**





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When replying, please quote

Ref: NA/DDC/JLAC/2024/021

5<sup>th</sup> February, 2024

**Eng. John Tanui, MBS**

Principal Secretary

The State Department for ICT and the Digital Economy

Ministry of Information, Communications and the Digital Economy

Telposta Towers, Kenyatta Ave. Koinange Street

**NAIROBI**

Dear *Eng Tanui*:

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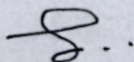
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**For: CLERK OF THE NATIONAL ASSEMBLY**

Copy to:-

**Mr. Eliud O. Owalo**

Cabinet Secretary

Ministry of Information, Communication and the Digital Economy

Telposta Towers, Kenyatta Ave. Koinange Street

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Ref: NA/DDC/JLAC/2024/019

5<sup>th</sup> February, 2024

**Amb. (Prof.) Julius K. Bitok, PhD., MBS**  
Principal Secretary  
State Department for Immigration and Citizen Services  
Ministry of Interior and National Administration  
Harambee House  
**NAIROBI**

Dear *Amb Bitok*

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The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) sponsored by the **Leader of the Majority Party, Hon. Kimani Ichung’wah, EGH, MP** seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Co-ordination Act, 2013. The Bill contains amendments to the following statutes: -

**1) The Assumption of Office of the President Act, 2012 (No. 21 of 2012)**

The Bill aims to amend the Assumption of the Office of the President Act with the objective of strengthening the composition of the Assumption of the Office of the President Committee by incorporating the Secretary to the National Security Council and the principal secretary responsible for Defence as additional members of the Committee. Additionally, the Bill also seeks to enhance the representation of the President-elect in the Committee by increasing the number of representatives of the President-elect from three to six.

2) **The National Security Council Act, 2012 (No. 23 of 2012)**

The Bill proposes to amend the National Security Council Act, 2012, to provide for the appointment of the National Security Advisor, to designate the National Security Advisor as the Secretary to the National Security Council, to prescribe the functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

3) **The Office of the Attorney-General Act, 2012 (No. 49 of 2012)**

The Bill proposes to amend the Office of the Attorney-General Act, 2012, to remove the Attorney-General as the custodian of the public seal.

4) **The National Government Co-ordination Act, 2013 (No. 1 of 2013)**

The Bill proposes to amend the National Government Co-ordination Act, 2013, to provide for the establishment and functions of the Head of Public Service and offices of Chief Administrative Secretary.

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) was published on 24<sup>th</sup> November 2023 and Read a First Time in the House on Wednesday 6<sup>th</sup> December, 2023. Pursuant to Standing Order 127(1), the Bill was committed to the Departmental Committee on Justice & Legal Affairs of the National Assembly for consideration and table its report the House.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

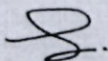
In this regard, the Committee requests your views to enrich the content of the Bill and invites you to a physical meeting to be held in Nairobi on **Monday 12<sup>th</sup> February, 2024 at 10:00 am** at the **Mini Chamber, First Floor, County Hall, Parliament Buildings**.

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be sent to the Office of the Clerk, Main Parliament Building by 10<sup>th</sup> February, 2024 or email a soft copy of the same to [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

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Our Liaison Officers on this matter are **Mr. Douglas Katho** who may be contacted on tel. no. **0722333145** or email: [douglas.katho@parliament.go.ke](mailto:douglas.katho@parliament.go.ke) or **Ms. Jael Ayiego Kilaka** on tel. no. **0725385945** or email: [jael.kilaka@parliament.go.ke](mailto:jael.kilaka@parliament.go.ke) or **Mr. Abdikafar Abdi Sheikh** on tel. no. **0715456503** or email: [abdikafar.sheikh@parliament.go.ke](mailto:abdikafar.sheikh@parliament.go.ke)

Yours



**JEREMIAH W. NDOMBI, MBS**  
**For: CLERK OF THE NATIONAL ASSEMBLY**

**Copy to;-** **Hon. (Prof) Kithure Kindiki, CBS**  
Cabinet Secretary  
Ministry of Interior and National Administration  
Harambee House  
**NAIROBI**



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OFFICE OF THE CLERK

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When replying, please quote

Ref: NA/DDC/JLAC/2024/022

5<sup>th</sup> February, 2024

**Hon. Umami Mohammed Bashir, CBS**  
Principal Secretary  
State department for Culture, The Arts and Heritage  
Ministry of Gender, Culture, the Arts & Heritage  
Kencom House  
**NAIROBI**

Dear *Hon Bashir*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 73 OF 2023)**

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, *'study and review all legislation referred to it'*.

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) sponsored by the **Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP** seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Co-ordination Act, 2013. The Bill contains amendments to the following statutes: -

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Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

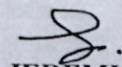
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Yours



**JEREMIAH W. NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**

Copy to; - **Hon. Aisha Jumwa**  
Cabinet Secretary  
Ministry of Gender, Culture, the Arts & Heritage  
Kencom House  
**NAIROBI**



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When replying, please quote

Ref: NA/DDC/JLAC/2024/020

5<sup>th</sup> February, 2024

**Dr. Abraham Korir Singoei**  
Principal Secretary  
Ministry of Foreign and Diaspora Affairs  
Old Treasury Building, Harambee Avenue  
**NAIROBI**

Dear *Dr. Singoei*,

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 73 OF 2023)**

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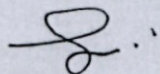
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You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be sent to the Office of the Clerk, Main Parliament Building by 10<sup>th</sup> February, 2024 or email a soft copy of the same to [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

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Our Liaison Officers on this matter are **Mr. Douglas Katho** who may be contacted on tel. no. **0722333145** or email: [douglas.katho@parliament.go.ke](mailto:douglas.katho@parliament.go.ke) or **Ms. Jael Ayiego Kilaka** on tel. no. **0725385945** or email: [jael.kilaka@parliament.go.ke](mailto:jael.kilaka@parliament.go.ke) or **Mr. Abdikafar Abdi Sheikh** on tel. no. **0715456503** or email: [abdikafar.sheikh@parliament.go.ke](mailto:abdikafar.sheikh@parliament.go.ke)

Yours



**JEREMIAH W. NDOMBI, MBS**  
**For: CLERK OF THE NATIONAL ASSEMBLY**

**Copy to;-**

**Hon. Musalia Mudavadi**

Prime Cabinet Secretary and Foreign Affairs

Kenya Railway Headquarters

**NAIROBI**



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When replying, please quote

Ref: NA/DDC/JLAC/2024/034

12<sup>th</sup> February, 2024

**Amb. Dr. Monica Kathina Juma CBS, EGH, MBS**  
National Security Advisor  
Office of the National Security Advisor  
Executive Office of the President  
**NAIROBI**

Dear *Amb. Juma,*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 73 OF 2023)**

---

Reference is made to your letter Ref: ONSA/ADM/1/VOL.1/75 dated 12<sup>th</sup> February, 2024 on the  
aforementioned subject.

The Committee has acceded to your request to engage with its Members to make oral submissions  
on the National Government Administration Laws (Amendment) Bill (National Assembly Bill No.  
73 Of 2023) with reference to the National Security Act 2012 (No. 23 of 2012)

The Bill proposes to amend the National Security Council Act, 2012, to provide for the  
appointment of the National Security Advisor, to designate the National Security Advisor as the  
Secretary to the National Security Council, to prescribe the functions of the National Security  
Advisor, to establish the National Security Council Committee, and to prescribe the functions of  
the National Security Council Committee.

The purpose of this letter is to invite you to a meeting with the Committee scheduled for  
**Wednesday 14<sup>th</sup> February, 2024 at 10:00 am at the Mini Chamber, First Floor, County Hall,  
Parliament Buildings.**

You are requested to prepare your written submissions in a matrix format that indicates the section  
of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the  
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Yours sincerely,



**PETER K. CHEMWENO**

**For: THE CLERK OF THE NATIONAL ASSEMBLY**



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---

When replying, please quote

**Ref: NA/DDC/JLAC/2024/034**

**12<sup>th</sup> February, 2024**

**Dr. Simon K. Rotich, CBS**  
Commission Secretary/CEO  
Public Service Commission  
Commission House, Harambee Avenue  
**NAIROBI**

Dear *Dr. Rotich*,

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 73 OF 2023)**

---

Reference is made to your letter Ref: PSC/ADM/26/II/ (80) dated 8<sup>th</sup> February, 2024 on the  
aforementioned subject.

The Committee has acceded to your request for an extension of time to make submissions on the  
National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 Of  
2023).

However, the Committee is retreating to consider and adopt its report on **15<sup>th</sup> February, 2024** and  
therefore unable to conform to your request to engage with its Members the week commencing  
**19<sup>th</sup> February 2024.**

The purpose of this letter is to invite you to a meeting with the Committee scheduled for  
**Wednesday 14<sup>th</sup> February, 2024 at 10:00 am at the Mini Chamber, First Floor, County Hall,  
Parliament Buildings.**

You are requested to prepare your written submissions in a matrix format that indicates the section  
of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the  
submissions should be sent to the Office of the Clerk, Main Parliament Building by **Wednesday  
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Yours Sincerely,



**PETER K. CHEMWENO**

**For: CLERK OF THE NATIONAL ASSEMBLY**



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---

When replying, please quote

Ref: NA/DDC/JLAC/2024/035

12<sup>th</sup> February, 2024

**Ms. Florence Muturi,**  
Chief Executive Officer  
Law Society of Kenya (LSK)  
Lavington, Opposite Valley Arcade, Gitanga Road  
**NAIROBI**

Dear *Madam,*

**RE: REQUEST FOR AN EXTENSION OF TIME FOR SUBMISSION ON THE  
NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

---

Reference is made to your letter Ref: S/24 dated 12<sup>th</sup> February, 2024 on the aforementioned subject.

The Committee has acceded to your request for an extension of time to make submissions on the National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 Of 2023).

However, the Committee is constrained with time and is retreating to consider and adopt its report on **15<sup>th</sup> February, 2024**.

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be sent to the Office of the Clerk, Main Parliament Building by **Wednesday 14<sup>th</sup> February, 2024** or email a soft copy of the same to [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

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**PETER K. CHEMWENO**

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When replying, please quote

Ref: NA/DDC/JLAC/2024/036

12<sup>th</sup> February, 2024

**Dr. Chris K. Kiptoo, CBS**  
Principal Secretary  
Ministry of National Treasury and Economic Planning  
**NAIROBI**

Dear *Dr. Kiptoo,*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 73 OF 2023)**

---

Reference is made to your letter Ref: ES 1/014 'C' (17) dated 12<sup>th</sup> February, 2024 on the  
aforementioned subject.

The Committee has acceded to your request for an extension of time to make submissions on the  
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Yours *Sincerely,*

*Peter K. Chemweno*

**PETER K. CHEMWENO**

**For: CLERK OF THE NATIONAL ASSEMBLY**

Copy to: -

**Prof. Njuguna Ndung'u, CBS**  
Cabinet Secretary  
Ministry of National Treasury & Economic Planning  
**NAIROBI**



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Ministry of National Treasury and Economic Planning  
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National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 Of  
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However, the Committee is constrained with time and is retreating to consider and adopt its report  
on **15<sup>th</sup> February, 2024**.

You are requested to prepare your written submissions in a matrix format that indicates the section  
of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the  
submissions should be sent to the Office of the Clerk, Main Parliament Building by **Wednesday  
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Yours *Sincerely,*

**PETER K. CHEMWENO**

**For: CLERK OF THE NATIONAL ASSEMBLY**

Copy to: -

**Prof. Njuguna Ndung'u, CBS**  
Cabinet Secretary  
Ministry of National Treasury & Economic Planning  
**NAIROBI**





THE NATIONAL ASSEMBLY  
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When replying, please quote

Ref: NA/DDC/JLAC/2024/009

30<sup>th</sup> January, 2024

**Hon. Shadrack Mose**  
Solicitor General  
The State Law Office and Department of Justice  
Sheria House, Harambee Avenue  
**NAIROBI**

Dear

*Hon. Mose*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, *“study and review all legislation referred to it”*.

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) sponsored by the **Leader of the Majority Party, Hon. Kimani Ichung’wah, EGH, MP** seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Co-ordination Act, 2013. The Bill contains amendments to the following statutes: -

**1) The Assumption of Office of the President Act, 2012 (No. 21 of 2012)**

The Bill aims to amend the Assumption of the Office of the President Act with the objective of strengthening the composition of the Assumption of the Office of the President Committee by incorporating the Secretary to the National Security Council and the principal secretary responsible for Defence as additional members of the Committee.

Additionally, the Bill also seeks to enhance the representation of the President-elect in the Committee by increasing the number of representatives of the President-elect from three

to six.

**2) The National Security Council Act, 2012 (No. 23 of 2012)**

The Bill proposes to amend the National Security Council Act, 2012, to provide for the appointment of the National Security Advisor, to designate the National Security Advisor as the Secretary to the National Security Council, to prescribe the functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

**3) The Office of the Attorney-General Act, 2012 (No. 49 of 2012)**

The Bill proposes to amend the Office of the Attorney-General Act, 2012, to remove the Attorney-General as the custodian of the public seal and replace with the Head of Public Service.

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The Bill proposes to amend the National Government Co-ordination Act, 2013, to provide for the establishment and functions of the Head of Public Service and offices of Chief Administrative Secretary.

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Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

In this regard, the Committee requests your views to enrich the content of the Bill and invites you to a physical meeting to be held in Nairobi on **Monday 12<sup>th</sup> February, 2024** at **10:00 am** at the **Mini Chamber, First Floor, County Hall, Parliament Buildings**.

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be sent to the Office of the Clerk, Main Parliament Building by 10<sup>th</sup> February, 2024 or email a soft copy of the same to [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

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Yours



**JEREMIAH NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**

Copy to:-

**Hon. Justin B. Muturi, EGH**

The Attorney General

The State Law Office and the Department of Justice

Sheria House, Harambee Avenue

**NAIROBI**



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When replying, please quote

Ref: NA/DDC/JLAC/2024/005

30<sup>th</sup> January, 2024

**Dr. Raymond V. O. Omollo, PhD**  
Principal Secretary  
State Department for Interior  
Ministry of Interior and National Administration  
Harambee House, Harambee Avenue  
NAIROBI

Dear *Dr Omollo*

RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.  
73 OF 2023)

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, "*study and review all legislation referred to it*".

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Yours



**JEREMIAH W. NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**

Copy to:- **Hon. (Prof) Kithure Kindiki, CBS**  
Cabinet Secretary  
Ministry of Interior and National Administration  
Harambee House  
**NAIROBI**



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Ref: NA/DDC/JLAC/2024/016

30<sup>th</sup> January, 2024

**Ms. Christine Gakii Nkonge,**  
Executive Director  
Katiba Institute  
House No.5 -the Crescent-Off Parklands Road  
**NAIROBI**

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

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Yours



**JEREMIAH NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**



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Ref: NA/DDC/JLAC/2024/013

30<sup>th</sup> January, 2024

**Ms. Sheila Masinde**  
Executive Director  
Transparency International  
Kindaruma Road, Off Ring Road, Kilimani  
Next to Commodore Office Suites  
NAIROBI

Dear *Ms Masinde*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
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**For: CLERK OF THE NATIONAL ASSEMBLY**



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When replying, please quote

Ref: NA/DDC/JLAC/2024/012

30<sup>th</sup> January, 2024

**Ms. Florence Muturi,**  
Chief Executive Officer  
Law Society of Kenya (LSK)  
Lavington, Opposite Valley Arcade, Gitanga Road  
**NAIROBI**

Dear *Ms Muturi*:

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

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**JEREMIAH NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**



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When replying, please quote

Ref: NA/DDC/JLAC/2024/008

30<sup>th</sup> January, 2024

**Hon. Paul N. Maina, OGW, 'ndc'(K)**  
Ag. Chief Registrar Judiciary of Kenya / Secretary  
Judicial Service Commission  
Supreme Court Building  
**NAIROBI**

Dear *Hon Ndemo*

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ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.  
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4) **The National Government Co-ordination Act, 2013 (No. 1 of 2013)**

The Bill proposes to amend the National Government Co-ordination Act, 2013, to provide for the establishment and functions of the Head of Public Service and offices of Chief Administrative Secretary.

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) was published on 24<sup>th</sup> November 2023 and Read a First Time in the House on Wednesday 6<sup>th</sup> December, 2023. Pursuant to Standing Order 127(1), the Bill was committed to the Departmental Committee on Justice & Legal Affairs of the National Assembly for consideration and table its report the House.

Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

In this regard, the Committee requests your views to enrich the content of the Bill and invites you to a physical meeting to be held in Nairobi on **Monday 12<sup>th</sup> February, 2024 at 10:00 am** at the **Mini Chamber, First Floor, County Hall, Parliament Buildings.**

You are requested to prepare your written submissions in a matrix format that indicates the section of the Act, specific clause, proposed amendment and justification. Twenty (20) hard copies of the submissions should be sent to the Office of the Clerk, Main Parliament Building by 10<sup>th</sup> February, 2024 or email a soft copy of the same to [cna@parliament.go.ke](mailto:cna@parliament.go.ke)

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Our Liaison Officers on this matter are **Mr. Douglas Katho** who may be contacted on tel. no. **0722333145** or email: [douglas.katho@parliament.go.ke](mailto:douglas.katho@parliament.go.ke) or **Ms. Jael Ayiego Kilaka** on tel. no. **0725385945** or email: [jael.kilaka@parliament.go.ke](mailto:jael.kilaka@parliament.go.ke) or **Mr. Abdikafar Abdi Sheikh** on tel. no. **0715456503** or email: [abdikafar.sheikh@parliament.go.ke](mailto:abdikafar.sheikh@parliament.go.ke)

Yours



**JEREMIAH W. NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**



THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

Telephone: +254202848000 ext. 3300  
Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

When replying, please quote

Ref: NA/DDC/JLAC/2024/010

30<sup>th</sup> January, 2024

**Mr. Joash Dache, MBS**  
Commission Secretary/CEO,  
Kenya Law Reform Commission,  
Reinsurance Plaza, 3<sup>rd</sup> Floor, Taifa Road,  
NAIROBI

Dear *Joash*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

The Departmental Committee on Justice and Legal Affairs is established under National Assembly Standing Order 216 and is mandated to amongst others, *'study and review all legislation referred to it'*.

The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) sponsored by the **Leader of the Majority Party, Hon. Kimani Ichung'wah, EGH, MP** seeks to make various amendments to the Assumption of the Office of President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney-General Act, 2012; and the National Government Co-ordination Act, 2013. The Bill contains amendments to the following statutes: -

**1) The Assumption of Office of the President Act, 2012 (No. 21 of 2012)**

The Bill aims to amend the Assumption of the Office of the President Act with the objective of strengthening the composition of the Assumption of the Office of the President Committee by incorporating the Secretary to the National Security Council and the principal secretary responsible for Defence as additional members of the Committee.

Additionally, the Bill also seeks to enhance the representation of the President-elect in the Committee by increasing the number of representatives of the President-elect from three to six.

**2) The National Security Council Act, 2012 (No. 23 of 2012)**

The Bill proposes to amend the National Security Council Act, 2012, to provide for the

appointment of the National Security Advisor, to designate the National Security Advisor as the Secretary to the National Security Council, to prescribe the functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

**3) The Office of the Attorney-General Act, 2012 (No. 49 of 2012)**

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Article 118(1)(b) of the Constitution of Kenya and National Assembly Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees.

