

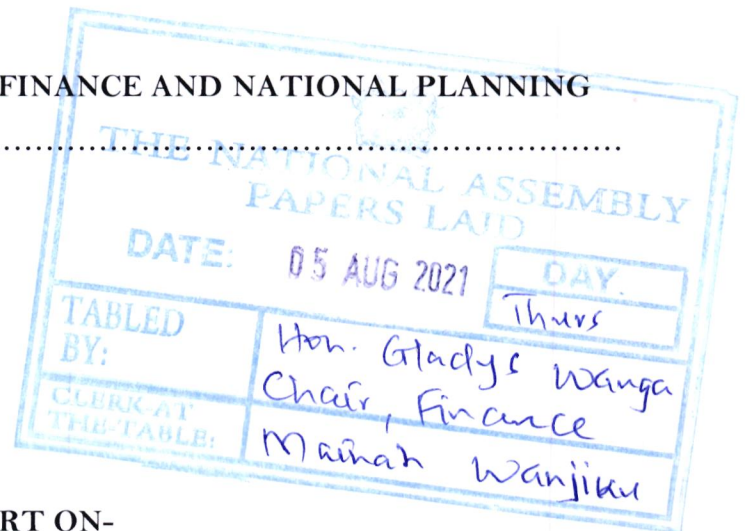
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5/8/2021



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FIFTH SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING



REPORT ON-
THE PENSIONS (AMENDMENT) BILL (*NATIONAL ASSEMBLY BILL NO. 26 OF 2020*)

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2021

Report of the Departmental Committee on Finance and National Planning on the consideration of the Pensions (Amendment) Bill (National Assembly Bill No. 26 of 2020)

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CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings on the consideration of the Pensions (Amendment) Bill (*National Assembly Bill No. 26 of 2020*). The Bill was published on 26th August 2020, read a First Time on 10th September 2020 and committed to the Departmental Committee on Finance and National Planning for review and report to the House pursuant to Standing Order 127.

The Bill seeks to amend the Pensions Act Cap. 189 to provide timeline within which pension shall be payable upon retirement from service. It seeks to remedy the delays in payment of pension after it is due.

Following placement of adverts in the print media on 18th September 2020 requesting for comments on the Bill from members of the public and relevant stakeholders pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received memoranda from two (2) stakeholders. The Committee discussed the Bill with stakeholders at the Emara Ole Sereni Hotel, Nairobi on Thursday, 15th July 2021 with two (2) stakeholders making submissions.

The stakeholders supported the proposed amendment as it provides a timeline for pension payment by the government. The Committee agreed with the concerns raised by the Stakeholders and as such, proposed that the Pensions Act be amended further to provide for a period within which the employing government entity should submit a retiree's documents to the Pensions Department for payment of pension.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Pension (Amendment) Bill (*N.A. Bill No. 26 of 2020*). The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the National Treasury and Planning and the Salaries and Remuneration Commission for submitting their comments 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.

It is my pleasure to report that the Committee has considered the Pension (Amendment) Bill (*N.A. Bill No. 26 of 2020*) and have the honour to report to the National Assembly with the recommendation that the Bill be approved with amendments.

Hon. Gladys Wanga, CBS, M.P.

Chairperson, Departmental Committee on Finance and National Planning

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under Standing Order 216 whose mandates pursuant to the Standing Order 216 (5) are as follows:
 - a. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - b. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - c. ***To study and review all the legislation referred to it;***
 - d. *To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - e. *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;*
 - f. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);*
 - g. *To examine treaties, agreements and conventions;*
 - h. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - i. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - j. *To examine any questions raised by Members on a matter within its mandate.*

1.2 COMMITTEE'S SUBJECTS

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following Government Ministries and Departments:
 - a. The National Treasury and Planning
 - b. State Department for Devolution
 - c. The Commission on Revenue Allocation (CRA)
 - d. Office of the Controller of Budget
 - e. Salaries and Remuneration Commission (SRC)