In this regard, the Committee requests your views to enrich the content of the Bill and invites you to a physical meeting to be held in Nairobi on **Monday 12<sup>th</sup> February, 2024 at 10:00 am** at the **Mini Chamber, First Floor, County Hall, Parliament Buildings.**

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Our Liaison Officers on this matter are **Mr. Douglas Katho** who may be contacted on tel. no. **0722333145** or email: [douglas.katho@parliament.go.ke](mailto:douglas.katho@parliament.go.ke) or **Ms. Jael Ayiego Kilaka** on tel. no. **0725385945** or email: [jael.kilaka@parliament.go.ke](mailto:jael.kilaka@parliament.go.ke) or **Mr. Abdikafar Abdi Sheikh** on tel. no. **0715456503** or email: [abdikafar.sheikh@parliament.go.ke](mailto:abdikafar.sheikh@parliament.go.ke)

Yours



**JEREMIAH W. NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**



THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

P. O. Box 41842-00100  
Nairobi, Kenya  
Main Parliament Buildings

Telephone: +254202848000 ext. 3300  
Email: [cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
[www.parliament.go.ke/the-national-assembly](http://www.parliament.go.ke/the-national-assembly)

When replying, please quote

Ref: NA/DDC/JLAC/2024/014

30<sup>th</sup> January, 2024

**Dr. Annette Mbogoh**

Executive Director  
Kituo cha Sheria  
Ole Odume Rd, Off Argwings Kodhek Rd  
NAIROBI

Dear *D. Mbogoh*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

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Secretary to the National Security Council, to prescribe the functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

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Yours



**JEREMIAH NDOMBI, MBS**

**For: CLERK OF THE NATIONAL ASSEMBLY**



THE NATIONAL ASSEMBLY  
OFFICE OF THE CLERK

P. O. Box 41842-00100  
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When replying, please quote

Ref: NA/DDC/JLAC/2024/017

30<sup>th</sup> January, 2024

**Dr. Mshai Mwangola**  
Chairperson,  
Uraia Trust  
Jacaranda Avenue, off Gitanga Road  
NAIROBI

Dear *D. Mwangola*

**RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY  
BILL NO. 73 OF 2023)**

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Yours



**JEREMIAH W. NDOMBI, MBS**  
**For: CLERK OF THE NATIONAL ASSEMBLY**

**Annexure 7: Letters from the Clerk of the  
National Assembly inviting  
stakeholders to attend the public  
participation forums**

REPUBLIC OF KENYA



PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

THE THIRTEENTH PARLIAMENT –THIRD SESSION - 2024

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS AND  
ADMINISTRATION AND INTERNAL SECURITY

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LIST OF STAKEHOLDERS FOR PUBLIC PARTICIPATION ON THE NATIONAL  
GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (*NATIONAL  
ASSEMBLY BILL NO. 73 OF 2023*)

---

**INVITED STAKEHOLDERS**

**1. Assumption of Office of the President Act, 2012**

- a. On the inclusion of the National Security Advisor and PS for Defence to the Assumption of Office of President Committee:
- i. Secretary to Cabinet;
  - ii. Attorney General;
  - iii. CS for the Ministry of Interior and National Administration;
  - iv. PS for Internal Security and National Administration;
  - v. PS for National Treasury;
  - vi. PS for Foreign Affairs;
  - vii. PS for ICT and the Digital Economy;
  - viii. Solicitor General (matters relating to constitutional affairs);
  - ix. PS for Cabinet;
  - x. PS for Devolution;
  - xi. PS for Culture, the Arts and Heritage;
  - xii. Chief of the Kenya Defence Forces;
  - xiii. Director General of the National Intelligence Service;
  - xiv. Inspector-General of the National Police Service;
  - xv. Chief of Staff (State House Affairs);
  - xvi. Clerk of the National Assembly;

- xvii. Chief Registrar of the Judiciary;
- xviii. Clerk of the Senate;
- xix. Secretary to the Intergovernmental Relations Secretariat;
- xx. CS for Defence;
- xxi. PS for Defence;
- xxii. National Security Advisor; and
- xxiii. Dr. Joseph Kinyua, EGH (Former Head of Public Service and Chairperson of the Assumption of Office of President Committee 2022).

## **2. National Security Council Act, 2012**

- a. On the appointment of the National Security Advisor and the establishment of the National Security Council Committee:
  - i. Head of the Public Service;
  - ii. Director General of the National Intelligence Service;
  - iii. Inspector General of the National Police Service;
  - iv. Solicitor General;
  - v. PS for Defence;
  - vi. PS for Internal Security;
  - vii. PS for Foreign Affairs;
  - viii. PS for National Treasury; and
  - ix. Kenya Defence Forces (KDF).

## **3. Office of the Attorney General Act, 2012**

- a. On change of custody of the public seal from the AG to the Head of Public Service:
  - i. Office of the AG

## **4. National Government Coordination Act, 2013**

- a. On the establishment of the Chief Administrative Secretary (CAS):
  - i. Public Service Commission;
  - ii. National Treasury; and
  - iii. Salaries and Remuneration Commission (SRC).
- b. On the establishment of the Head of Public Service:
  - i. National Treasury;
  - ii. SRC; and
  - iii. Public Service Commission.

5. Generally:

- a. On the implication on the wage Bill:
  - i. Salaries and Remuneration Commission (SRC);
  - ii. Public Service Commission (PSC); and
  - iii. The National Treasury.
  
- b. On the implication on good leadership and governance:
  - i. Kenya School of Government;
  - ii. Transparency International;
  - iii. *Uraia* Trust;
  - iv. *Mzalendo* Trust;
  - v. Africa Center for Open Governance;
  - vi. Dr. Muthomi Thiankolu, Leadership and Governance expert and member of the Technical Team of the National Dialogue Committee, Kenya Kwanza Alliance;
  - vii. Prof. Adams Oloo, Political Science and Public Administration expert and member of the Technical Team of the National Dialogue Committee, Azimio Coalition; and
  - viii. Dr. Seth Wekesa, a Leadership and Governance expert.
  
- c. On legality:
  - i. Office of the Attorney General;
  - ii. Kenya Law Reform Commission (KLRC);
  - iii. Law Society of Kenya (LSK);
  - iv. International Court of Justice (ICJ);
  - v. *Katiba* Institute; and
  - vi. *Kituo cha Sheria*.

**ALREADY RECEIVED MEMORANDA**

1. Rebuilding Pastoralist Livelihoods;
2. Innovation Climate adaptation Kenya;
3. Stephen Lesoron Gambare;
4. Jeremiah Kibet Korir;
5. Mercy Nyambura Mushemi;
6. Francis Habara Moroto;
7. Daniel Kiptum;
8. Joseph Odeph Omulo;
9. Nancy Kariuki; and
10. Dennis Matayian Parsanka.

# Annexure 8: Memoranda by Stakeholders



DDC  
8  
15/2

**REPUBLIC OF KENYA**  
**MINISTRY OF PUBLIC SERVICE, PERFORMANCE AND DELIVERY MANAGEMENT**  
**STATE DEPARTMENT FOR PUBLIC SERVICE**  
**Office of the Principal Secretary**

Telegraphic address: "Personnel", Nairobi  
Telephone: Nairobi 227411  
Telex: 23125  
Fax: 2243620  
*When replying please quote*

P.O. BOX 30050- 00100  
NAIROBI  
KENYA

Ref No: **MPSG&DM/3/7**

**14<sup>th</sup> February, 2024**

Clerk of the National Assembly  
Parliament Buildings  
**NAIROBI**

*Douglas Katho*  
*for TNA*  
*15/2/24*

**Attn: Jeremiah W. Ndombi, MBS**

**RE: SUBMISSION OF VIEWS ON PROPOSED NATIONAL ASSEMBLY BILLS**

Reference is made to your letter Ref: NA/DDC/JLAC/2024/018 dated 31<sup>st</sup> January, 2024 and letter Ref: NA/DDC/JLAC/2024/029 dated 5<sup>th</sup> February, 2024.

The Ministry is in receipt of two invitations to submit views on **The National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023)** and **The Statute Law (Miscellaneous Amendments) Bill No. 2 (National Assembly Bills No. 68 of 2023)** both sponsored by the Leader of the Majority Party seeking to make various amendments.

Following scrutiny on the two Bills before the Departmental Committee on Justice and Legal Affairs, the Ministry is in support of the amendments as proposed.

**Amos N. Gathecha, EBS, 'ndc' (K)**  
**PRINCIPAL SECRETARY**

NATIONAL ASSEMBLY  
RECEIVED  
15 FEB 2024  
CLERK'S OFFICE  
P.O. Box 41842, NAIROBI

**Copy to: Hon Moses K. Kuria, HSC**  
Cabinet Secretary  
Ministry of Public Service, Performance and Delivery Management

**NAIROBI**  
DIRECTOR  
RECEIVED  
15 FEB 2024  
Directorate of Legal and Constitutional Committees

NATIONAL ASSEMBLY  
RECEIVED  
15 FEB 2024  
DEPUTY CLERK  
J.W.N



REPUBLIC OF KENYA

THE NATIONAL TREASURY AND ECONOMIC PLANNING

Telegraphic Address: 22921  
FINANCE - NAIROBI  
Fax No. 315779  
Telephone: 2252299  
When replying please quote

THE NATIONAL TREASURY  
P.O. Box 30007 - 00100  
NAIROBI  
KENYA

DDC  
8  
15/2

Ref: TNT/CONF 269/04 'A' (22)

14<sup>th</sup> February, 2024

Mr. Samuel Njoroge, CBS  
Clerk of the National Assembly  
Parliament Buildings  
P. O. Box 41842-00100  
NAIROBI

*Douglas Katho  
to incorporate job  
consideration by the  
committee.  
15/2/24*

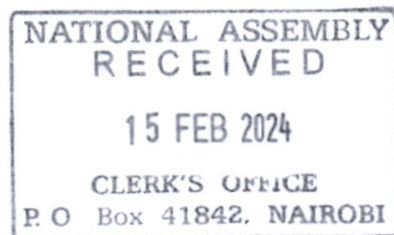
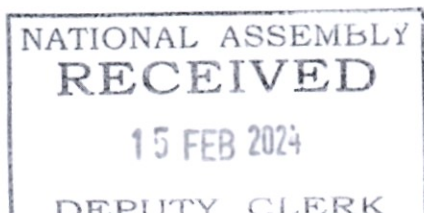
Dear *Clerk of NA*

RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)

Reference is made to our letter Ref. No. ES 1/014 'C' (17) and your letter NA/DDC/JLAC/2024/036 both dated 12<sup>th</sup> February, 2024 on the above subject.

We note that the National Assembly Departmental Committee on Justice and Legal Affairs is requesting for comments on the Bill. The National Treasury has reviewed the Bill and noted that it proposes to amend the Assumption of Office of the President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney General Act, 2012; and the National Government Coordination Act, 2013. The proposed amendments seek to:

1. Include the Secretary to the National Security Council and the Principal secretary responsible for Defence as members of the Assumption of Office of the President Committee and increase the membership of the President-elect within the Committee from three to six members;
2. Introduce a National Security Advisor as the secretary to the National Security Council and establish a National Security Council Committee;
3. Replace the Attorney General as the custodian of the public seal with the Head of Public Service; and
4. Establish and delineate the functions of the Head of Public Service and the offices of the Chief Administrative Secretary.



Attached please find the Written Submission from the National Treasury.

Yours

Sincerely  


**DR. CHRIS KIPTOO, CBS**

**PRINCIPAL SECRETARY/THE NATIONAL TREASURY**

**Copy: Hon. Murugara George Gitonga, M.P**

The Chairperson

Departmental Committee on Justice & Legal Affairs

The National Assembly

Parliament Buildings

**NAIROBI**



REPUBLIC OF KENYA  
THE NATIONAL TREASURY AND ECONOMIC PLANNING

SUBMISSION BY DR CHRIS KIPTOO, CBS, THE PRINCIPAL SECRETARY, NATIONAL TREASURY TO THE NATIONAL ASSEMBLY DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS ON "THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)"

**The Chairperson and Hon. Members to this Committee,**

The Bill amends the Assumption of Office of the President Act, 2012 Section 5(2)(r) by proposing increasing the number of President-elect members from three to six. The National Treasury has no objection to this proposal.

The Bill s.5(1) establishes the National Security Council Committee yet s.5(5) indicates that there can be established other committees. In view of this, the National Treasury has no objection to this proposal.

The Bill proposes deletion of Section 28 of the Office of the Attorney General Act, 2012 to replace the Attorney General as the custodian of the Public Seal with the Head of Public Service as in s.8 (7)(c). Since the Head of the Public Service as indicated in s.8 (5) and (6) is an appointee of the President and shall serve at the pleasure of the President, it would be prudent to vest the Public Seal which is a National symbol in the custody of the Attorney General who is a State Officer and is required by Article 156 (6) of the Constitution to promote, protect and uphold the rule of law and defend public interest. The National Treasury therefore, objects this proposal.

S.12A provides for the establishment of the office of Chief Administrative Secretary which shall be a State Office with the complement determined by the Public Service Commission. The National Treasury is of the view that the office of the Chief Administrative Secretary intends to complement the office of the Cabinet Secretaries. We have no objection to this proposal.

**DR. CHRIS KIPTOO, CBS**

**THE PRINCIPAL SECRETARY / THE NATIONAL TREASURY**

14<sup>th</sup> February, 2024

NATIONAL ASSEMBLY  
RECEIVED  
14 FEB 2024  
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REPUBLIC OF KENYA  
OFFICE OF THE ATTORNEY-GENERAL  
&  
DEPARTMENT OF JUSTICE

DDC  
8  
14/02

Our Ref. AG/LDD/237/1/91  
Your Ref. NA/DDC/JLAC/2024/037

14<sup>th</sup> February, 2024

Mr. Samuel Njoroge  
Clerk of the National Assembly  
Clerk's Chambers, National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
NAIROBI

Douglas Katho  
to facilitate  
up w/ w/ g  
15/2/24

RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)

This has reference to your letter dated the 12<sup>th</sup> February, 2024, under Ref. AG/LDD/237/1/91, and the request to make submission to the Departmental Committee on Justice and Legal Affairs on the National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023).

We sought the policy guidance of the Ministry of Interior and National Administration in respect of the proposed amendments to the Assumption of the Office of President Act, 2012, National Security Council Act, 2012, and National Government Co-ordination Act, 2013, and once such guidance is provided, we shall make our formal submissions thereon.

With respect to the proposed amendment to the National Government Co-ordination Act, 2012, we note that the Schedule to the Bill does not indicate the section of the Act being amended for the purpose of inserting the new paragraph (ba) on Head of Public Service and (ca) on Chief Administrative Secretary. We recommend amending the Schedule to indicate that the section being amended is section 7(2) of the Act. Further, in respect of the proposed section 12A(2) of the Act, delete the word "of" appearing immediately after the word "Chief", and in the proposed subsection (6)(f), delete the words "office by".

Our views on the Bill in respect of proposed amendments that affect the functions of the Office of the Attorney-General are set out as hereunder:

S/No.	Statute to be amended	Proposed amendment	Our comment
1.	The Office of the Attorney-General Act, 2012 (No. 49 of 2012)	Deletion of section 28.	The proposal is not inconsistent with the provisions of the Constitution. A comparative analysis of different jurisdictions indicates that the custody of the public

SHERIA HOUSE, HARAMBEE AVENUE  
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995  
E-MAIL: info.statelawoffice@kenya.go.ke WEBSITE: www.attorney-general.go.ke

DEPARTMENT OF JUSTICE  
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi, Kenya TEL: Nairobi 2224029/2240337  
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

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			<p>seal or similar instruments is entrusted to diverse individuals. Some jurisdictions, including Tanzania and Uganda have assigned custody of the public seal by statute while other jurisdictions have left the decision to the Head of State.</p> <p>In line with Article 94(5) of the Constitution, Parliament has the constitutional mandate to enact legislation with respect to any matter, including on the custody of the public seal.</p>
2.	The National Government Co-ordination Act, 2013 (No. 1 of 2013)	Insertion of new section 8(7)(c).	<p>The proposal to establish the office of the Head of the Public Service and to confer on it the custody of the public seal and any other instrument of State that is not in the custody of any other person is not inconsistent with the Constitution.</p> <p>In line with Article 94(5), Parliament has the constitutional mandate to enact legislation on any matter, including the establishment of statutory offices and the conferment of specific functions on those offices.</p>

We trust that this is in order.

  
 Hon. J.B.N. Muturi EGH  
 ATTORNEY-GENERAL

Copy to: Hon. Shadrack J. Mose  
Solicitor-General

*Douglas Kotho  
to present before committee  
for determination.*

INTERNAL MEMO

TO : THE CLERK OF THE NATIONAL ASSEMBLY

*To cause publication of the memorandum  
and extra matters in a separate  
Bill under the committee on  
Security*

FROM : LEGAL COUNSEL, OFFICE OF THE CLERK

DATE : 5<sup>TH</sup> FEBRUARY, 2024

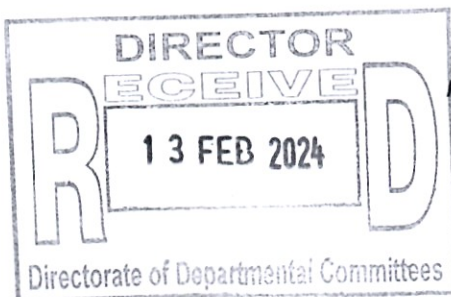
*CSA  
B.2.24  
13/2/24*

**RE: MEMORANDUM ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL, 2023**

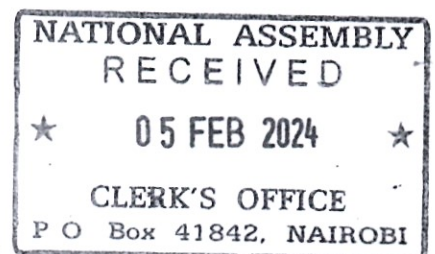
We refer to the above Memorandum received from the Ministry of Interior and National Administration.

We note that the Memorandum seeks the insertion of various proposals in the National Government Administration Laws (Amendment) Bill, 2023 that is sponsored by the Leader of the Majority Party. The proposals seek to amend the Long Title and sections 2, 3, 7, 15, 19 and 20 of the National Government Co-ordination Act, 2013 to—

- (a) expand the long title of the Act to cover additional provisions of the Constitution that the Act gives effect to;
- (b) amend the definition “Cabinet Secretary” from the Cabinet Secretary responsible for matters relating to the “co-ordination of national government functions” to the Cabinet Secretary responsible for matters relating to “internal security”;
- (c) insert new definitions for the terms “division”; “national government administrative unit”; “region”; and “regional commissioner”;
- (d) establish the National Government Service Delivery Unit;
- (e) establish the Office of the Head of the Public Service;



Page 1 of 3



- (f) replace national government service delivery coordination units with “national government administrative units” and prescribe the criteria to be followed by the Cabinet Secretary in establishing the national government administrative units;
- (g) empower the Cabinet Secretary to establish national government service co-ordination Committees responsible for coordination and implementation of national government policies in each national government administrative unit;
- (h) empower the Public Service Commission to appoint Regional Commissioners; and
- (i) repeal the provision on savings and transfer of staff of the former provincial administration.