1.3 COMMITTEE MEMBERSHIP

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

Chairperson

Hon. Gladys Wanga, CBS, MP

Homabay County

ODM Party

Vice-Chairperson

Hon. Isaac W. Ndirangu, MP

Roysambu Constituency

Jubilee Party

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

Jubilee Party

Hon. Christopher Omulele, CBS, MP
Luanda Constituency

ODM Party

Hon. Shakeel Shabbir Ahmed, CBS, MP
Kisumu Town Constituency

Independent Member

Hon. Daniel Epuyo Nanok, MP
Turkana West Constituency

Jubilee Party

Hon. (Dr.) Christine O. Ombaka, MP
Siaya County

ODM Party

Hon. Andrew Adipo Okuome, MP
Karachuonyo Constituency

ODM Party

Hon. David Mwalika Mboni, MP
Kitui Rural Constituency

CCU Party

Hon. Francis Kuria Kimani, MP
Molo Constituency

Jubilee Party

Hon. Joseph Maero Oyula, MP
Butula Constituency

ODM Party

Hon. Joshua Chepyegon Kandie, MP
Baringo Central Constituency

MCC Party

Hon. Stanley M. Muthama, MP
Lamu West Constituency

MCC Party

Hon. Edith Vethi Nyenze, MP
Kitui West Constituency

WDM-K

Hon. Catherine Waruguru, MP
Laikipia County

Jubilee Party

Hon. James Gichuhi Mwangi, MP
Tetu Constituency

Jubilee Party

Hon. (Prof.) Mohamud Mohamed, MP
Wajir South Constituency

Jubilee Party

Hon. Peter Lochakapong, MP
Sigor Constituency

Jubilee Party

Hon. Qalicha Gufu Wario, MP
Moyale Constituency

Jubilee Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Members of the Secretariat:

Head of Secretariat
Ms. Leah W. Mwaura
Senior Clerk Assistant

Ms. Jennifer Ndeto
Principal Legal Counsel I

Ms. Laureen Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Fiscal Analyst I

Mr. Chelang'a R. Maiyo
Research Officer II

Mr. John Njoro
Serjeant-At-Arms

Ms. Christine Maeri
Audio Officer

PART TWO

2 OVERVIEW OF THE PENSIONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2020)

2.1 ANALYSIS OF THE BILL

6. The Pensions (Amendment) Bill, 2020 seeks to amend the Pensions Act Cap.189 to provide timeline within which pension shall be payable to an officer.
7. The Bill further seeks to remedy the delays in payment of pension upon retirement from public service

2.2 REVIEW OF THE PENSIONS (AMENDMENT) BILL, 2020

8. The Pensions (Amendment) Bill, 2020 contains two (2) clauses where clause (1) provides for the short title whereas clause 2 seeks to amend Section 6 of the Pensions Act. Cap. 189 by inserting a new sub section 1A immediately after Subsection (1).
9. The new subsection (1A) provides that pension shall be paid within ninety days from the date such pension becomes payable.

PART THREE

3 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

10. Following the call for memoranda from the public through the placement of adverts in the print media on **18th September 2020** requesting for comments from the public on the Bill and invitation of stakeholders vide letter REF: NA/DDC/F&NP/2021/32 dated 9th July 2021 for a stakeholder engagement retreat on the Bill which was held at Emara Ole Sereni Hotel, Mombasa Road Thursday, 15th July 2021, the Committee received memoranda from the following stakeholders:
- i. The Salaries and Remuneration Commission (SRC)
 - ii. The National Treasury and Planning

The stakeholders submitted as follows:

3.1 THE SALARIES AND REMUNERATION COMMISSION (SRC)

In a meeting with SRC held on Thursday, 15th July 2021, the Chief Executive Officer, Ms. Anne Gitau, submitted as follows, **THAT—**

11. The Commission was in support of the Bill because the proposed timelines for payment of pension dues are just and reasonable and will address the delays that have been experienced in the past in payment of pension. However, to ensure that the proposed amendment is effectively implemented, the Commission was of the opinion that the Committee should establish whether there are any existing legislative or administrative gaps that hinder the timely processing and payment of pension dues with a view to addressing such issues with finality.
12. It should be established from the National Treasury Pensions Department whether the proposed timeline is implementable.

Committee's Observation

The Committee took note of the Commission's concern on establishing whether there are existing legislative or administrative gaps that required to be addressed in order to achieve the desired effect of the proposed legislative amendment.

The Committee therefore propose to amend the Bill to provide for setting up of regulations to guide the processing of pensions by the originating government entities and the responsibilities of the Pensioners.

3.2 THE NATIONAL TREASURY AND PLANNING

In a meeting with the Committee held on Thursday, 15th July 2021, the Chief Administrative Secretary, National Treasury, Hon. Nelson Gaichuhie submitted as follows, **THAT—**

13. The proposed amendment conforms to Articles 21(2), 43(1) and 43(3) of the Constitution. Article 43(3) mandates the state to ensure that the right to social security is appropriate to persons who are unable to provide for themselves and their dependants. Article 21(2) provides that the state shall ensure that there is a legislative and policy framework and

other measures including setting of standards to achieve the progressive realisation of the rights guaranteed under Article 43 of the Constitution.