The National Government Administration Laws (Amendment) Bill, 2023 (hereinafter referred to as “the Bill”) sponsored by the Leader of the Majority Party was published on 24<sup>th</sup> November, 2023 and read a First Time on **6<sup>th</sup> December, 2023**. Pursuant to Standing Order 127, the Bill was referred to the Departmental Committee on Justice and Legal Affairs to facilitate public participation. An advertisement requesting to submission of Memoranda on the Bill was published in the local dailies on **9<sup>th</sup> December, 2023** indicating the close of the public participation period as **28<sup>th</sup> December, 2023**.

The Bill seeks to amend the following laws—

- (a) The Assumption of the Office of the President Act, 2012;
- (b) The National Security Council Act, 2012;
- (c) The Office of the Attorney-General Act, 2012; and
- (d) The National Government Co-ordination Act, 2013.

With regard to the National Government Co-ordination Act, 2013, the Bill seeks to amend sections 2 and 8 of the Act and insert a new provision (section 12A) to establish the office of the Head of Public Service and the Chief Administrative Secretary (CAS) and prescribe the respective functions of the two offices.

Standing Order 133(5) of the National Assembly Standing Orders provides that—

*“No amendment shall be permitted to be moved if the amendment deals with a different subject or proposes to unreasonably or unduly expand the subject of the Bill, or is not appropriate or is not in logical sequence to the subject matter of the Bill.”*

Though the proposal of the Ministry and the Bill both seek to amend the National Government Co-ordination Act, 2013, **their only point of convergence is with regard to the establishment of the position of the Head of the Public Service.** To the extent that the rest of the proposals contained in the Memorandum seek to amend provisions that were not covered in the Bill which was submitted to the public for interrogation, we are of the opinion their inclusion in the Bill would unduly expand the subject matter of the Bill and contravene Standing Order 133(5). Passage of the Bill with the additional proposals would open resultant Act to legal challenge.


**Way forward**

In order for the proposals contained in the Memorandum to be actualized, we advise that the Leader of the Majority Party, as the sponsor of the Bill,—

- (1) **Withdraws and republishes the Bill** with the additional proposals from the Ministry. This would require fresh views to be sought from the public on the republished Bill;

**OR**

- (2) **Proceeds with the consideration of the Bill and only take into account the views of the Ministry on the establishment of the Office of the Head of the Public Service.** The other contents of the Memorandum would then be introduced and processed as a separate Bill sponsored by the Leader of the Majority Party.

  
\_\_\_\_\_  
**Walala Ronald,**  
**Legal Counsel**  
**NATIONAL ASSEMBLY**

1811



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Please review  
~~and~~

D/DC  
Please deal  
Gili  
16/02/24



LAW SOCIETY OF KENYA  
Lavington, Opposite Valley Arcade  
Gitanga Road  
P.O. Box 72219-00200  
NAIROBI  
Tel. 387 4664  
0720 904983

Douglas Katho  
to facilitate  
we will  
19/2/24

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MEMORANDUM TO PARLIAMENT

ON

THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL, BILL NO 73 OF 2023

Eric Theuri, President Law Society of Kenya  
Lavington, opp Valley Arcade,  
Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya  
Tel: +254 111 045 300  
Email: [lskpresidenttheuri@gmail.com](mailto:lskpresidenttheuri@gmail.com)/ [president@lsk.or.ke](mailto:president@lsk.or.ke)  
Website: [www.lsk.or.ke](http://www.lsk.or.ke)

NATIONAL ASSEMBLY  
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15 FEB 2024  
DEPUTY CLERK S. KIOKO  
P.O. Box 41842 - 00100, NAIROBI

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P O Box 41842, NAIROBI

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15 FEB 2024  
Directorate of Departmental Committees



## NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL, BILL NO 73 OF 2023

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### Introduction

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya currently numbering to over 21,000.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- **President**, Eric Theuri
- **Vice President**, Faith Mony Odhiambo
- **General Membership Representatives**, Chrysostom Akhaabi, Kabata Mwaura, Tom K'opere
- **Nairobi Representatives**, Cohen Amanywa, Njoki Mboce, Ochieng Gor
- **Up-country Representatives**, Byron Menezes, Lindah Kiome, Michael Wabwile, Vincent Githaiga
- **Coast Representative**, Riziki Emukule
- **Secretary/CEO**, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to the statutory mandate, the Law

Society of Kenya makes the following submissions on National Government Administration Laws Amendment Bill, Bill No 73 of 2023

## GENERAL COMMENTS AND OBSERVATIONS

It is our considered observation that, any efforts aimed at undermining the country's national security framework by establishing the position of National Security Advisor should be abandoned. The management of national security affairs should adhere to constitutional provisions. Any endeavours to amend constitutional provisions through statutory legislation would undermine constitutional safeguards and jeopardize the rule of law. *The National Government Administration Laws Amendment Bill, 2023*, which seeks to amend various laws pertaining to national administration, including the National Security Council Act, is therefore unconstitutional and unacceptable in a democratic society.

*Chapter 14 of the Constitution of Kenya* delineates the principles of National Security. *Article 239* outlines national security organs, including the Kenya Defense Forces, the National Intelligence Service, and the National Police Service. Additionally, the Constitution permits the establishment of the Ministry of Internal Security and the Ministry of Defense, thereby providing for Cabinet Secretary and Principal Secretary positions in both ministries, which can supply sufficient personnel for inclusion in the National Security Council.

The proposed creation of the National Security Advisor position does not align with this structure and constitutes an effort to establish a new national security organ outside the framework of the Constitution. *Article 3(2) of the Constitution* prohibits any attempt to establish a government that does not comply with the Constitution.

*Article 240 of the Constitution* establishes the National Security Council and specifies its membership, with the Secretary appointed by the Council members. Parliament lacks the authority to amend the constitution through ordinary legislation unless directly permitted by the constitution. Therefore, Parliament cannot legislate to appoint any person or office to this position, as entrusted to the Council by the Constitution.

Granting the President the power to appoint the Secretary of the Council would amount to the President usurping the Council's powers, disregarding the opinions of those entrusted with national security, and undermining the Council's oversight role over national security organs.

The membership of the National Security Council consists of senior state officers entrusted with overseeing all national security organs. The appointment of a secretary to the council is not a routine duty but a matter of national security concern, best handled by the Council as stipulated in the Constitution.

The duties of the proposed office of the National Security Advisor are not specified, and their role in national security organization and administration is redundant given the constitutional provisions in place. There is a risk of the occupant interfering with the independent work of defense forces, intelligence services, and the police, as well as acting as a personal aide to the President without defined roles, reporting structure, or alignment with the bureaucracy. This would effectively undermine the authority of national security heads.

The Committee of Justice and Legal Affairs should be aware of the pending appeal on the constitutionality of the CAS offices. The question of the Constitutionality of the office of the Chief Administrative Secretary was determined by Justice A.C Mrima in the case of **Okoit & Another vs. Public Service Commission & 73; Law Society of Kenya & Another (Interested Party) eKLR (2021)**. The Court of Appeal in **Public Service Commission & 72 Others vs. Okiya Omtatah & 4 Others (2021) e KLR** stayed the implementation of the decision pending the hearing and determination of the Appeal.

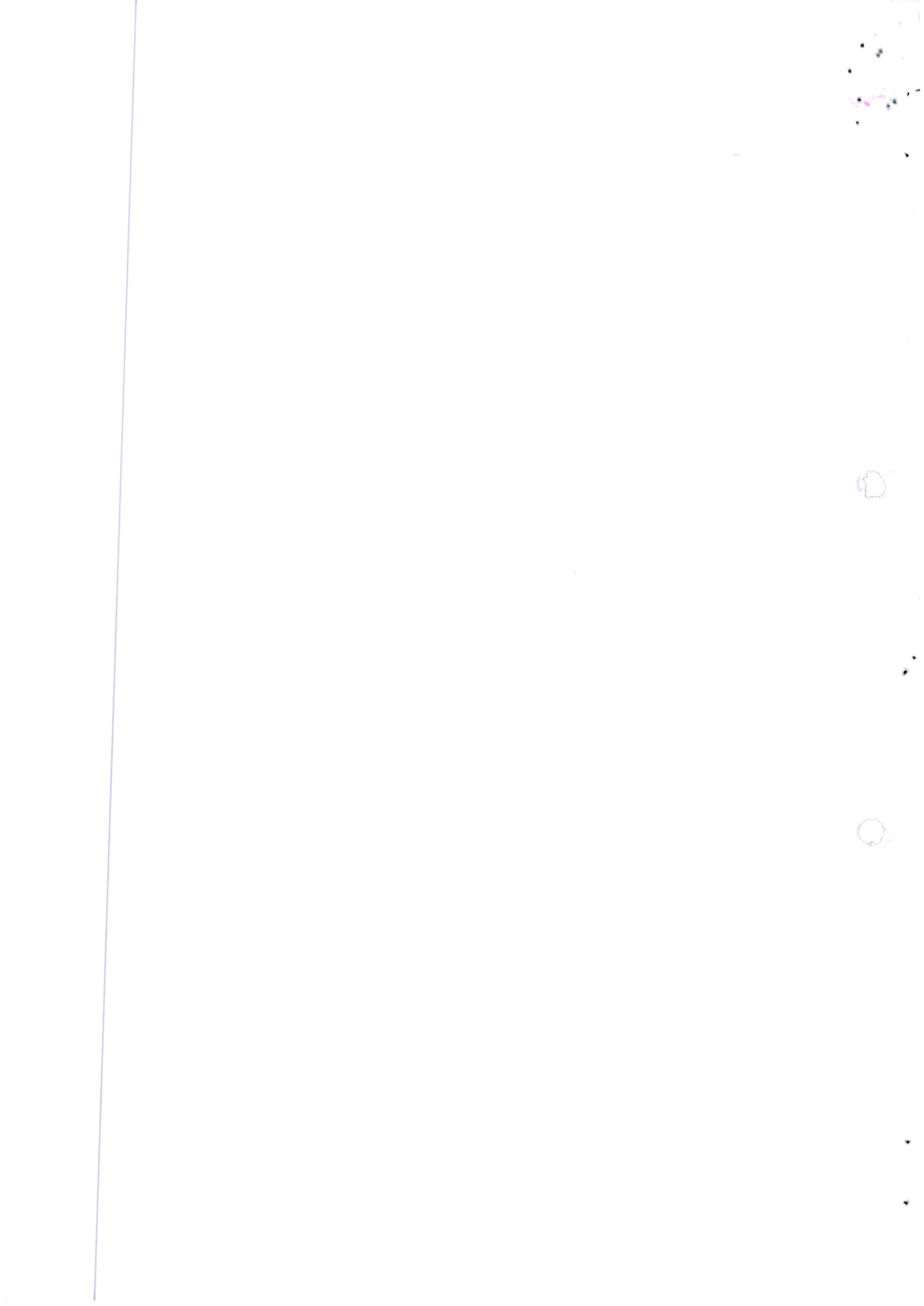
The stay of the implementation of the decision does not overturn the finding of unconstitutionality, therefore it would be prudent to exhaust the appeal mechanism before engaging in the current exercise.

Whereas Parliament may consider a proposal to establish the position of CAS, knowledge of the pending court matter must inform any such consideration. Moreover, the functions of the proposed office will overlap with other existing offices such as the Principal Secretaries. This duplicity of roles will heavily burden tax payers.

**SPECIFIC COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL, BILL NO 73 OF 2023**

Bill and Provision	Issue	Proposal
<p>The assumption of the Office of President Act, 2012 (No.21 of 2012)</p> <p>S,5(2)</p>	<p>Adding more members to the assumption of office committee.</p>	<p>We propose that the Act should not be amended. The leaner the office is, the less bureaucratic it is and the more effective and efficient it is. Bulking this office only attracts more unnecessary expenditure from the exchequer.</p>
<p>The National Security Council Act 2012 (No.23 of 2012) – s.28</p>	<p>Creation of a statutory office of National Security Advisor.</p>	<p>By tradition and practice the office of Presidential advisor is honorary and the appointee serves at the pleasure of the</p>

		<p>president. Making this office statutory will occasion a lot of bureaucratic nuances, our legislative impact assessment finds statutory creation of this office of little value.</p> <p>The office is unnecessary as it will duplicate the duties already designated PSs.</p>
<p><b>The Office of the Attorney General Act (No.49 of 2012)</b></p>	<p>Removal of the duty of keeping the national Seal from the office of the AG,</p>	<p>The seal should remain in custody of the Chief Government Legal Advisor, its usage has immense legal implication and should be insulated from potential legal risks – the question of shifting it to any hand may not be in tandem with good practice and measured standard of care.</p>



20<sup>th</sup> December, 2023

Clerk of the National Assembly

P.O Box 41842 – 00100

Nairobi

[cna@parliament.go.ke](mailto:cna@parliament.go.ke)

Dear Sir,

*D/DCS  
for attention of JIAC  
John Mugoma  
to facilitate consideration  
22/12/23  
Lg M Vg  
29/1/24*

**RE: SUBMISSION OF MEMORANDUM ON NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL NO. 70 OF 2023**

We refer to the advert requesting for submission of comments posted on the National Assembly website [www.parliament.go.ke](http://www.parliament.go.ke) and Saturday Nation of 8<sup>th</sup> December, 2023 on the above matter.

We wish to support the establishment of the office of chief administrative secretaries because we believe it will significantly improve service delivery. Further, establishment through an act of parliament will bring to effect smooth application of Article 132(4)(a) and 260(q) of the Constitution and eliminates predictable but misplaced frivolous litigation on the establishment of chief administrative secretaries even when the law is applied in letter and spirit.

It is noteworthy, that no written law or the constitution limits the President's powers to establish a public office or state office as long as it's done as prescribed in the constitution (done with the recommendation of public Service Commission), litigants have been seeking court redress in the absence of an act of parliament to provide for the vetting procedures. They have succeeded in tying the tagging the office as a state office and using vetting procedures and other procedures required in the appointment of state officers to delay or curtail the appointments.

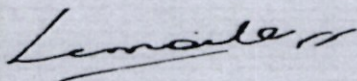
We are certain that the expected benefit of establishing the office far outweighs the cost. The public service commission consider work load, cost benefit and the qualification requirements to deliver on the mandate in order to help determine establishment. The proposal to have the Public service Commission determine the establishment ensures that there is value for money and therefore addresses the question of public interest.

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However, we wish to make the following amendment;

Amend the definition of chief administrative Secretary to read: an officer appointed under Article 132(4)(a) of the Constitution and Section 12A of the Act and designated as state officer under Article 260 of the Constitution. ***This amendment will pre-empt lazy readers but quick in litigation from abusing the court process to secure orders***

Warm Regards



Eddy Mirkoro Lemoile

**Chief Executive Officer**

**Rebuilding Pastoralist Livelihoods Organization**

Clerk of the National Assembly  
P.O Box 41842 – 00100  
Nairobi  
[cna@parliament.go.ke](mailto:cna@parliament.go.ke)

*D/DC*  
*To process - Jlac*  
*to*  
*CWA*  
*28/12/23*

28 December 2023

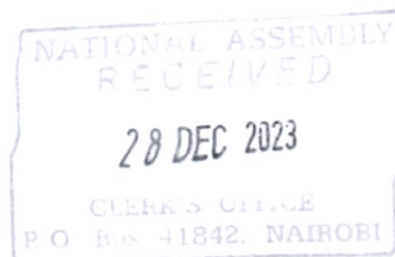
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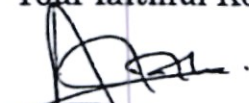
I support establishment of the office of chief administrative secretaries who will support the Cabinet Secretaries to deliver on their mandate for the following reasons it will contribute towards efficient and effective running of government.

1. To provide support and advice to the Minister, among other things by:
  - Anticipating issues in the National assembly and senate or the media
  - Managing current issues and problems, keeping the Minister fully informed
  - Providing advice
  - Generating ideas to support the Minister's agenda
  - Encouraging a climate in which the Minister and Ministry staff can work effectively together
2. To ensure the implementation of:
  - Major projects
  - Policy formulation and direction
  - Sectoral strategic and business plan development
  - Amending and drafting legislation
3. To provide leadership, among other things by:
  - Managing and motivating Directors through delegation and progress reporting
  - Establishing effective collective leadership through the Ministry Management Committee.
  - Ensuring that Directors establish effective collective leadership through Departmental Management Committees
  - Instilling within the Ministry a receptiveness and enthusiasm for reform initiatives.
  - Looking for leaders with the ability to build teams, make decisions, deliver results and communicate effectively.
4. To manage the handling of communications with the public, among other things by:



- Working closely with constituted bodies and others to promote solidarity, exploring ideas and explaining decisions
  - Working to develop effective and sensitive communications with the public throughout the Ministry and in parastatal organizations.
  - Promoting initiatives to improve customer service
5. To contribute to the collective management of Government, among other things by:
- Ensuring that due account is taken of the interests and views of other parts of Government
  - Contributing to discussions on major Government policies
  - Providing long-term, strategic direction
6. In consultation with Directors, where appropriate, to
- Determine departmental role delineations
  - Arrange for organisational restructuring
  - Coordinate staff complement allocation
  - Ensure proper training and development
  - Ensure establishment of effective management information systems
  - Authorise capital acquisition within delegated authority
  - Establish effective linkages within the Ministry and with other Ministries
  - Arrange for effective operations audits

Your faithful Kenyan.



Daniel kiptum  
Elgeyo-Marakwet County

Clerk of the National Assembly  
P.O Box 41842 – 00100  
Nairobi  
[cna@parliament.go.ke](mailto:cna@parliament.go.ke)

D/DY  
For JAC  
28/12/2023  
28 December 2023

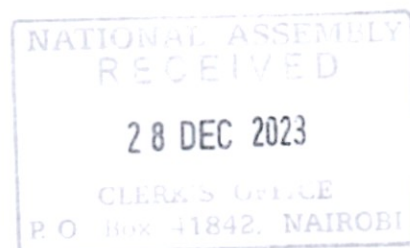
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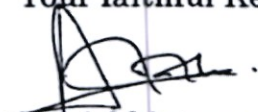
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  - Looking for leaders with the ability to build teams, make decisions, deliver results and communicate effectively.
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  - Authorise capital acquisition within delegated authority
  - Establish effective linkages within the Ministry and with other Ministries
  - Arrange for effective operations audits

Your faithful Kenyan.



Daniel kiptum

Elgeyo-Marakwet County

Clerk of the National Assembly  
P.O Box 41842 - 00100  
Nairobi  
[cna@parliament.go.ke](mailto:cna@parliament.go.ke)  
27 December 2023  
Dear Sir/Madam,

*D/DCS*  
*for attention of JIAC*  
*CAK*  
*28/12/23*

**RE: SUBMISSION OF MEMORANDUM ON NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL NO. 70 OF 2023**

I refer to the advert for submission of comments posted on the National Assembly website [www.parliament.go.ke](http://www.parliament.go.ke) on the above matter among others.

I support establishment of the office of chief administrative secretaries who will support the Cabinet Secretaries to deliver on their mandate for the following reasons it will contribute towards efficient and effective running of government.

Cabinet Secretaries currently face a significant workload, including responding to bilateral, multilateral, and regional commitments. The addition of chief administrative secretaries would help alleviate some of this pressure, allowing Cabinet Secretaries to focus on more strategic matters.

The establishment of chief administrative secretaries is seen as a way to enhance efficiency and effectiveness in government ministries. This move is expected to remove some pressure from Cabinet Secretaries, enabling them to concentrate on strategic matters and policy direction.

The establishment of a public office by the President is provided for in the constitution. Additionally, having assistants for ministers or secretaries of state is a common practice globally, citing the example of the United States.

The constitution allows the President to establish offices, including state offices, where not clearly specified. The argument is that the establishment of chief administrative secretary positions aligns with the constitutional provisions.

Chief administrative secretaries are viewed as principal assistants to Cabinet Secretaries and are expected to contribute to the effective and efficient running of ministries and departments. The comparison is drawn to the need for assistants at various levels within an organization.

It's important to note that the proposed legislation is framed as a response to court rulings and is presented as not interfering with matters under consideration in the court of appeal. The legislation is portrayed as a means to implement Judge Mrema's ruling and establish a framework for future appointments, emphasizing the importance of public participation in the process.

Your faithful citizen

*[Signature]*  
Dennis Matayian Parsanka  
Kajiado County





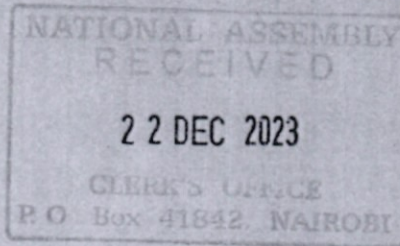
Francis Habara Moroto

Email: [lokwariafhm@googlemail.com](mailto:lokwariafhm@googlemail.com)

Tel.0712101111

21<sup>st</sup> December, 2023

Clerk of the National Assembly  
P.O Box 41842 – 00100  
Nairobi  
[cna@parliament.go.ke](mailto:cna@parliament.go.ke)



*D/Dec*  
*To process*  
*[Signature]*  
*22/12.*

Dear Sir,

**RE: SUBMISSION OF MEMORANDUM ON NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL NO. 70 OF 2023**

We refer to the advert requesting for submission of comments posted on the National Assembly website [www.parliament.go.ke](http://www.parliament.go.ke) on the above matter among Bills of Parliament.

We wish to reiterate that we support the establishment of the office of chief administrative secretaries through an act of parliament as that would contribute towards effective and efficient and effective public service delivery to the public and will eliminate unnecessary court injunctions and resultant litigation costs to tax payers.

Currently, the cabinet secretaries seem and are in indeed overwhelmed considering that they have to respond to several equally demanding duties that include but not limited to bilateral, multilateral, regional commitments and intergovernmental issues in addition to providing strategic direction and oversight to respective ministries without substantive assistants. This has contributed to inefficiencies in service delivery and therefore creating a sense of despair among the populace. There is no government in the globe that doesn't have assistants to the cabinet secretaries/ministers/secretaries of state and Kenya is not an exception. Clearly, the principal secretaries whose role is more of managerial than leadership cannot effectively assist the CS's in performing their cabinet/ministerial responsibilities.

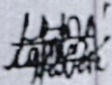
The establishment of a public office including that of a chief administrative secretary by the President is provided for by the Constitution under Article 132(4)(a) while a public office may be designated a state office by an Act of

Parliament as office under Article 260(q) of the Constitution. The Bill therefore brings into effect a constitutional provision on the subject matter.

The adverse high court rulings on the matter which has costed the Kenya citizens the services of the appointees are largely predicated upon legal framework to bring to effect Article 132(4)(a) and Article 260(q).

In our view, Kenya's problem is that everything must be legislated even obvious issues already provided in the Constitution and for that reason an act on the matter is of great urgency to enable the President deliver on his manifesto (BETA) within the envisaged time frames. The three arms of government although independent are also interdependent and should not appear to be in competition or in conflict as that will affect the ordinary person. The power to the three arms of government are delegated and should be exercised for the benefit of the citizens.

Yours,



Francis Habara Moroto

Illeret

Marsabit County

1/04

JEREMIAH KIBET KORIR,

P.O BOX 346,  
NANDI HILLS.

15<sup>th</sup> DECEMBER 2023.

Jeremiahkorir10@gmail.com.

TO THE CLERK OF THE NATIONAL ASSEMBLY,

P.O BOX 41842-00100,

NAIROBI.

DEAR SIR,

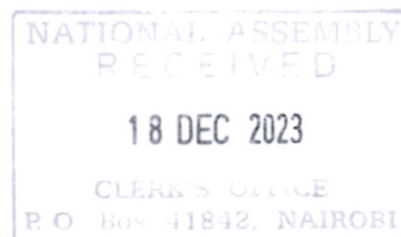
REF: SUBMISSION OF MEMORANDA ON NATIONAL ASSEMBLY BILLNO.66 OF 2023.

I the undersigned having read and understood the bill in the matter of consideration by the National Assembly of the National Government Administration laws (Ammendment0 BILL (National Assembly bill no.66 of 2023);

I submit therefore my memoranda response this way:

1.The creation of the office of the CAS (Chief administrative secretary) came through public participation by the public service commission on the 21<sup>st</sup> September 2022 which later own saw the legal establishment of the office through a court case in the labour and employments court.

2.The role of the CASs as provided by the Public service commission will entail providing inter-ministerial/sectoral coordination, representing the CSs at any



meeting as instructed by the CS and executing any other duties and responsibilities specifically assigned to the office by the CS in furtherance of the interests of the ministry.

With this understanding therefore I wish to support the amendment of the National government administration laws amendment bill with the following reasons:

The 2010 constitution created the devolved system of government to aid in achieving the principles of devolution as stated in article 174 in promoting democratic and accountable exercise of power and fostering National unity among others. The establishment of the office will therefore strengthen this principles since the role of the CASs will be among them to provide liason between the the County and National Governments on matters of concurrent mandate.

Secondly, the proposed amendment proposes that each chief administrative secretary will be responsible to the Attorney General or the respective ministers, this will help in ensuring that the government will move smoothly in its operations without major court cases that have been seen in the past one year through strengthening of the Attorney generals office by having a CAS.

To add on it is that the creation of the office will ease service delivery since the implementors of this administration will have been in office to buttress the workload from the CSs.

Lastly, the manifesto implementation of Kenya kwanza administration will be judged by the people who elected the government of the day and therefore there's need to fasten public service delivery for the common good of the people of Kenya.

On the establishment of the office of the Head of public service and chief of staff under this amendment is a welcomed legislation since the office is mandated to managing and providing leadership in the public service a central role necessary in realizing the goals of public service delivery.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jeremiah Kibet Korir', written in a cursive style.

Jeremiah Kibet Korir

MERCY NYAMBURA MUSHEMI,

P.O BOX 30317,  
NAIROBI.

21<sup>ST</sup> DECEMBER 2023.

Mershbrian03@gmail.com

*D/Dy*  
*To Mr. Clerk*  
*[Signature]*  
*21/12/2023*

TO THE CLERK OF THE NATIONAL ASSEMBLY,

P.O BOX 41842-00100,

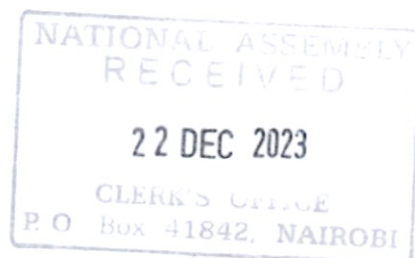
NAIROBI.

DEAR SIR,

REF: SUBMISSION OF MEMORANDA ON PROPOSED AMMENDMENT TO THE  
NATIONAL GOVERNMENT ADMINISTRATION AND BASIC EDUCTAION  
(AMMENDMENT) BILL OF 2023

The office of the Chief administrative secretary has been in the public domain over along period of time. Having known how governments are structured to suit the administration in power achieve the manifesto and the promises, it therefore gives me pleasure to pen my thinking on the proposed bill;

The creation of offices in the public service is a constitutional mandate that is geared towards enhancing service delivery to the people, the proposed creation is normally done through public participation after scrutinizing the need and the work load in the public service.



The offices comes in after the new administration has taken over an indicator that the leadership is focused on doing and delivering exactly the promises as pronounced during campaigns.

If the failure and the delayed implementation of the creation of the CASs office will still be subjected under court cases then Kenyans will be at a big lose for having missed the services they could have received from the said offices since that lose will never be recovered.

In supporting this amendment, I urge the national assembly to ensure that the creation of this office including that of the Head of public service and chief of staff is supported in parliament, Kenyans have an obligation to ask for services from the elected administration and they will miss this opportunity should this amendment fail to go through.

On **the basic education amendment bill**, the proposed sub county education board in every sub county is an important issue since stakeholder involvement from the smallest unit (sub county) will ensure that decisions made in bringing about change and management in basic education is taken closer to the sub county level. High decisions made at the top takes along time and this amendment is going to fill that gap and promote basic education promises under Kenya kwanza government.

Yours faithfully

A handwritten signature in black ink, appearing to be the name 'Mercy Nyambura' written in a cursive style.

Mercy Nyambura

Clerk of the National Assembly  
P.O Box 41842 – 00100  
Nairobi  
[cna@parliament.go.ke](mailto:cna@parliament.go.ke)

Dear Sir,

*D/DCS*  
*To deal - Under*  
*JLAC*  
*JCPA*  
*27/12/2023*

RE: SUBMISSION OF MEMORANDUM ON NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL NO. 70 OF 2023

In reference to the call for comments posted on the National Assembly website [www.parliament.go.ke](http://www.parliament.go.ke) regarding the National Government Administration Laws (Amendment) Bill No. 70 of 2023, we wish to express our support for the establishment of the office of chief administrative secretaries (CAS).

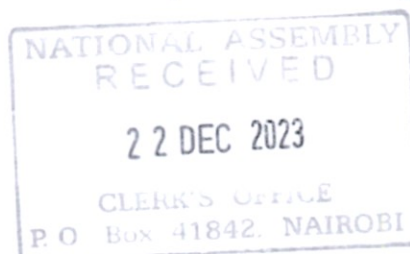
Our endorsement is based on the belief that the introduction of chief administrative secretaries will enhance the efficiency and effectiveness of government operations. At present, Cabinet Secretaries appear to be overwhelmed as they juggle bilateral, multilateral, and regional commitments while providing strategic direction and oversight to their ministries without substantive assistants.

**Key Points of Support:**

- 1. Constitutional Provision:** The establishment of a public office by the President is allowed under Article 132(4)(a) of the Constitution, and an Act of Parliament may designate such an office as a State office under Article 260(q). This aligns with the constitutional framework that foresaw the need for the President to establish offices where necessary.
- 2. Global Practice:** It is a common global practice for Ministers or secretaries of state, as observed in the United States, to have assistants for effective functioning of government ministries and departments.
- 3. Constitutional Forethought:** The drafters of the constitution did not intend to limit the President's authority to establish offices needed for delivering on the manifesto, provided such offices adhere to constitutional provisions.

**The Role of Chief Administrative Secretaries:**

Being the principal assistant to the Cabinet Secretary, a chief administrative secretary would significantly contribute to the effective and efficient running of ministries and departments. This is particularly crucial given the wide-ranging responsibilities of Cabinet Secretaries, which include making decisions that may result in new legislation, budgetary changes, and appointments.



### Differentiating Roles:

It is essential to note that a Principal Secretary cannot serve as an assistant to the Cabinet Secretary due to their distinct roles. While a Principal Secretary focuses on day-to-day departmental management, including financial and human resource functions, the assistant role is crucial for the effectiveness and efficiency of the broader ministry.

### Addressing Legal Concerns:

In response to legal concerns regarding the unconstitutionality of previous appointments, particularly the 2018 and 2022 appointments, it is emphasized that the proposed legislation aims to implement the court's decision and provide a framework for future appointments. The 2018 appointments were not quashed, and the appointees served their full term, while the 2022 appointments were invalidated primarily due to a lack of public participation for 27 out of 50 appointments.

### Conclusion:

The proposed legislation aligns with constitutional provisions and seeks to address legal concerns raised by the courts. It is our belief that the enactment of this legislation will help implement previous court decisions and provide a clear framework for future appointments.

We appreciate your consideration of our input on this matter.

Sincerely,



Nancy Kariuki  
Date: 21<sup>st</sup> Dec 2023.  
KIAMBU COUNTY

*D/Dcs  
To deal. JA  
28/12/23*

Stephen Lesoron Gambare  
P.O Box 201, 60500 Marsabit  
Tel. No.079861572

1 | mail: [slgambare@outlook.com](mailto:slgambare@outlook.com)  
| Tweeter(X): Stephenlesoorn  
22<sup>nd</sup> December 2023

Clerk of the National Assembly  
P.O Box 41842 – 00100  
Nairobi  
[cna@parliament.go.ke](mailto:cna@parliament.go.ke)

Dear Sir/Madam

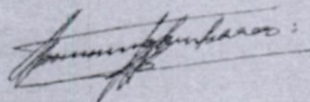
**RE: SUBMISSION OF MEMORANDUM ON NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL NO. 70 OF 2023**

We refer to the advert carried in the Saturday, Nation of 9<sup>th</sup> December, 2023 and posted on the National Assembly website [www.parliament.go.ke](http://www.parliament.go.ke) on the above matter among others.

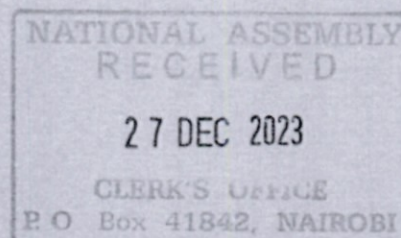
We support establishment of the office of chief administrative secretaries through an act of Parliament and are happy with the provisions except a minor amendment of the definition. While the Constitution provides for the establishment of a public office by the President is provided for in the constitution under Article 132(4)(a), the numerous litigations and lack of clarity on whether the CAS office is a public or State office demands that an act of parliament that establishes the office and designates the office as state office be enacted. These will eradicate many but largely frivolous litigation that have a direct impact on the delivery on mandate by the cabinet secretaries that are forced to operate without assistance contrary to the global good practice. It is important to note that even offices as small all as those of chiefs require an assistant considering that human beings are biological and have their limitations against.

**Proposed amendment**

Amend the definition of chief administrative Secretary to read: an officer appointed under Article 132(4)(a) of the Constitution and Section 12A of the Act and designated as state officer under Article 260 of the Constitution. This will remove redundancies makes it easy for referencing to the constitution.



Stephen Lesoron Gambare



D/DCS  
To process.  
12/12/2023

JOSEPH ODEPH OMULO,

P.O BOX 1994,  
KISUMU.

13<sup>th</sup> DECEMBER 2023.

Josephomulo2017@gmail.com

TO THE CLERK OF THE NATIONAL ASSEMBLY,

P.O BOX 41842-00100,

NAIROBI.

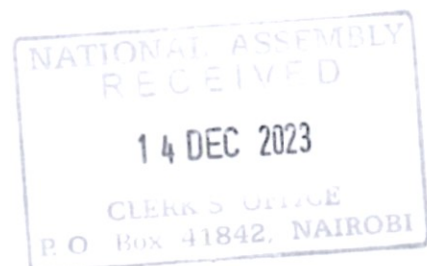
DEAR SIR,

REF: SUBMISSION OF MEMORANDA ON PROPOSED AMMENDMENT TO THE NATIONAL GOVERNMENT ADMINISTRATION.

I am a Kenyan Citizen aged 49 from Muhoroni constituency Kisumu county and I would wish participate in this public participation exercise by saying the following;

The president of the republic of Kenya was elected by the people who gave him the sovereign mandate to provide leadership to this country under his manifesto that he sold to Kenya who elected him by a majority vote. It is therefore his turn to serve the people of Kenya and the mandate given to him was to bring about social change and development to all irrespective of the voting pattern.

I therefore wish to support this amendment on the reason having understood the bill in this manner.



1.The president requested the creation of an office in the public service through the public service and Kenyans participated in 2022 in submitting their views and that office finally was created after a court case.I read the intention of the president as a leader willing to transform this country and such offices should therefore be passed.

2.kenyans are already having higher expectations on this administration in delivering the promises they made if such an office will help in realizing the objective of fulfilling Kenyans promises therefore it should go through as soon as possible.

3.The employment of the CASs in my view will increase and expand the tax base to generate more resources towards bringing the change Kenyans so desires.

4.The proposed CASs derived across the counties also deserves the right to over their expertise to the people of Kenya and in doing so there will be the promotion of Nationhood.

5.County governments have not yet achieved the objective of fostering a united country through diversity and promoting about accountability. The CASs as stated in the proposed bill will be helping counties in liaising the functions of the two governments and this will see counties discharge their mandate as people so

desires. The counties are faced with myriad of challenges and through the liason solutions will be achieved within a short period of time.

6.The creation of the office of the chief of staff and head of public service who will be helping the president in facilitating the organization and execution of government business

Yours faithfully



Joseph Odeph Omulo





REPUBLIC OF KENYA

**Office of The National Security Advisor  
Executive Office of The President**

ONSA/ADM/1/VOL.1/75

13<sup>th</sup> February, 2024

Samuel Njoroge  
Clerk  
National Assembly  
Parliament Building  
**NAIROBI**

Dear *Mr. Samuel Njoroge,*

Reference is made to your letter ref. NA/DDC/JLAC/2023/034, of 12<sup>th</sup> February 2024, in which you invited me to submit a soft copy of my submission on the National Government Administration Laws (Amendment) bill (National Assembly Bill No. 73 of 2023).

Attached please find the said submission. Do note that I shall carry with me to the meeting additional annexes to the submission, for reference by the Committee, as deemed necessary.

I wish to take this opportunity to express my gratitude for this opportunity to present our views on this important matter.

Yours Sincerely,

Amb. Dr. Monica Juma (Oxon), EGH.  
**NATIONAL SECURITY ADVISOR.**

14<sup>th</sup> February 2024

**SUBMISSIONS OF THE OFFICE OF THE NATIONAL SECURITY ADVISOR ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023) TO THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS OF THE NATIONAL ASSEMBLY OF KENYA.**

**Chairman of the Committee**

**Honourable members**

I am honoured by the invitation to appear before this distinguished committee of the National Assembly of Kenya to submit views to your effort to enrich the content of the National Government Administration Laws (Amendment) bill (National Assembly Bill No. 73 of 2023), which was submitted by Hon. J.B Muturi, the Attorneys General on 20<sup>th</sup> day of November 2023.

As a way of introduction Chair, and Honourable members, and as the current and first holder of the position of the National Security Advisor to the President, appointed vide Executive Order no.1 of October 2022, I view this as an effort that contributes in a significant manner, to giving effect to the full implementation of our Constitution (2010).

The standing of the Office of the National Security Advisor is a step in a journey of institutional development that has, since independence, and over time, been clarifying the character and operations of our nation's security architecture and how security is delivered.

Significantly, the 2010 Constitution centres human security at the core of security provision and demands accountability as part of the democratic credentials and aspirations of our nation. From a place where security was intelligence-led and executed in secrecy, with limited if any accountability, we are evolving a framework where security is people-centred, where security organs are placed firmly under the tutelage of civil oversight and are required

*Mehmal*

by law to act in furtherance of the democratic imperatives, and under firm checks, balanced and controls.

Furthermore, the complexity of today's world and the fast evolving trends that characterize it, with profound implications for the welfare of the people and wellbeing of nations and countries, has seen the growth of the Office of the National Security Advisor as a useful addition to the structure of the Executive Office of the President/Prime Ministers across the world - to focus on monitoring both risks and opportunities, provide a 360 view of the terrain, and to independently, without the encumbrance of mandate, proffer options for securing and enhancing the national interests of countries, for the consideration of the Heads of State/ and government.