14. The Pensions Department is well capacitated to process pension in time but the delays experienced are occasioned by delays in submission of documentation from the government agencies that the pensioners were employed in.
15. In order to operationalize the proposed amendment, subsidiary legislation will be drafted to provide for among others:
 - i. The obligations of Ministries, Departments and Agencies originating the respective pension payment claim;
 - ii. The handling of pension payment claims that lack adequate information for effective processing.

Committee's Observation

The Committee agreed to the proposal by National Treasury on the enactment of subsidiary legislation to operationalise the amendment.

PART FOUR

4 COMMITTEE OBSERVATIONS

Upon reviewing the Bill, the Committee observed the following:

16. If enacted, the Bill will make it possible for pensioners who have retired from public service receive their pensions soon after retirement;
17. An automated pension system that will link up the National Treasury Pensions Department with pension departments of all government entities should be put in place in order to increase efficiency in pension processing;
18. The National Treasury should review the number of documentation needed for the processing of pension with a view to making the process easier; and
19. The National Treasury should build the capacity of pensions departments in public entities in order to enhance their efficiency in processing pension for their employees.

PART FIVE

5 COMMITTEE RECOMMENDATION

20. The Committee having considered the Pensions (Amendment) Bill (*N.A. Bill No. 26 of 2020*) recommends that the House passes the Bill with amendments as proposed in the schedule in chapter 6.

PART SIX

6 SCHEDULE OF PROPOSED AMENDMENTS

The Committees proposed the following amendments to be considered by the House in the Committee stage:

NEW CLAUSE

21. **THAT**, the Bill be amended by inserting the following new clause immediately after clause 1-

- 1A. The Pensions Act is amended in section 3 by inserting the following new sub-section immediately after sub-section (5)-
(6) The Minister may make regulations to give effect to the provisions of section 6.

Justification

The amendment is to give the Minister (Cabinet Secretary) power to make regulations to give effect to the provisions of section 6, with regard to prompt payment of pension

CLAUSE 2

22. **THAT**, clause 2 of the Bill be amended by inserting the following new sub-sections-

- (1B) Without prejudice to the generality of subsection (1A), the Ministry or department where an officer was serving prior to retirement, shall send the relevant documents to the Pensions Department within thirty days from the date of retirement of the officer.
(1C) Subject to sub-section (1B), the Pension Department shall process the officer's pension within sixty days of receipt of the documents.

Justification

The amendment is to set a timeline of thirty days for transmission of a retirees documents/file by the Ministry or Department where a retiree was working to the Pensions Department. Thereafter, to require the Pension Department to process the pension within sixty days.

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

THE HON. GLADYS WANGA, CBS, MP
CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPUBLIC OF KENYA



**NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE**

***ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE PENSIONS
(AMENDMENT) BILL (N.A. BILL NO. 26 OF 2020)***

DATE:

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

ANNEXTURES

1. Adoption Schedule
2. Minutes of the 54th, 55th and 56th sittings
3. Newspaper Advertisement – Submission for Memoranda for Public Participation

MINUTES OF THE 65TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS ON THURSDAY, 5TH AUGUST, 2021 AT 10:30 A.M.

PRESENT

1. Hon. Gladys Wanga, CBS, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Andrew A. Okuome, MP
5. Hon. David M. Mboni, MP
6. Hon. Edith Nyenze, MP
7. Hon. James Gichuhi Mwangi, MP
8. Hon. Joshua C. Kandie, MP
9. Hon. Francis K. Kimani, MP
10. Hon. Catherine Waruguru, MP
11. Hon. (Prof.) Mohamud Sheikh Mohamed, MP

ABSENT WITH APOLOGY

1. Hon. Christopher Omulele, CBS, MP
2. Hon. Shakeel Shabbir Ahmed, CBS, MP
3. Hon. Daniel E. Nanok, MP
4. Hon. (Dr.) Christine Ombaka, MP
5. Hon. Joseph M. Oyula, MP
6. Hon. Stanley M. Muthama, MP
7. Hon. Peter Lochakapong, MP
8. Hon. Qalicha Gufu Wario, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of Secretariat
2. Ms. Brigitta Mati - Legal Counsel II
3. Mr. John Njoro - Serjeant-At-Arms
4. Ms. Christine Maeri - Audio Officer
5. Ms. Hannah Mwangi - Intern