This being a new institution, we reviewed the workings of a range of jurisdictions in our region (Ethiopia, Rwanda, Somalia), in Africa (Ghana, South Africa, Egypt) and beyond, drawing heavily on the USA (the first country to stand this office), the UK, Germany, India to understand and adapt the structure and modalities of this office to our needs and aspirations.

Basically, the mandate of the National Security advisor is conceived to encompass two primary roles:

- a. An advisory role to the President on the State of Security and options for addressing risks and opportunities in line with national interests, (in this sense it proffers options for consideration to the President/PM and
- b. To serve as Secretary to the National Security Council, which entails operationalizing the work of the Council and institutionalizing the NSC bureaucracy - supporting the workings of the NSC to create efficient and effective business processes in this critical organ.

Across the world, the NSA role is at the Cabinet level but does not hold an operational portfolio. Its scope of work is at the grand strategy level - offering advisory and options for consideration. It therefore does not hinder or obstruct, in any shape or form, the operations of any of the security organs.

**Honourable Chair, Members,**

The proposed amendment to the National Security Council Act, 2012, will proffer the following critical outcomes:

- a. It provides for the appointment of the National Security Advisor, in essence giving legal effect to the establishment of this office. We concur

*Technical*

with this proposal, and further seek its improvement by proposing a clear outline of the functions and roles of the office.

- b. It designates the National Security Advisor as the Secretary to the National Security Council. We concur with this provision which de-conflicts roles within the security architecture, and aligns with the best practices globally. From a good/accountable governance perspective it avoids duplication and secures the secretariat of the NSC from any mandate encumbrance.
- c. It establishes in law, the National Security Council Committee, and prescribes its functions, hence eliminating discretionary action in the security arena.

**Chairman, Honourable members,**

Having considered the letter and spirit of creating the Office by H.E the President, best practice in other jurisdictions as well as the modalities of ONSA work, I wish to make the following proposals in the format guided:

*Michael*



			<p>7. (4) The National Security Advisor Shall -</p> <ul style="list-style-type: none"><li>a. Advise the President on National Security matters</li><li>b. Head the Joint Security Secretariat</li><li>c. Integrate the conception of National Security and create cohered national security priorities</li><li>d. Coordinate the formulation of the National Security Policy and National Security strategy.</li><li>e. Coordinate the Production of the President's Annual Report to Parliament on the State of National Security.</li><li>f. Any other function as directed by the President.</li></ul> <p>7. (5) The National Security Advisor shall serve at the discretion of the President.</p>	<p>The proposed amendment aligns with best practices in other jurisdictions across the world where the NSA heads the Secretariat of the NSC.</p> <p>Notably, each Member of Council, as designated in the Constitution, has a substantive mandate and leads in a specific docket. This proposal creates a separation of functions - and avoid any possible conflict of interest.</p> <p>In all jurisdictions with this establishment, the NSA tenure runs concurrent to that of the Appointing Authority and serve at their discretion. They also form part of the Staff of the Executive Office of the President/PM.</p>
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*Michael*

Encl.

**Annexes for consideration/Reference as necessary**

- a. Executive Order of October 2022 - appointing the NSA
- b. The Kenya Gazette 2859 - notifying of the appointment of the NSA as Secretary to the NSC
- c. Letter to the AG proposing amendments to effect the establishment of the National Security Advisor of 7<sup>th</sup> December 2022
- d. Reference documents on the USA National Security Council (established in 1947)
  - i) National Security Council
  - ii) The National Security Council: Background and Issues for Congress.

*Michael*



REPUBLIC OF KENYA

**MINISTRY OF INTERIOR AND NATIONAL ADMINISTRATION  
STATE DEPARTMENT FOR INTERNAL SECURITY AND  
NATIONAL ADMINISTRATION**

**SUBMISSION BY DR. RAYMOND OMOLLO, PhD., CBS.,  
PRINCIPAL SECRETARY,  
STATE DEPARTMENT FOR INTERNAL SECURITY AND  
NATIONAL ADMINISTRATION**

**TO THE  
DEPARTMENTAL COMMITTEE ON JUSTICE  
AND LEGAL AFFAIRS**

**ON**

**THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF  
2023)**

**12<sup>TH</sup> FEBRUARY, 2024 AT 10:00AM  
MINI CHAMBER, 1<sup>ST</sup> FLOOR COUNTY HALL,  
PARLIAMENT BUILDINGS, NAIROBI**

**Hon. Chairman**

**Members of the Departmental Committee on Justice and Legal Affairs**

**Committee Secretariat**

**Members of the Fourth Estate**

**All Protocols Observed**

1. From the very outset, I wish to sincerely thank you for the invitation extended to me via your letter dated 30<sup>th</sup> January 2024 to appear before this honourable Committee. Indeed, we are grateful for granting us an opportunity to submit our views on the National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023).
2. The Ministry of Interior and National Administration in general and the State Department for Internal Security and National Administration in particular, acknowledges the expeditious move by the National Assembly seeking to introduce the National Government Administration Laws (Amendment) Bill, 2023 being a Bill for An Act of Parliament to make various amendments to statute law on national government administration and for connected purposes. The Ministry lauds this move and wishes to affirm its support to this process.
3. We have closely studied the proposed amendments to the four statutes, namely:
  - i. The Assumption of Office of the President Act, 2012 (No.21 of 2012);
  - ii. The National Security Council Act, 2012 (No.23 of 2012);
  - iii. The Office of the Attorney-General Act, 2012 (No.49 of 2012); and
  - iv. The National Government Coordination Act, 2013 (No.1 of 2013).

**Hon. Chairman,**

4. It suffices to note that the Ministry has a legislative proposal, the National Government Coordination (Amendment) Bill, 2023 that seeks to introduce amendments to various sections of the National Government Coordination Act, 2013. The latter is among the Deliverables and Commitments in the Ministry's Policy and Legislative Agenda for the Financial Year 2023/2024 as documented vide our engagements with the Office of the Prime Cabinet Secretary.
5. We are glad that the proposed amendments being steered by the National Assembly, therefore, provides an opportunity and ripe moment to bring our efforts to fruition through consideration and incorporation of the Ministry's legislative proposals into the National Government Administration Laws (Amendment) Bill, 2023. In fact, our Legislative Proposal seeks to anchor the Office of the Head of Public Service within the National Government Coordination Act.
6. Our presence at this Committee, therefore, appears to make our dreams come true. It is, therefore, our considered view and submission that the amendments provided

for in the National Government Coordination (Amendment) Bill, 2023 be refined progressed to conclusion.

**Allow me now to proceed and submit detailed account of our submission based on the format as guided by this Committee:**

**1) THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT ACT, 2012  
(No. 21 of 2012)**

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
5(2)	Clause 2	The purpose of the amendment is to expand and strengthen the composition of the Assumption of the Office of the President Committee to include the National Security Advisor (Clause 'ca') and the Principal Secretary for the State Department responsible for matters relating to defence (Clause 'cb')	<ul style="list-style-type: none"> <li>a) The National Security Advisor will advise the in-coming president on security matters.</li> <li>b) The Principal Secretary for matters relating to defence will advise the in-coming president on administrative matters in the Ministry.</li> <li>c) We propose that section 5(2) (c) should be amended so that the Committee will consist of the Cabinet Secretary responsible for matters relating to internal security AND NOT the Cabinet Secretary responsible for matters relating to the registration of persons and</li> </ul>

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
			<p>immigration.</p> <p>d)The chairperson of the committee should be the Head of Public Service</p> <p><u>Composition of the Committee:</u></p> <p>-We propose that the 'Principal Secretary, Constitutional Affairs' be replaced with Solicitor General – State Law Office</p> <p>-We propose that the 'Principal Secretary in charge of Local Government' be replaced with the Principal Secretary State Department for Devolution</p>
5(2)(r )	Clause (2)	The Bill seeks to enhance the representation of the President-elect in the Committee by increasing his/her representatives from three to six.	<p>a) It will strengthen the representation of the President-elect in the Committee.</p> <p>b) It will enable the President-elect to achieve diversity in his/her representation.</p>

2) THE NATIONAL SECURITY COUNCIL ACT, 2012

(No. 23 of 2012)

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
Section 2	Clause 2	The amendment seeks to introduce the definition of 'Committee 'and the "National Security Advisor" in the definitive section of the Act i.e. section 2.	The definitions are missing in the Act and their inclusion is therefore necessary.
Section 5	Clause 2	The amendment seeks to establish a Committee of the Council known as the National Security Council Committee, its composition and functions. It states that the Secretary to the Committee shall be the Secretary of the National Security Council.	<p>a) The <b>National Security Council Committee</b>, by virtue of the duties assigned to it, will greatly assist the Council in the discharge of its mandate.</p> <p>b) <b>However</b>, having the National Security Advisor as the Secretary to both the Council and the Committee may pose challenges and conflict of interest. The Committee makes recommendations to the Council and hence the National Security Advisor</p>

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
			<p>will be deliberating on recommendations to which she is party to.</p> <p>c) <b>We fully agree</b> that the National Security Advisor be the Secretary to the Council and not the Committee.</p> <p>d) The National Security Advisor may be coopted in the Council as circumstances permit.</p> <p>e) <b>We opine that</b> the Committee should appoint its own Secretary from among its members.</p> <p>f) <b>The best case scenario</b> is for the Secretariat services of the Committee be provided by a Joint Security Secretariat as is the current practice.</p> <p>g) In the composition of the National Security Council its proposed that the</p>

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
			Principal Secretary responsible for matters Finance replaces the Principal Secretary, National Treasury
Section 7	Clause 2	The amendment seeks to establish the office of the National Security Advisor who shall be the Secretary to the Council	As noted above, having the National Security Advisor as the Secretary of both the Council and the Committee is likely to pose difficulties.

### 3) THE OFFICE OF THE ATTORNEY GENERAL ACT, 2012

(No. 49 of 2012)

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
Section 28	Clause 2	The amendment seeks to remove the custody of the public seal from the Attorney General to the Head of the Public Service.	Being the administrative head of the Executive Office of the President, it is only logical that the Head of Public Service be the custodian of the Public Seal and any instrument of State not in the custody of any person.

4) THE NATIONAL GOVERNMENT CO-ORDINATION ACT, 2013  
(NO. 1 OF 2013)

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
Section 2	Clause 2	The amendment seeks to introduce the definition of 'Chief Administrative Secretary' and the 'Head of the Public Service' in the definitive section of the Act i.e. section 2.	-The definitions are missing in the Act and therefore their inclusion is necessary.
Section 7(2)	Clause 2	The amendment seeks to add the office of the Head of the Public Service and the Chief Administrative Secretary to the framework the President uses for the co-ordination of the national executive functions.	The two Offices are vital for coordination of national executive functions
Section 8	Clause 2	The amendment seeks to establish the Executive Office of the President, the Head of the Public Service and Chief Administrative Secretary. The Head of the Public Service is to be appointment by the President and	These offices are vital in the execution of government business.

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
		his/her duties are specified in the amendments.	
Section 12	Clause 2	The amendment seeks to establish the office of the Chief Administrative Secretaries, their qualification, appointment and duties.	-This Office is critical in the execution of the mandate of a Ministry and or a State Department.  -We propose that a 'Chief Administrative Secretary' should have knowledge or experience in public service.

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE IN OUR BILL AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
Section 1	Clause 1	This Act may be cited as National Government Co-ordination (Amendment) Bill, 2023.	This is an amendment Bill
Section 1	Clause 2	The National Government Co-ordination Act, 2013, in this Act referred to as "the principal Act", is amended by deleting the long title and substituting therefore the following new long title—  An Act of Parliament to establish an administrative and institutional framework for the co-ordination of national	Need to cite additional articles in the constitution

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE IN OUR BILL AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
		Government functions at the national and county levels of governance; to give effect to Articles 6(2),131(1)(b),132 (3)(b) and (c), 238, 239(5) and 240 of the Constitution: and for connected purposes.	
Section 2	Clause 3	<p>(ii) deleting the definition of “national Government function” and substituting therefore the following new definition—</p> <p>“national Government function” means a function assigned by the Constitution, this Act or any other written law to the national Government and for the purpose of national Government service;</p> <p>(b) by inserting the following new definitions in proper alphabetical sequence—</p> <p>“division” means an administrative unit established under section 14(1);</p> <p>“national Government administrative unit” means a unit of administration”;</p> <p>“region” means a unit of administration established as cluster of counties under section 14(1); and</p> <p>“regional commissioner” means an officer appointed under section 15(2) (f).</p>	
Section 3	Clause 4	Section 3 of the principal Act is amended by deleting paragraph (a) and substituting	Need to cite additional Articles in the

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE IN OUR BILL AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
		<p>therefore the following new paragraph—</p> <p>(a) facilitate the exercise of executive authority pursuant to Articles 6(2), 131(1)(b), 132(3)(b) and (c), 238, 239(5) and 240 of the Constitution.</p>	Constitution
Part II	Amendment of heading of Part II of No. 1 of 2013.	<p>5. The principal Act is amended by deleting the heading of Part II and substituting therefor the following new heading—</p> <p><b>PART II—COMPOSITION AND FUNCTIONS OF NATIONAL GOVERNMENT ADMINISTRATION</b></p>	To give more clarity to the heading
Section 7(2)(a)	Clause 7(2)(a)	Delete the 'Office of the President' and replace it with the 'Executive Office of the President.'	To conform to clause 2 of the Bill where it is proposed that the 'Executive Office of the President' should replace 'Office of the President.'
Section 11	Clause 8	This proposed amendment establishes the office of the Head of Public Service.	This office is critical in the execution of government business.
Section 14	Clause 9	The principal Act is amended by repealing section 14 and replacing it with the following new section- 14A(1) The Cabinet Secretary may, by a notice in the Gazette, establish national Government	It sets out the procedure of establishing administrative units.

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE IN OUR BILL AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
		<p>administrative units.</p> <p>(2) For the puposes of this section, the locations and sub-locations in existence immediately before the commencement of this Act shall continue to exist as national Government administrative units.</p>	
Section 15	Clause 10	<p>The principal Act is amended in section 15 by deleting subsection 2 and substituting therefore the following new subsections 2 and 3 —</p> <p>(2) Pursuant to subsection (1), the Public Service Commission shall appoint—</p> <p>(a) a regional commissioner in respect of a region;</p> <p>(b) a county commissioner in respect of a county;</p> <p>(c) a deputy county commissioner in respect of a sub- county;</p> <p>(d) an assistant county commissioner in respect of a division;</p> <p>(e) a chief in respect of a location;</p> <p>(f) an assistant chief in respect of a sub-location; and</p> <p>(g) any other national Government administrative officer or such other person in respect of national Government administrative unit established in accordance with section 14.</p>	<p>The appointment of Regional Commissioners and other national administrative officers should be anchored in the Act.</p>

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE IN OUR BILL AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
		<p>(3) Pursuant to subsection (1), the Public Service Commission shall appoint the following National Government Officers in respect of National Government Administration in Ministries, State Department and Departments—</p> <p>(a) Principal Administrative Secretary;</p> <p>(b) Secretary;</p> <p>(c) Director Administration;</p> <p>(d) Senior Deputy Secretary;</p> <p>(e) Under Secretary;</p> <p>(f) Senior Assistant Secretary;</p> <p>(g) Assistant Secretary</p>	
Section 15	Clause 11	<p>The principal Act is amended by inserting the following new section immediately after section 15—</p> <p>15A.(1) The Cabinet Secretary shall as may be appropriate appoint a person to head any other national government administrative unit established under this Act.</p>	This is to ensure effective coordination of government business.

SECTION OF THE ACT BEING AMENDED	SPECIFIC CLAUSE IN OUR BILL AMENDING THE SECTION	PROPOSED AMENDMENT	JUSTIFICATION
Section 19(2)	Clause 12	Amend Section 19 (2) on appointment of mediators by the relevant Cabinet Secretary.	The Cabinet Secretary referred to is the Cabinet Secretary responsible for National Government Coordination and not the Cabinet Secretary responsible for Internal Security
Section 20	Clause 13	The principal Act is amended by repealing section 20.	It was a transitional clause that has been overtaken by events.



**DR. RAYMOND OMOLLO, PhD, CBS**  
**PRINCIPAL SECRETARY**  
**INTERNAL SECURITY AND NATIONAL ADMINISTRATION**



REPUBLIC OF KENYA



CABINET OFFICE

**PUBLIC PARTICIPATION ON THE THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

**12<sup>TH</sup> FEBRUARY 2024**

**Submitted to:**

**The Departmental Committee on Justice and Legal Affairs of The National Assembly**





**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

**A. THE ASSUMPTION OF OFFICE OF THE PRESIDENT ACT, 2012 (NO. 21 OF 2012)**

Section	Status	Provision	Recommendations	Justification
5(2)	New	The Committee will be an adhoc committee and shall consist of: - (ca) The National Security Advisor	Supported	To provide whole of Government linkages.
		(cb) The Principal Secretary in the State Department responsible for matters relating to Defence.	Supported	To provide whole of Government linkages.
			We note reference to Principal Secretaries in the Ministries of Constitutional Affairs, Local Government and Cabinet Office. There is need to align these designations with the Executive Order of the 5 <sup>th</sup> Administration.	
5(2)	Delete and substitute	six persons nominated by the President-elect.	Supported	This proposal introduces approximately 1/3 representation for the President – elect, which is fairly proportionate.



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

**B. THE NATIONAL SECURITY COUNCIL ACT, 2012 (NO. 23 OF 2012)**

Section	Status	Provision	Recommendations	Justification
2	New	Insert the following new definitions in their proper alphabetical sequence—  “Committee” means the National Security Council Committee established by section 5;	Draft this section under the law in either singular or plural format.	This will safeguard consistency in the interpretation of the law.
		“National Security Advisor” means the National Security Advisor appointed under section 7.	Supported	Supports clarity in interpretation.
5	Delete and substitute with:	5. (1) There is established a committee of the Council which	Inclusion of the Secretary to the Cabinet as a	For alignment and progression of recommendations from



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>shall be known as the National Security Council Committee.</p> <p>(2) The Committee shall consist of —</p> <p>(a) the Head of the Public Service who shall be the Chairperson;</p> <p>(b) the Chief of the Kenya Defence Forces;</p> <p>(c) the Director-General of the National Intelligence Service;</p>	<p>member of the Committee.</p>	<p>the National Security Council into Cabinet for approval. This will also close the governance gap.</p>



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(d) the Inspector-General of the National Police Service;</p> <p>(e) the Solicitor-General;</p> <p>(f) Principal Secretary in the State Department responsible for matters relating to Defence;</p> <p>(g) the Principal Secretary in the State Department responsible for matters relating to internal security;</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(h) the Principal Secretary in the State Department responsible for matters relating to foreign affairs;</p> <p>(i) Principal Secretary to the National Treasury; and</p> <p>(j) the other persons whose knowledge and skills considered necessary for the functions of the Committee as authorized by the National Security Council.</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		(3) The Secretary of the National Security Council shall be the Secretary to the Committee.	Supported	Provides clarity at both Committee and Council levels.
		4) The Committee shall –  a) recommend to the Council policies, programmes and activities in respect of the national security interests of Kenya in internal affairs, foreign relations and national defence;	Delete (f)	It is not an active function; it is an activity assumed in the exercise of the functions of the committee.