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes from the previous sitting(s) and Matters Arising
4. **Adoption of Reports on the following Bills:**
 - i. **Report on the Pensions (Amendment) Bill (*National Assembly Bill No. 26 of 2020*)**
 - ii. **Report on the Public Procurement and Asset Disposal (Amendment) Bill (*National Assembly Bill No. 34 of 2020*)**
 - iii. **Report on the Public Finance Management (Amendment) Bill (*National Assembly Bill No. 39 of 2020*)**
 - iv. **Report on the Kenya Deposit Insurance (Amendment) Bill, 2020(*National Assembly Bill No. 43 of 2020*)**
 - v. **Report on the Central Bank of Kenya (Amendment) Bill (*National Assembly Bill No. 47 of 2020*)**

- vi. Report on the Public Procurement and Asset Disposal (Amendment) Bill (*National Assembly Bill No. 49 of 2020*)
- vii. Report on the Central Bank of Kenya (Amendment) Bill (*National Assembly Bill No. 10 Of 2021*)
- viii. Report on the Trustees (Perpetual Succession) (Amendment) Bill (*National Assembly Bill No. 23 of 2021*)
- ix. Report on the Perpetuities and Accumulations (Amendment) Bill, 2021 (*National Assembly Bill No.24 of 2021*)

- 5. Any Other Business
- 6. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2021/298: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10:10 a.m and a prayer was said.

MIN.NO.NA/F&NP/2021/299: CONFIRMATION OF MINUTES
Agenda deferred

MIN.NO.NA/F&NP/2021/300: ADOPTION OF REPORTS ON BILL

The Chair invited Members to consider the following Reports which were subsequently adopted as follows: -

1. Report on the Pensions (Amendment) Bill (National Assembly Bill No. 26 of 2020)
Proposed by- Hon. Jimmy O. Angwenyi
Seconded by -Hon. James G. Mwangi
2. Report on the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 34 of 2020)
Proposed by- Hon. Isaac W. Ndirangu
Seconded by -Hon. David M. Mboni
3. Report on the Public Finance Management (Amendment) Bill (National Assembly Bill No. 39 of 2020)
Proposed by- Hon. Edith Nyenze
Seconded by -Hon. Jimmy Angwenyi
4. Report on the Kenya Deposit Insurance (Amendment) Bill, 2020(National Assembly Bill No. 43 of 2020)
Proposed by- Hon. Jimmy O. Angwenyi
Seconded by -Hon. James G. Angwenyi
5. Report on the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 47 of 2020)
Proposed by- Hon David M. Mboni
Seconded by -Hon Jimmy O. A
6. Report on the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 49 of 2020)

Proposed by- Hon. James Gichuhi, M.P
Seconded by – Hon. David Mboni, M.P

7. Report on the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 10 Of 2021)
Proposed by- Hon. David Mboni, M.P
Seconded by -Hon. Jimmy Angwenyi, M.P

8. Report on the Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No. 23 of 2021)
Proposed by- Hon. Jimmy Angwenyi, M.P
Seconded by – Hon. Waihenya Ndirangu, M.P

9. Report on the Perpetuities and Accumulations (Amendment) Bill, 2021 (National Assembly Bill No.24 of 2021)
Proposed by- Hon. Jimmy Angwenyi, M.P
Seconded by - Hon. David Mboni, M.P

MIN.NO.NA/F&NP/2021/301: **ADJOURNMENT/DATE OF NEXT
MEETING**

There being no other business to deliberate on, the meeting was adjourned at 11:28 a.m. The next meeting will be held on notice.

**HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)**

SIGNED..........DATE.....*5th August 2021*.....

MINUTES OF THE 56TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN TALEK CONFERENCE ROOM AT EMARA OLE-SERENI HOTEL ON FRIDAY, 16TH JULY 2021 AT 9:00 A.M.

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. Gladys Wanga, CBS, MP | - | Chairperson |
| 2. Hon. Isaac W. Ndirangu, MP | - | Vice Chairperson |
| 3. Hon. Jimmy O. Angwenyi, MGH, MP | | |
| 4. Hon. Christopher Omulele, CBS, MP | | |
| 5. Hon. Shakeel Shabbir Ahmed, CBS, MP | | |
| 6. Hon. Daniel E. Nanok, MP | | |
| 7. Hon. (Dr.) Christine Ombaka, MP | | |
| 8. Hon. Andrew A. Okuome, MP | | |
| 9. Hon. David M. Mboni, MP | | |
| 10. Hon. Francis K. Kimani, MP | | |
| 11. Hon. Joseph M. Oyula, MP | | |
| 12. Hon. Joshua C. Kandie, MP | | |
| 13. Hon. Stanley M. Muthama, MP | | |
| 14. Hon. Edith Nyenze, MP | | |
| 15. Hon. James Gichuhi Mwangi, MP | | |
| 16. Hon. (Prof.) Mohamud Sheikh Mohamed, MP | | |
| 17. Hon. Peter Lochakapong, MP | | |
| 18. Hon. Qalicha Gufu Wario, MP | | |