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(b) oversee the implementation of the decisions of the Council;</p> <p>(c) be responsible for the day-to-day coordination of national security matters;</p> <p>(d) monitor and give advance warning on national security matters;</p> <p>(e) monitor and give advance warning on threats to Kenya's national interests;</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(f) commission or prepare reports and briefings in respect of the national security interests of Kenya; and</p> <p>(g) perform such other functions as may be conferred on it by the Council.</p>		
		<p>(5) The Council may establish any other committees of the Council as it may consider necessary for the effective discharge of its functions under the Constitution, this Act or any other written law.</p>	Supported	To enable agility to exercise its functions.



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		(6) The Council may co-opt into the committees established under subsection (1) other persons whose presence, participation, knowledge or skills are necessary for the proper performance of the functions of the Council.	Draft this section under the law in either singular or plural format.	This will safeguard consistency in the interpretation of the law.
7	Delete and substitute	7 (1) There is established the office of the National Security Advisor which shall be an office in the public service.  (2) The President shall nominate the National Security Advisor on the Recommendation of the Public Service Commission.	Supported.	



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(3) The National Security Advisor shall be appointed by the President with the approval of the National Assembly.</p> <p>(4) The National Security Advisor shall be the Secretary to the Council.</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

**C. THE OFFICE OF THE ATTORNEY GENERAL ACT, 2012 (NO. 49 OF 2012)**

Section	Status	Provision	Recommendations	Justification
28	Delete	The Attorney-General shall have custody of the public seal of the Republic of Kenya.	<p>Supported. A desktop study indicates the President as the custodian of the Public Seal (Uganda, Tanzania, Seychelles), with powers to appoint a person holding service to be custodian and to give directions as to the manner it will be kept and used.</p> <p>The narrative on the public seal appears to suggest a seal in the physical form. Might this be the time for Kenya to anticipate a</p>	<p>Enactment of the Public Seal Act would enable development of regulations governing the description, design, use, custody, authentication,</p>



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

			physical and electronic seal?	restriction and display thereof. This Act will also cater for attendant offences.
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**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

**D. THE NATIONAL GOVERNMENT CO-ORDINATION ACT, 2013 (NO .1 OF 2013)**

Section	Status	Provision	Recommendations	Justification
2	New Definitions	<p>“Chief Administrative Secretary” means a Chief Administrative Secretary appointed under section 12A;</p> <p>“Head of the Public Service” means the Head of Public Service appointed under section 8(4);</p>	Supported	To align with the executive structure of the Administration.
	New	<p>Insert the following new paragraph immediately after paragraph (c)—</p> <p>(ba) the Head of the Public Service</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
	New	<p>Insert the following Immediately after paragraph (b)—</p> <p>(ca) Chief Administrative Secretary.</p>		
8	Delete and substitute	<p>Delete the marginal note and substitute therefor the following new marginal note— “The Executive Office of the President’</p> <p>Add the following new subsections immediately after subsection (2) —</p> <p>(3) There is established the</p>	7(c) to read “be the custodian of the Public Seal and any other instruments of State”	The Public Seal and instruments of State are symbols of statehood responsible for upholding and representing the sovereignty and identity of a nation. Their existence and maintenance should never be in doubt.



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>office of the Head of Public Service.</p> <p>(4) The Head of the Public Service shall support the President in facilitating the organization and execution of Government business.</p> <p>(5) The President shall appoint the Head of the Public Service.</p> <p>(6) The Head of the Public Services shall serve at President's pleasure.</p> <p>(7) The Head of the Public</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>Service shall —</p> <p>(a) be the Chief of Staff to the President;</p> <p>(b) be the administrative head of the Executive Office of the President;</p> <p>(c) be the custodian of the Public Seal and any other instruments of State that are not in the custody of any other person; and</p> <p>(d) perform such other functions as may be</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		assigned by the President.		
12	New	<p>12A. (1) There is established the office of the Chief Administrative Secretary which shall be an office in the public service.</p> <p>(2) The complement of Chief of Administrative Secretaries shall be determined by the Public Service Commission.</p> <p>(3) The President shall, on the recommendation of the Public Service Commission and approval of the National</p>	Supported	



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>Assembly, appoint Chief Administrative Secretaries.</p> <p>(4) A person shall be eligible to be appointed as a Chief Administrative Secretary if that person —</p> <p style="padding-left: 40px;">(a) has a Bachelor's degree from a university recognized in Kenya;</p> <p style="padding-left: 40px;">(b) has knowledge of and experience in the public service; and</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(c) satisfies the requirements of Chapter Six of the Constitution.</p> <p>(5) A person is not qualified to be appointed as a Chief Administrative Secretary if that person —</p> <p>(a) has been convicted of an offence carrying a penalty of imprisonment for a term of at least six months without the option of a fine;</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(b)has been adjudged bankrupt by a court of competent jurisdiction;</p> <p>(c)holds any office in a political party;</p> <p>(d)is a member of any legislature;</p> <p>(e)is a public officer;</p> <p>(f)holds any State office;</p> <p>or</p> <p>(g)has been removed from any public office by impeachment or</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>conviction by a court of competent jurisdiction.</p> <p>(6) A Chief Administrative Secretary shall be responsible for –</p> <p>(a) responding to issues relating to the portfolio assigned to the office;</p> <p>(b) liaising with parliament;</p> <p>(c) liaising with County Governments on matters of concurrent mandate;</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>(d) providing inter-ministerial and sectoral co-ordination;</p> <p>(e) representing the Cabinet Secretary at any meeting as directed by the Cabinet Secretary; and</p> <p>(f) Performing any other duties assigned by the office of the Attorney General or the relevant Cabinet Secretary.</p> <p>(7) Each Chief Administrative Secretary shall be responsible to the Attorney General or the</p>		



**CABINET OFFICE COMMENTS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Section	Status	Provision	Recommendations	Justification
		<p>respective Cabinet Secretary in the performance of his or her duties.</p> <p>(8) The Office of Chief Administrative Secretary shall be a State Office.</p>		



*J/DCS*  
*For attention of*  
*JMAC. or*  
*27/12/23*

Innovative Climate Adaptation Kenya  
P.O Box 559-00100  
Nairobi  
Tel. No. +247 2 8000256/0723505656  
22<sup>nd</sup> December, 2023

Clerk of the National Assembly  
P.O Box 41842 – 00100  
Nairobi  
[cna@parliament.go.ke](mailto:cna@parliament.go.ke)

Dear Sir/Madam

**RE: SUBMISSION OF MEMORANDUM ON NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL NO. 70 OF 2023**

We refer to the advert carried in the Saturday, Nation of 9<sup>th</sup> December, 2023 and posted on the National Assembly website [www.parliament.go.ke](http://www.parliament.go.ke) on the above matter among others.

We support establishment of the office of chief administrative secretaries who will support the Cabinet Secretaries to deliver on their mandate for the following reasons;

- 1) It will contribute towards efficiency and effectiveness in government ministries/departments as it will remove some of the pressure on currently the Cabinet Secretaries and allow them to focus on more strategic matters and providing policy direction. Faced with myriads of decision to make including which international ministerial meeting or intergovernmental responsibilities or inter-ministerial function to participate in in addition to regular running of the ministry the cabinet secretaries would without assistants be forced to be more involved in firefighting rather than providing strategic direction. This observation is actually being made by the public.
- 2) The establishment of a public office by the President is provided for in the constitution under Article 132(4)(a). Further, through an Act of Parliament as office may be designated a State office as provided for under Article 260(q) of the Constitution. The constitution therefore foresaw the need for the President to establish offices including state offices where it is not clearly spelt out.
- 3) It is a common practice globally for Ministers or secretaries of state like in the case of USA to have assistants for effective functioning of government ministries and departments
- 4) The drafters of the constitution did not foresee the curtailing of president's powers to establish offices to enable him/her deliver on the manifesto if that office is established in accordance with the provisions of the constitution by other arms of government.

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P. O. Box 41842, NAIROBI

Being principle assistant to the cabinet secretary, a chief administrative secretary would undoubtedly contribute towards effective and efficient running of respective ministries/departments. A Cabinet Secretary is the head of a government ministry and forms part of the policy and decisions process that is central to government action. This decision may result in a new legislation, budgetary changes, and appointments. A cabinet Secretary is therefore being responsible for such a daunting task and for effectiveness and efficiency of agencies within his/her portfolio require an assistant just like a chief will require an assistant, a director requires an assistant and so on.

It should be clear that a Principle secretary cannot be an assistant to the Cabinet Secretary since the role a PS is purely that of day to day running of departments such as financial management as provided for in Constitution and the Finance Act, 2012 and human resource function also provided for in the Constitution and the Public Service Commission Act.

However, parliament may ask why the courts considered the 2018 and the 2022 appointments unconstitutional and should parliament consider the matter while actively in court? We will respond to these questions

Judge Mrima declared the appointments unconstitutional for three reasons: **a) it was not done through a competitive process (b) public participation was not done (c) vetting was not done.** However, the appointments were not quashed and the appointees served their full term. The 2022 appointments were quashed mainly for one reason; **lack of public participation for 27 out of 50.** The order read “reasonable public participation was done for 23 chief administrative secretaries but there was no such participation for the additional 27 office holders”. The government has appealed the decision of the high court which on our view erred because public participation was on the position but not on the numbers and that the appointments were done in accordance with Article 132(4)(a) of the Constitution. In any case, if public participation was done on 23 as they claimed why quash entire 50?

Based on the two rulings (2018 and 2022), the legislation will help implement the decision Judge Mrima’s ruling and provide a framework for future such appointments. The act of parliament being proposed therefore has no bearing on the matter under consideration in the court of appeal and cannot be construed to imply to interfere with what is under consideration in the court of appeal.



Bernard Morongei  
Chairman

**INNOVATIVE CLIMATE ADAPTATION KENYA (ICA-K)**

<p>The national Government Coordination Act (No.1 of 2013)</p>	<p>Making office of Chief Secretary statutory.</p>	<p>This office is nominal office in the rank of National Government, and is better left as such. The president should be allowed the latitude to appoint and reorganise it at pleasure through Presidential Executive Order, it is a commonwealth practice that has withstood the test of time, making it statutory will slow the process of appointment.</p>
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In conclusion, we humbly submit that this Bill should be withdrawn and taken back for pre-publication stakeholders' consultations then reintroduced to parliament.

Yours Sincerely,



**Eric Theuri**  
**LAW SOCIETY OF KENYA PRESIDENT**



DAC  
2/13/24

9<sup>th</sup> February 2024.

Clerk of the National Assembly,  
Parliament Buildings,  
P.O Box 41842-  
00100, NAIROBI.

Douglas Katho  
John Mugoma  
to Jackate  
by M/W  
13/2/24

Our Ref: MZ/NA/JLAC/02/24

Your Ref: NA/DDC/JLAC/2024/015

**RE: Memorandum on the National Government Administration Laws (Amendment) Bill No. 73 of 2023.**

Mzaleendo ('Patriot' in Swahili) Trust is a Kenyan non-partisan Parliamentary Monitoring Organization started in 2005 and whose mission is to 'promote open, inclusive, and accountable Parliaments in Kenya and Africa.' We do so by creating and managing civic tech tools, producing evidence-based research, and leading and facilitating advocacy and partnerships with Parliaments, citizens, and other relevant stakeholders. We believe that success in our work will build more effective and responsive legislation and political processes that ultimately support Kenya's national development goals. In line with our Strategic Plan 2021-2025, we anchor our work on three main pillars: Openness, Inclusion, and Accountability.

In addition, Mzaleendo Trust convenes various networks and collaboration initiatives to facilitate engagement in the legislative process. Key among this is the Civil Society Parliamentary Engagement Network (CSPEN), a network of about 28 organizations with an interest in working in Parliament. In addition, Mzaleendo is also the Convenor of the CSO partners within the Open Government Partnership framework and the lead for the Public Participation and Legislative Openness Commitment as articulated in the 4<sup>th</sup> National Action Plan currently under implementation.

We have reviewed the proposed Bills and seek to proffer our position as detailed below; -

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12 FEB 2024  
DEPUTY CLERK  
J.W.N  
P.O. Box 41842 - 00100, NAIROBI

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13 FEB 2024  
Directorate of Departmental Committees

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12 FEB 2024  
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P.O. Box 41842, NAIROBI

**The National Government Administration Laws (Amendment) Bill No. 73, 2023.**

Cause	Bill Amended	Proposed Amendments / Ramifications	Comments on Proposed Amendments/Recommendations
	<p><b>The Assumption of Office of the President Act, 2012;</b></p>	<p>This Bill aims to incorporate the secretary to the National Security Council and the Principal Secretary responsible for Defence as additional members of the committee and increase the representation of the President-elect from three to six.</p>	<p>The proposed amendments to this Bill do not seek to align them with Constitutional provisions and further occasion an additional expenditure of public finance as it has been grouped as a money Bill.</p> <p>It is therefore essential that a substantial justification and rationale for the Bills be provided as there is an already existing strain on <i>mwananchi's</i> back when it comes to finances, and a concern over our coffers. This is well echoed under <b>Article 201(d) of the Constitution of Kenya, 2010</b> which provides that public money shall be used in a prudent and responsible way. A stipulation of the need and rationale for the Amendment would therefore be essential in aligning the proposed amendments with the Constitutional provisions and fortify the spirit of the Constitution on <b>National values and principles of governance</b> as espoused under <b>Article 10 of the Constitution of Kenya, 2010.</b></p> <p>Further, laws and policies are not made in a vacuum, but rather to address or cure an existing problem or ill in the society. It therefore ensures that legislation is not only made on a need basis but also that they are citizen-centric and seek to address the citizens' concerns.</p> <p>This is also captured by the legal principles of <b>effective remedy and Purpose and Effect doctrine</b> which states that law should be made with a clear purpose in mind and that the legislators should consider the intended effects of a law and whether it effectively addresses the problem it seeks to remedy.</p>

Aug 2023

**The National Security Council Act, 2012;**

The Bill seeks to amend the National Security Council Act, 2012, to provide for the appointment of the National Security Advisor, to designate the National Security Advisor the National Security Council, to prescribe functions of the National Security Advisor, to establish the National Security Council Committee, and to prescribe the functions of the National Security Council Committee.

The proposed amendments to this Bill do not seek to align them with Constitutional provisions and further occasion an additional expenditure of public finance as it has been grouped as a money Bill.

It is therefore essential that a substantial justification and rationale for the Bills be provided as there is an already existing strain on *mwananchi's* back when it comes to public finances, and a concern over our coffers. This is well echoed under **Article 201(d) of the Constitution of Kenya, 2010** which provides that public money shall be used in a prudent and responsible way. A stipulation of the need and rationale for the Amendment would therefore be essential in aligning the proposed amendments with the Constitutional provisions and fortify the spirit of the Constitution on **National values and principles of governance** as espoused under **Article 10 of the Constitution of Kenya, 2010**.

Further, laws and policies are not made in a vacuum, but rather to address or cure an existing problem or ill in the society. This therefore ensures that legislation is not only made on a need basis but also that they are citizen-centric and seek to address the citizens' concerns.

This is also captured by the legal principles of **effective remedy and Purpose and Effect doctrine** which states that laws should be made with a clear purpose in mind and that the legislators should consider the intended effects of a law and whether it effectively addresses the problem it seeks to remedy.

**The Office of the Attorney General Act, 2012;**

This Bill proposes to amend the Office of the Attorney-General Act, 2012, to remove the Attorney General as the custodian of the Public Seal.

The proposed amendments to this Bill have no justification provided for. Given political and legal ramifications of the proposed amendments, it would be essential to have justification and rationale for the proposed amendments, as the changes would occasion transfer of privileges and critical powers to Head of Public Service.

**The National Government Co-ordination Act, 2013;**

The Bill proposes to amend the National Government Co-ordination Act, 2013 and provide for establishment and functions of the Head of Public Service and offices of the Chief Administration Secretary.

The proposed amendments to this Bill do not seek to align them with Constitutional provisions and further occasion **additional expenditure of public funds**; as it has been grouped as a money Bill.

It is therefore essential that a substantial justification and rationale for the Bills be provided as there is an already existing strain on *mwananchi's* back when it comes to finances, and a concern over our coffers. This is well echoed under **Article 201(d) of the Constitution of Kenya, 2010** which provides that public money shall be used in a prudent and responsible way. A stipulation of the need and rationale for the Amendment would therefore be essential in aligning the proposed amendments with these Constitutional provisions and fortify the spirit of the Constitution on **National values and principles of governance** as espoused under **Article 10 of the Constitution of Kenya, 2010**.

Further, laws and policies are not made in a vacuum, but rather to address or cure an existing problem or ill in the society. This therefore ensures that legislation is not only made on a need basis but also that they are citizen-centric and seek to address the citizens' concerns. Kenya takes pride in having such responsive laws and policies, but seemingly, the proposed amendments do not seem to address an existing concern and the

purpose are not clear-cut solutions to existi problems.

This is also captured by the legal principle **effective remedy and Purpose and Ef doctrine** which states that laws should be made with a clear purpose in mind and that legislators should consider the intended effect of a law and whether it effectively addresses the problem it seeks to remedy.

It is on the above arguments that we present our decline for the proposed amendments.

We hope our proposals will be considered during the deliberations of the Bill.

Sincerely,

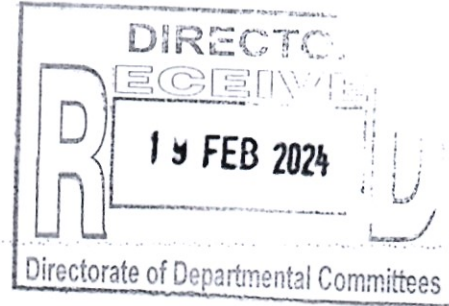


**Caroline Gaita,  
Executive Director.**

D/DC  
Please deal.  
G.L.  
16/02/24



Salaries & Remuneration  
Commission  
Rewarding productivity



Ref. No: SRC/TS/8(86)

15<sup>th</sup> February, 2023

Mr. Samuel Njoroge  
Clerk of the National Assembly  
P.O. Box 41842-01000  
Parliament Buildings  
NAIROBI

Douglas Katho  
to facilitate  
w/ w/o  
19/2/24

Dear Mr. Njoroge,

**MEMORANDUM ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL NO. 73 OF 2023**

Reference is made to the above subject matter and your invitation for the Salaries and Remuneration Commission to make written and oral submission to the Departmental Committee on Justice and Legal Affairs on the National Government Administration Laws (Amendment) Bill No. 73 of 2023 which contains proposed amendments to the Assumption of Office of the President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney General Act, 2012; and the National Government Co-ordination Act, 2013.

The Commission made its submissions to the Departmental Committee on Justice and Legal Affairs on 12<sup>th</sup> February, 2024 and the Chairperson of the Committee guided that the Commission submits to the Committee the remuneration and benefits for the Chief Administrative Secretary (CAS) and the subsequent cost implication.

The Commission vide letter Ref. No: SRC/TS/25/2(52) dated 14<sup>th</sup> March, 2023 advised the Public Service Commission on the remuneration and benefits structure for the Chief Administrative Secretary (**copy attached**). The total monthly and annual cost implication if fifty (50) Chief Administrative Secretaries are appointed is as shown in the **Table**:

**Table: Remuneration for Chief Administrative Secretaries**

S/No:	Item	Monthly Cost (Kshs.)	Annual Cost (Kshs.)
1.	Basic Salary	22,955,650 (459,113*50)	275,467,800 (459,113*50*12)
2.	House Allowance	8,250,000 (165,000*50)	99,000,000 (165,000*50*12)
3.	Salary Market Adjustment	7,794,350 (155,887*50)	93,532,200 (155,887*50*12)
4.	Airtime	1,000,000 (20,000*50)	12,000,000 (20,000*50*12)
5.	Annual Leave Allowance	-	2,500,000 (50,000*50)
<b>Total Cost</b>		<b>40,000,000</b>	<b>482,500,000</b>

15 FEB 2024  
DEPUTY CLERK S. KIKKO  
P.O. Box 41842-01000, NAIROBI

NATIONAL ASSEMBLY  
RECEIVED  
15 FEB 2024  
CLERK'S OFFICE  
P.O. Box 41842, NAIROBI

The purpose of this letter is to forward the remuneration and benefits structure for the Chief Administrative Secretary and the cost implication as requested.

The Commission appreciates your continued cooperation and support as we discharge our respective mandates.

Yours



Mrs. Anne R. Gitau, EBS  
COMMISSION SECRETARY/CEO



53

Salaries & Remuneration  
Commission  
Rewarding productivity

Ref.No: SRC/TS/25/2 (52)

14<sup>th</sup> March 2023

**Anthony M. Muchiri, (Amb)**

Chairperson  
Public Service Commission  
Commission House  
P O Box 30095 - 00100  
**NAIROBI**

Dear Amb. Muchiri,

**JOB EVALUATION GRADING AND REMUNERATION AND BENEFITS STRUCTURE FOR THE POSITION OF CHIEF ADMINISTRATIVE SECRETARY (CAS) IN THE PUBLIC SERVICE**

Reference is made to your letters Ref No. PSC/GEN/9/11/ (46) dated 18<sup>th</sup> October 2022, Ref No. PSC/1/2 VOL.IV/ (32) dated 10<sup>th</sup> March 2023 and Ref. No. PSC/1/2 VOL. IV (33) dated 10<sup>th</sup> March 2023 on the above subject.

In the exercise of the mandate of Salaries and Remuneration Commission (SRC) as set out under Article 230 (4) (b) of the Constitution and the SRC Act 2011(11), SRC has determined the monetary worth of the job of Chief Administrative Secretary (CAS) at Grade **F1** and would like to advise on the attendant remuneration and benefits structure as follows:

**1. Monthly Remuneration for Chief Administrative Secretary (CAS)**

Designation	Basic Salary	House Allowance	Commuter Allowance	Salary Market Adjustment	Gross Salary
Chief Administrative Secretary	459,113	165,000	Official	155,887	780,000

**Implementation notes:**

- (i) The monthly remuneration advised herein is fixed for the term of office of the CAS, unless reviewed and advised by SRC;
- (ii) The remuneration advised herein takes into account the monetary worth of the Job at grade **F1**;
- (iii) Salary Market Adjustment is a salary modification that takes into account market positioning, and constitutional and statutory principles for review of remuneration and benefits; and
- (iv) For purposes of gratuity and pension, the pensionable emolument shall be based on the monthly basic salary advised herein.

- (g) **Daily Subsistence Allowance for local and foreign travel:** Shall be paid to the CAS as per the rates reviewed and advised by SRC from time to time.
  - (h) **Airtime:** Shall be paid up to a maximum of Kes. 20,000 per month.
  - (i) **Security:** Shall be provided as advised by the Inspector General of Police.
  - (j) **Annual Leave Allowance:** Shall be paid at the rate of Kes. 50,000 per annum and shall not be commuted to cash in lieu of leave.
3. Any remuneration and benefits not advised is not payable unless reviewed by the Salaries and Remuneration Commission.

The effective date of the remuneration and benefits structure advised herein is the date of appointment of the Chief Administrative Secretary.

The purpose of this letter therefore, is to convey the SRC's advice on the remuneration and benefits for the job of Chief Administrative Secretary.

The Commission appreciates your continued cooperation and support as we discharge our respective mandates.

Yours sincerely,



**MRS. LYN C. MENGICH**  
**COMMISSION CHAIRPERSON**

**Copy to: Mr. Felix K Koskei**  
Chief of Staff and Head of Public Service  
Executive Office of the President  
**NAIROBI**

**Dr. Chris K. Kiptoo, CBS**  
Principal Secretary  
The National Treasury & Planning  
**NAIROBI**

**Mr. Amos N. Gathecha, EBS, ndc (K)**  
Principal Secretary  
State Department for Public Service  
Ministry of Public Service, Gender and Affirmative Action  
**NAIROBI**

**CPA Nancy Gathungu, CBS**  
Auditor General  
Office of the Auditor General  
**NAIROBI**

DIRECTOR  
RECEIVED  
13 FEB 2024  
Director of Departmental Committees



DDC  
2  
13/02

REPUBLIC OF KENYA  
THE NATIONAL TREASURY AND ECONOMIC PLANNING

Telegraphic Address: 22921  
FINANCE - NAIROBI  
Fax No. 315779  
Telephone: 2252299  
When replying please quote

THE NATIONAL TREASURY  
P.O. Box 30007 - 00100  
NAIROBI  
KENYA

Ref: ES 1/014 'C' (17)

12<sup>th</sup> February, 2024

Mr. Samuel Njoroge, CBS  
Clerk of the National Assembly  
Parliament Buildings  
P. O. Box 41842-00100  
NAIROBI

*Douglas Ketho*  
*to present to committee*  
*for consideration*  
*13/2/24*

Dear *Clerk of NA*

RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)

Reference is made to your letter Ref. NA/DDC/JLAC/2024/021 dated 31<sup>st</sup> January, 2024 on the above subject.

We note that the National Assembly Departmental Committee on Justice and Legal Affairs is requesting for comments on the Bill. The National Treasury has reviewed the Bill and noted that it proposes to amend the Assumption of Office of the President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney General Act, 2012; and the National Government Coordination Act, 2013. The proposed amendments seek to:

1. Include the Secretary to the National Security Council and the Principal secretary responsible for Defence as members of the Assumption of Office of the President Committee and increase the membership of the President-elect within the Committee from three to six members;
2. Introduce a National Security Advisor as the secretary to the National Security Council and establish a National Security Council Committee;
3. Replace the Attorney General as the custodian of the public seal with the Head of Public Service; and
4. Establish and delineate the functions of the Head of Public Service and the offices of the Chief Administrative Secretary.

NATIONAL ASSEMBLY  
RECEIVED  
13 FEB 2024  
DEPUTY CLERK  
J.W.N  
P.O. BOX 41842 - 00100 NAIROBI

NATIONAL ASSEMBLY  
RECEIVED  
12 FEB 2024  
CLERK'S OFFICE  
P.O. BOX 41842, NAIROBI

However, I am not in a position to attend the meeting as scheduled due to the current Eurobond Road Shows. The purpose of this letter is to let you know of this situation and seek your indulgence to request the Committee to allow the National Treasury do written submission by close of business on Wednesday 14<sup>th</sup> February, 2024.

Yours

*Sincerely*  


**DR. CHRIS KIPTOO, CBS**  
**PRINCIPAL SECRETARY/THE NATIONAL TREASURY**

**Copy: Hon. Murugara George Gitonga, M.P**  
The Chairperson  
Departmental Committee on Justice & Legal Affairs  
The National Assembly  
Parliament Buildings  
**NAIROBI**

② DLS (D)CS  
TO Cause publication  
of the extra matters  
as a separate Bill  
under the  
Committee  
CWA  
13/2/24

**CONFIDENTIAL**

**URGENT**



**OFFICE OF THE PRESIDENT**

Telegraphic address: "Rais"  
Telephone: Nairobi 2227411  
When replying please quote  
REF. MOINA/SEC. 1/1

**MINISTRY OF INTERIOR  
AND  
NATIONAL ADMINISTRATION**

Douglas Katho ✓  
John Mugo  
to facilitate  
consideration  
CWA  
13/2/24  
P. O. Box 30510-00100  
Nairobi

29<sup>th</sup> January, 2024

**Mr. Samuel J. Njoroge, CBS**  
Clerk of the National Assembly  
National Assembly  
Parliament Buildings  
**NAIROBI**

① DLS - Mr. E. Waleka  
DLS  
TO advise, urgently  
CWA  
31/1/24

**Hon. Shadrack J. Mose**  
Solicitor General  
Office of the Attorney General and Department of Justice  
Sheria House  
**NAIROBI**

**MEMORANDUM ON THE PROPOSED NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENTS) BILL, 2023**

Reference is made to the Kenya Gazette Supplement No.233 (National Assembly Bills No.73) dated 24<sup>th</sup> November, 2023 as attached herewith.

The Ministry of Interior and National Administration acknowledges the expeditious move by the National Assembly seeking to introduce the National Government Administration Laws (Amendment) Bill, 2023 being a Bill for An Act of Parliament to make various amendments to statute law on national government administration and for connected purposes.

From the outset, the Ministry lauds this move and wishes to affirm its support to this process. It suffices to note that the Ministry has a legislative proposal, the National

**DIRECTOR  
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**13 FEB 2024**  
**R D**  
Directorate of Departmental Committees

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**NATIONAL ASSEMBLY  
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★ 31 JAN 2024 ★  
**CLERK'S OFFICE**  
P O Box 41842, NAIROBI

**CONFIDENTIAL**

Government Coordination (Amendment) Bill, 2023 (*Copy attached for ease of reference*) that seeks to introduce amendments to various sections of the National Government Coordination Act, 2013. The later is among the Deliverables and Commitments in the Ministry's Policy and Legislative Agenda for the Financial Year 2023/2024. The legislative proposal being steered by the National Assembly, therefore, provides an opportunity and ripe moment to incorporate the Ministry's comments into the National Government Administration Laws (Amendment) Bill, 2023.

It is, therefore, our considered view and submission that the amendments provided for in the National Government Coordination (Amendment) Bill, 2023 be incorporated in the National Government Administration (Amendment) Bill, 2023 and be progressed to conclusion.

Submitted for your utmost consideration.



**DR. RAYMOND OMOLLO, PhD, CBS**  
**PRINCIPAL SECRETARY,**  
**INTERNAL SECURITY AND NATIONAL ADMINISTRATION**

Copy to:

**Mr. Felix Koskei, EGH**  
Chief of Staff and Head of Public Service  
Executive Office of the President  
**NAIROBI**

**Prof Kithure Kindiki, EGH**  
Cabinet Secretary  
Ministry of Interior and National Administration  
**NAIROBI**

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2023

**THE NATIONAL GOVERNMENT CO-ORDINATION  
(AMENDMENT) BILL, 2023**

**A Bill for**

**AN ACT** of Parliament to amend the National Government  
Co-ordination Act, 2013 and for connected purposes.

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

Short title.      1. This Act may be cited as National Government Co-  
ordination (Amendment) Bill, 2023.

Amendment  
of long title of  
No. 1 of 2013.      2. The National Government Co-ordination Act, 2013, in this  
Act referred to as “the principal Act”, is amended by deleting  
the long title and substituting therefore the following new long  
title—

An Act of Parliament to establish an administrative and  
institutional framework for the co-ordination of national  
Government functions at the national and county levels of  
governance; to give effect to Articles 6(2), 131(1)(b), 132 (3)(b)  
and (c), 238, 239(5) and 240 of the Constitution: and for  
connected purposes.

Amendment  
of section 2 of  
No. 1 of 2013.      3. Section 2 of the principal Act is amended—

(a) by—

(i) deleting the definition of “Cabinet Secretary”  
and substituting therefore the following new  
definition —

“Cabinet Secretary” means the Cabinet  
Secretary responsible for Internal Security;

- (ii) deleting the definition of “national Government function” and substituting therefore the following new definition—

“national Government function” means a function assigned by the Constitution or any other written law to the national Government and for the purpose of national Government service;

- (b) by inserting the following new definitions in proper alphabetical sequence—

“division” means an administrative unit established under section 14(1);

“national Government administrative unit” means a unit of administration”;

“region” means a unit of administration established as cluster of counties under section 14(1); and

“regional commissioner” means an officer appointed under section 15(2) (f).

Amendment of section 3 of No. 1 of 2013.

4. Section 3 of the principal Act is amended by deleting paragraph (a) and substituting therefore the following new paragraph—

- (a) facilitate the exercise of executive authority pursuant to Articles 6(2), 131(1)(b), 132(3)(b) and (c), 238, 239(5) and 240 of the Constitution.

Amendment of heading of Part II of No. 1 of 2013.

5. The principal Act is amended by deleting the heading of Part II and substituting therefor the following new heading—

**PART II—COMPOSITION AND FUNCTIONS OF NATIONAL GOVERNMENT ADMINISTRATION**

Repeal and replacement section 7 of No. 1 of 2013.

6. The principal Act is amended by repealing section 7 and replacing it with the following new section—

Composition of National Government Administration. 7.(1) Pursuant to Articles 131(1)(b) and 132(3)(b) of the Constitution, the President may, for purposes of directing and co-ordinating the functions of national Government departments—

- (a) assign, through the relevant Cabinet Secretary, the responsibility of discharging any function of the national executive to any person in accordance with the Constitution, this Act or any other written law;
- (b) require a person to whom responsibility is assigned under paragraph (a) to prepare and submit a report on any matter; and
- (c) direct and co-ordinate the National Government Service Delivery Unit in accordance with the Constitution, this Act any other written law.

(2) Without prejudice to subsection (1), the President shall use the following framework for the co-ordination of the national executive functions—

- (a) the Office of the President;
- (b) the Cabinet;
- (c) the Cabinet office; and
- (d) such co-ordination committees as may be necessary.

Insertion of new section to No. 1 of 2013.

7. The principal Act is amended by inserting a new section after section 11 —

Head of Public Service. of 11A.(1) There is established the office of the Head of Public Service which shall be an office in the public service.

(2) The office of the Head of Public Service shall be under the direction of the President for the purposes of coordination of all National Government functions.

Repeal and replacement of section 14 of No. 1 of 2013

8. The principal Act is amended by repealing section 14 and replacing it with the following new section—

National Government administrative units.

14.(1) The Cabinet Secretary shall, with the approval of the President and by a notice in the Gazette, establish national Government administrative units.

(2) For purposes of this section, the locations and sub-locations in existence immediately before the commencement of this Act shall continue to exist as national Government administrative units.

Insertion of new sections to No. 1 of 2013.

9. The principal Act is amended by inserting the following new sections immediately after section 14—

Criteria for establishing national government administrative units.

14A.(1) In determining the national Government administrative units referred to in section 14, the Cabinet Secretary in consultation with the President, shall consider the following—

- (a) geographical features and urban centres;
- (b) population density and demographic trends;
- (c) cost of administration;
- (d) physical and human infrastructure;
- (e) the views of the affected communities;
- (f) community of interest, historical, economic and cultural ties; economic and cultural ties;
- (g) means of communication;

(h) security; and

(i) any other relevant factors that the Cabinet Secretary may consider necessary in the circumstances.

(3) The boundaries of the national Government administrative units shall as nearly as possible be the same as the boundaries of counties, constituencies and divisions but Cabinet Secretary may establish larger or lesser units taking into account the criteria specified in subsection (1).

(4) The Cabinet Secretary shall, with the approval of the President, review the boundaries of national Government administrative units from time to time.

**14B.(1)** The Cabinet Secretary shall establish national Government service co-ordination committees in each administrative unit.

Establishment of national Government service co-ordination committees.

(2) The national Government service coordination committees shall be responsible for the coordination of the implementation of national Government policies, projects and programmes.

Amendment section 15 of No. 1 of 2013.

**10.** The principal Act is amended in section 15 by deleting subsection 2 and substituting therefore the following new subsection —

(2) Pursuant to subsection (1), the Public Service Commission shall appoint—

(a) a regional commissioner in respect of a region;

(b) a county commissioner in respect of a county;

(c) a deputy county commissioner in respect of a sub-county;

- (d) an assistant county commissioner in respect of a division;
- (e) a chief in respect of a location;
- (f) an assistant chief in respect of a sub-location; and
- (g) any other national Government administrative officer or such other person in respect of national Government administrative unit established in accordance with section 14.

Insertion of new section to No. 1 of 2013.

11. The principal Act is amended by inserting the following new section immediately after section 15—

Appointment of persons as head of other Government administrative units.

15A.(1) The Cabinet Secretary shall as may be appropriate appoint a person to head any other national government administrative unit established under this Act.

(2) The Cabinet Secretary shall make provide guidelines on how persons shall be appointed to assist administrative officers in carrying out their functions.

Amendment of section 19 (2) of No.1 of 2013.

12. Section 19 of the principal Act is amended in subsection 2 by deleting the words appearing immediately after the words "Cabinet Secretary".

Repeal of section 20 of No. 1 of 2013.

13. The principal Act is amended by repealing section 20.

#### **MEMORANDUM OF OBJECTS AND REASONS**

The principle objective of the Bill is to amend the National Government Coordination Act, 2013 facilitate effective coordination of national government functions.

The structure of the Bill is as follows—

**Clause 1** of the Bill sets out the short title of the proposed Act.

**Clause 2** of the Bill proposes to amend the long title of the Act in order to give effect to Articles 6(2), 131(1)(b), 132 (3)(b) and (c), 238, 239(5) and 240 to facilitate effective coordination of national government functions.

**Clause 3** proposes to amend section 2 to delete the terms that are no longer applicable and provide for new term for harmonisation terms with the Constitution.

**Clause 4** proposes to amend section 3 of the Act in order to give effect to articles 6(2), 131(1)(b), 132 (3)(b) and (c), 238, 239(5) and 240 of the Constitution and facilitate effective coordination of national government functions.

**Clause 5** proposes to change the heading of Part II of the Act.

**Clause 6** proposes to repeal and replace section 7 of the Act to provide for the composition and functions of National Government administration.

**Clause 7** proposes to insert a new section in the Act to anchor the Office of the Head of Public Service in law.

**Clauses 8-9** provides for the repeal and replacement of section 14 of the Act and the insertion of a new section in order to differentiate national government administrative units from other service delivery units, to provide a criteria for the determination and the creation of national government administrative units and to empower the Cabinet Secretary to and regulate creation of such units with the approval of the President.

**Clause 10** provides for the amendment of section 15 of the Act in order to strengthen and enhance coordination of National Government services at the lowest unit, ease inter-county coordination, to enhance services accessibility and to recognize an existing office and to differentiate national government administrative units from other service delivery units and the Act to Article 11 and 159(2) (c) of the Constitution

**Clause 11** provides for the insertion of a new section to provide for the appointment of head of other Government administrative units.

*The National Government Co-ordination (Amendment) Bill, 2023*

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**Clause 12** provides for the amendment of section 19 to harmonise the Act with the current practice.

**Clause 13** provides for the deletion of section 20 which is no longer applicable.

*Long title on No. 1 of 2013 which it is proposed to amend—*

An Act of Parliament to establish an administrative and institutional framework for co-ordination of national government functions at the national and county levels of governance; to give effect to Articles 131(1)(b) and 132 (3)(b) of the Constitution and for connected purposes

*Heading of Part II of No. 1 of 2013 which it is proposed to amend—*



REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL  
&  
DEPARTMENT OF JUSTICE

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8  
5/2/24

Our Ref. AG/LDD/237/1/91  
Your Ref. NA/DDC/JLAC/2024/009

2nd February, 2024

The Clerk of the National Assembly  
Clerk's Chambers  
National Assembly  
Parliament Buildings  
P.O. Box 41842-00100  
**NAIROBI**

*Douglas Katho*  
*to facilitate*  
*in M (6)*  
*5/2/24*

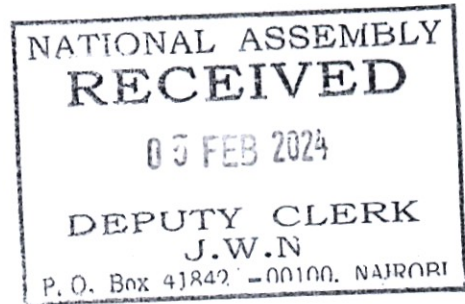
(Attn. Mr. Jeremiah Ndombi MBS)

RE: INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT  
ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL  
GOVERNMENT BILL NO. 73 OF 2023)

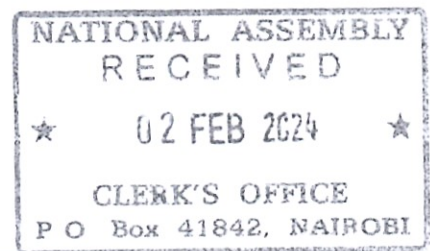
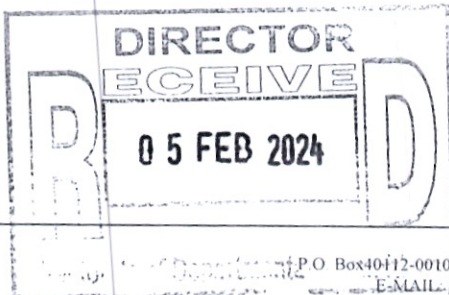
This has reference to your letter dated the 20<sup>th</sup> January, 2024, under Ref. NA/DDC/JLAC/2024/009, and the request for the submission of comments on the National Government Administration Laws (Amendment) Bill (NA Bill No. 73 of 2023).

We have sought the policy guidance of the Ministry of Interior and National Administration as it is the Ministry responsible for the policies contained in the Assumption of the Office of President Act, 2012, National Security Council Act, 2012, and National Government Co-ordination Act, 2013. We shall share those views and our opinion thereon as and when they are received.

Samson Davies Maundu  
Principal Parliamentary Counsel  
FOR: ATTORNEY-GENERAL



Copy to: Hon. J.B.N. Muturi  
Attorney-General  
Hon. Shadrack J. Mose  
Solicitor-General  
Ms. L.M. Murila  
Chief State Counsel

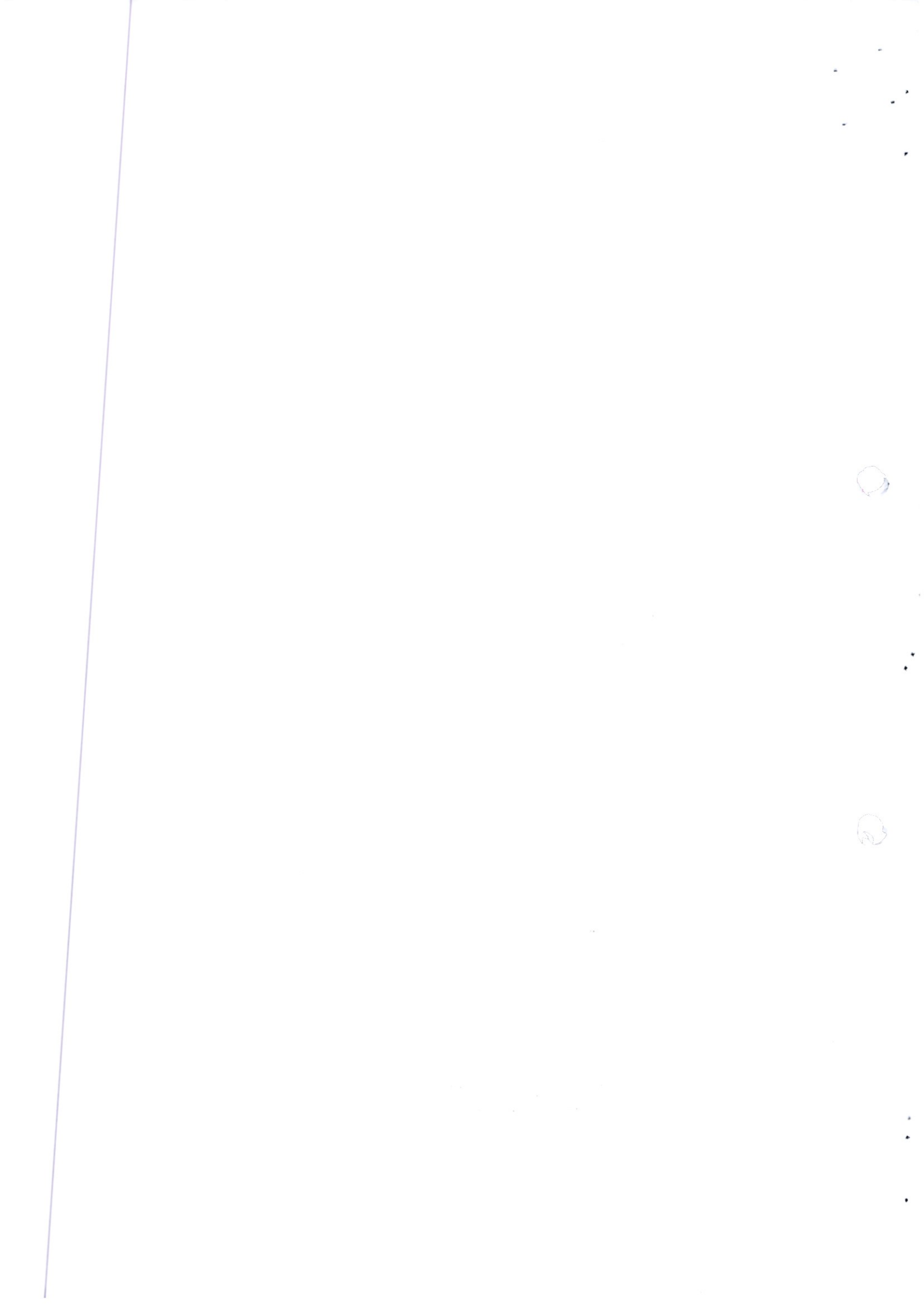


SHERIA HOUSE, HARAMBEE AVENUE  
P.O. Box 40412-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995  
E-MAIL: [info.statelawoffice@kenya.go.ke](mailto:info.statelawoffice@kenya.go.ke) WEBSITE: [www.attorney-general.go.ke](http://www.attorney-general.go.ke)

DEPARTMENT OF JUSTICE  
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337  
E-MAIL: [legal@justice.go.ke](mailto:legal@justice.go.ke) WEBSITE: [www.justice.go.ke](http://www.justice.go.ke)

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**PUBLIC SERVICE COMMISSION**

PSC/ADM/26/11/ (80)

8<sup>th</sup> February, 2024

The Clerk of the National Assembly  
Parliament Buildings  
NAIROBI



DDC  
Please deal  
Sti  
09/02/24  
Douglas Katho  
to facilitate  
12/2/24

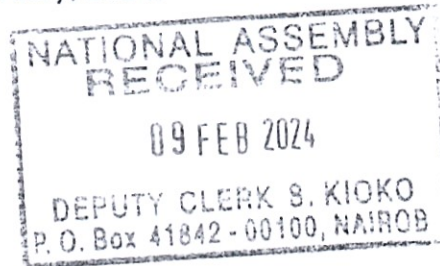
**INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2023)**

Reference is made to your Letter No. NA/DDC/JLAC/2024/007 dated 30<sup>th</sup> January, 2024 inviting the Commission to meet the Departmental Committee on Justice and Legal Affairs on the National Government Administration Laws (Amendment) Bill (National Assembly Bill No. 73 of 2023) relating the following acts:

- The Assumption of Office of the President Act, 2012 (No. 21 of 2012);
- The National Security Council Act, 2012 (No. 23 of 2012);
- The Office of the Attorney General Act, 2012 (No. 49 of 2012); and
- The National Government Coordination Act, 2013 (No. 1 of 2012).

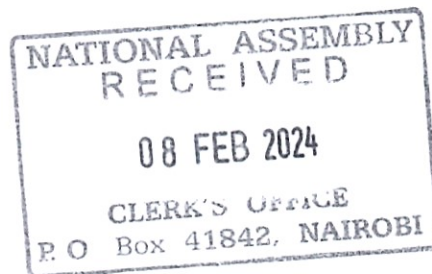
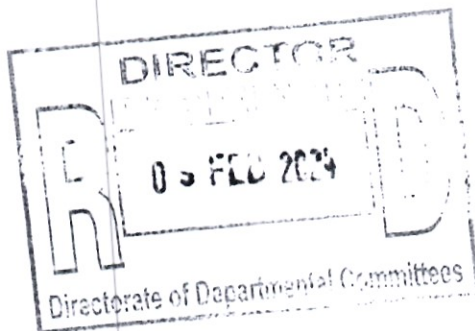
The Commission is seized of the matter. However, due to the short notice and in order to prepare comprehensive memorandum, we seek your indulgence to reschedule the Commission's appearance before the Committee to the week commencing 19<sup>th</sup> February, 2024.

Thank you for your understanding and support.



  
FCS, Dr. Simon K. Rotich, CBS  
SECRETARY/CEO  
PUBLIC SERVICE COMMISSION

Copy to: Chairperson  
PSC



NATIONAL ASSEMBLY  
**RECEIVED**  
12 FEB 2024  
DEPUTY CLERK  
J.W.N  
P. O. Box 41842 - 00100, NAIROBI



**Office of The National Security Advisor  
Executive Office of The President**

**ONSA/ADM/1/VOL.1/75**

**12<sup>th</sup> February, 2024**

**Mr. Samuel Njoroge**  
Clerk  
The National Assembly  
Parliament Building  
**NAIROBI**

*Douglas Katho*  
*to facilitate*  
*consideration and*  
*revert*  
*LA*  
*13/2/24*

*DDC*  
*2*  
*13/2*

Dear *Mr. Samuel Njoroge,*

**INVITATION TO SUBMIT VIEWS ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS (AMENDMENT) BILL NATIONAL ASSEMBLY BILL NO 73 OF 2023)**

Reference is made to your letter **Ref. NA/DDC/JLAC/2024/027** dated **5<sup>th</sup> February, 2024** inviting me to an engagement with the Justice and Legal Affairs Committee, today at **9.00am**.

To enable me prepare for an effective engagement with the committee, I humbly request for this engagement to happen on Wednesday **14<sup>th</sup> February, 2024**

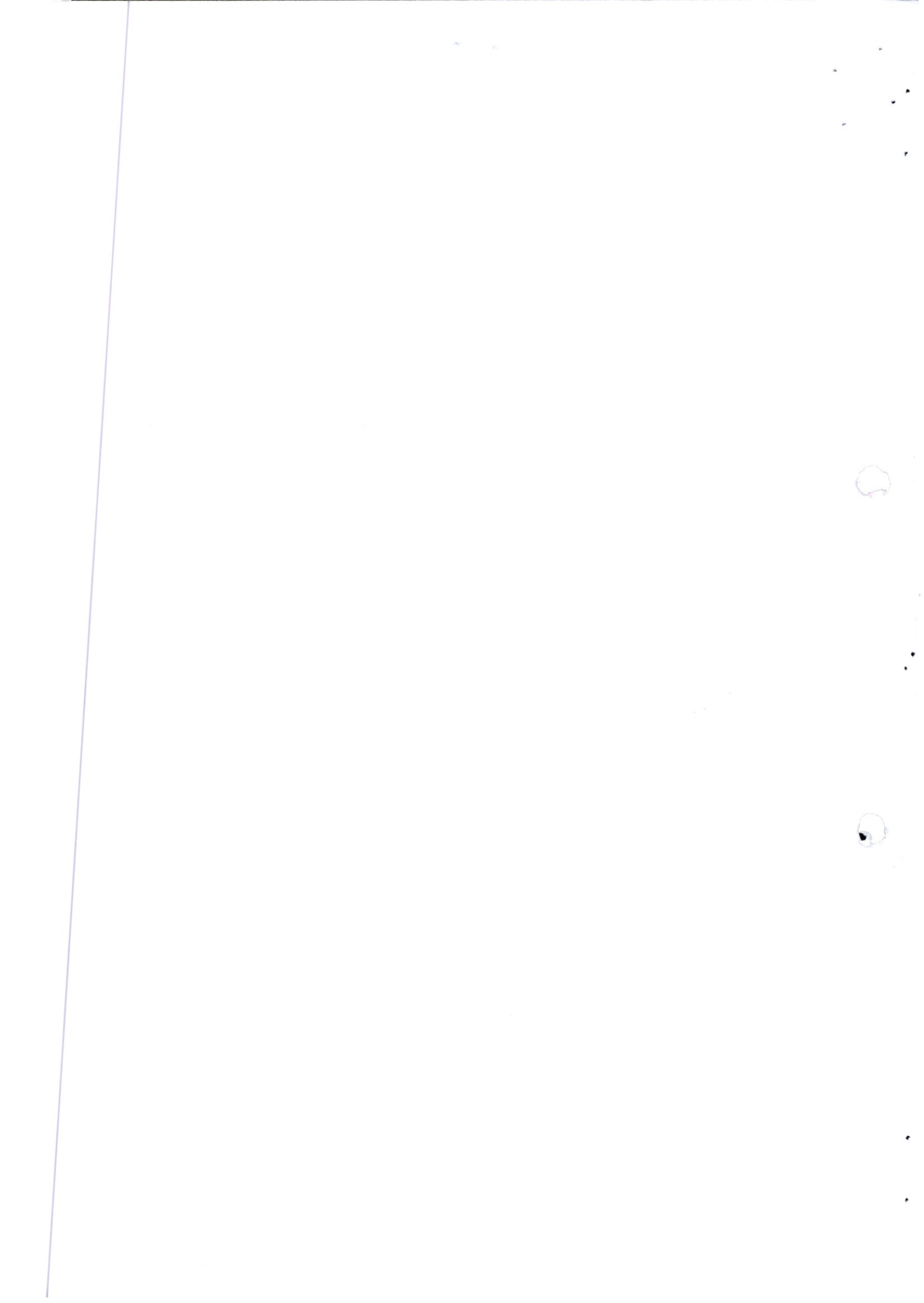
Your positive consideration of this request is highly appreciated.

Yours *Sincerely*  
*Dr. Monica Juma*

NATIONAL ASSEMBLY  
**RECEIVED**  
★ 12 FEB 2024 ★  
CLERK'S OFFICE  
P O Box 41842, NAIROBI

**Amb. (Dr.) Monica Juma (Oxon), EGH**  
**NATIONAL SECURITY ADVISOR**

**DIRECTOR**  
**RECEIVED**  
13 FEB 2024





Salaries & Remuneration  
Commission

Rewarding productivity

Ref. No. SRC/TS/8 (86)

9<sup>th</sup> February 2024

The Clerk  
National Assembly  
Parliament Buildings  
P.O Box 41842- 00100  
**NAIROBI**

Attn: Mr. Jeremiah W. Ndombi, MBS

**MEMORANDUM ON THE NATIONAL GOVERNMENT ADMINISTRATION LAWS  
(AMENDMENT) BILL NO. 73 OF 2023**

Reference is made to your letter Ref. No. NA/DDC/JLA/2024/022 dated 31<sup>st</sup> January 2024 requesting for the Salaries and Remuneration Commission's (SRC) views on the captioned Bill and the proposed amendments to the Assumption of Office of the President Act, 2012; the National Security Council Act, 2012; the Office of the Attorney General Act, 2012; and the National Government Co-ordination Act, 2013.

The Commission has reviewed the proposed amendments to the aforementioned statutes vide the National Government Administration Laws (Amendment) Bill No. 73 of 2023 and wishes to submit its views as follows:

**Table 1: Analysis of the National Government Administration Laws (Amendment) Bill  
No. 73 of 2023**

PROPOSED AMENDMENTS	OBSERVATIONS	RECOMMENDATION
<b>Assumption of the Office of the President Act 2012</b>		
<b>Proposed amendment to the Assumption of Office of the President Act No. 21 of 2012 by:</b>	SRC has no objection to the proposed amendments, noting that they are aimed at strengthening the membership of the Assumption of Office of the President Committee.	The proposed amendment is in order as it aims at strengthening the membership of the assumption of office of the President Committee.
i. Amending section 5 thereof to include the Secretary to the Security Council and the Principal Secretary in the State Department for Defence to the Assumption of Office of the President Committee; and		

No.	PROPOSED AMENDMENTS	OBSERVATIONS	RECOMMENDATION
	ii. Increasing the number of persons nominated by President-elect from three to six.		
2.	<b>National Security Council Act 2012</b>		
	<b>Proposed amendment to National Security Council Act No. 23 of 2012 by;</b> <ul style="list-style-type: none"> <li>i. Establishing the National Security Committee and providing for its membership and functions; and</li> <li>ii. Establishing the position of National Security Advisor as an office in the public service.</li> </ul>	SRC is not opposed to the proposed amendments, noting that it will be required to advise on the remuneration and benefits for the position.	SRC proposes and addition that; the remuneration and benefits shall be as advised SRC pursuant to Article 230(4) (b) of the Constitution.
3.	<b>Office of the Attorney General Act</b>		
	<b>Proposed amendment the Office of the Attorney General Act No. 49 of 2012 by:</b> <p>Removing the Attorney-General as the custodian of the public seal and replacing with the Head of Public Service.</p>	SRC notes that while the proposed amendment relates to validation of decisions made by Government, it does not affect SRC's mandate and therefore takes no position on it.	
4.	<b>National Government Co-ordination Act 2013</b>		
	<b>Proposed amendment the National Government Coordination Act No. 1 of 2013 by:</b> <ul style="list-style-type: none"> <li>iii. Amending section 8 to by establishing the Office of the Head of Public Service and providing for the responsibilities of the office; and</li> <li>iv. Amending section 12 by inserting a new section 12A establishing the office of Chief Administrative Secretary (CAS), providing for determination of the compliment, setting out the process for appointment of</li> </ul>	SRC notes that: <ul style="list-style-type: none"> <li>a. The position of CAS is pursuant to Article 260 of the Constitution designated as a State office. This means SRC will be responsible for the setting and review of the remuneration and benefits for the position.</li> <li>b. Clause 12A (2) of the Bill provides that—  <b>The compliment of the Chief Administrative Secretaries shall be as determined by the Public Service Commission.</b></li> </ul> <p>Given that the compliment of the CASs would have an impact on the total public wage bill, it would for purposes of providing for the</p>	<ul style="list-style-type: none"> <li>a. SRC recommends that the proposed clause <b>12A (2)</b> to amend the National Government Co-ordination Act, 2013 vide the bill, be amended to include the <b>maximum compliment</b> for the position of CAS.</li> <li>b. Further, for purposes of grading the job and setting remuneration and benefits for the position, the job responsibilities should be clearly spelt out.</li> </ul>

Io.	PROPOSED AMENDMENTS	OBSERVATIONS	RECOMMENDATION
	persons thereto, providing eligibility for appointment and the responsibilities for the office and designating the office as a state office.	cumulative remuneration and benefits for the holders of the office be appropriate to provide for the maximum number in the Bill.	

The purpose of this letter is to communicate the views of SRC on the proposed amendments to the aforementioned statutes vide the National Government Administration Laws (Amendment) Bill No. 73 of 2023 for your consideration. Further, the Commission confirms its members will attend the meeting scheduled for 12<sup>th</sup> February 2024.



**Mrs. Anne R. Gitau, EBS**  
**COMMISSION SECRETARY/ CEO**