ABSENT WITH APOLOGY

Hon. Catherine Waruguru, MP

INATTENDANCE

SECRETARIAT

- | | | |
|------------------------|---|--|
| 1. Ms. Leah Mwaura | - | Senior Clerk Assistant/Head of Secretariat |
| 2. Ms. Jennifer Ndeto | - | Principal Legal Counsel I |
| 3. Ms. Lauren Wesonga | - | Clerk Assistant II |
| 4. Mr. Chelang'a Maiyo | - | Research Officer II |
| 5. Mr. Yaqub Ahmed | - | Media Relations Officer III |
| 6. Mr. John Njoro | - | Serjeant-At-Arms |
| 7. Ms. Christine Maeri | - | Audio Officer |

AGENDA

1. Prayers
2. Communication from the Chairperson
3. **Clause by clause consideration of the Pensions (Amendment) Bill, 2020**
4. **Clause by clause consideration of the Kenya Deposit Insurance (Amendment) Bill, 2020**
5. Any Other Business
6. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2021/258: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 9.11 a.m. and a prayer was said. The Chairperson then welcomed the meeting to deliberate the day's agenda.

MIN.NO.NA/F&NP/2021/259:
Agenda deferred

CONFIRMATION OF MINUTES

MIN.NO.NA/F&NP/2021/260:

**CLAUSE BY CLAUSE CONSIDERATION OF
THE PENSIONS (AMENDMENT) BILL, 2020**

After lengthy deliberations, the Committee resolved as follows on the Bill:

Clause 1: Agreed to

Clause 2: Amend by providing for a period within which the employing government entity should submit a retiree's documents to the Pensions Department for processing of payment.
Provide for regulations

MIN.NO.NA/F&NP/2021/261:

**CLAUSE BY CLAUSE CONSIDERATION OF
THE KENYA DEPOSIT INSURANCE
(AMENDMENT) BILL, 2020**

The Committee deliberated and resolved that all clauses of the Bill should be deleted.

MIN.NO.NA/F&NP/2021/262:

**ADJOURNMENT/DATE OF NEXT
MEETING**

There being no other business to deliberate on, the meeting was adjourned at 12.57 p.m. The next meeting will be held at 2.00 p.m.

**HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)**

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

MINUTES OF THE 55TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN TALEK CONFERENCE ROOM AT EMARA OLE-SERENI HOTEL ON THURSDAY, 15TH JULY 2021 AT 3:00 P.M.

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. Gladys Wanga, CBS, MP | - | Chairperson |
| 2. Hon. Isaac W. Ndirangu, MP | - | Vice Chairperson |
| 3. Hon. Jimmy O. Angwenyi, MGH, MP | | |
| 4. Hon. Christopher Omulele, CBS, MP | | |
| 5. Hon. Shakeel Shabbir Ahmed, CBS, MP | | |
| 6. Hon. Daniel E. Nanok, MP | | |
| 7. Hon. (Dr.) Christine Ombaka, MP | | |
| 8. Hon. Andrew A. Okuome, MP | | |
| 9. Hon. David M. Mboni, MP | | |
| 10. Hon. Francis K. Kimani, MP | | |
| 11. Hon. Joseph M. Oyula, MP | | |
| 12. Hon. Joshua C. Kandie, MP | | |
| 13. Hon. Stanley M. Muthama, MP | | |
| 14. Hon. Edith Nyenze, MP | | |
| 15. Hon. James Gichuhi Mwangi, MP | | |
| 16. Hon. (Prof.) Mohamud Sheikh Mohamed, MP | | |
| 17. Hon. Peter Lochakapong, MP | | |
| 18. Hon. Qalicha Gufu Wario, MP | | |

ABSENT WITH APOLOGY

Hon. Catherine Waruguru, MP

INATTENDANCE

SECRETARIAT

- | | | |
|------------------------|---|--|
| 1. Ms. Leah Mwaura | - | Senior Clerk Assistant/Head of Secretariat |
| 2. Ms. Jennifer Ndeto | - | Principal Legal Counsel I |
| 3. Ms. Lauren Wesonga | - | Clerk Assistant II |
| 4. Mr. Chelang'a Maiyo | - | Research Officer II |
| 5. Mr. Yaqub Ahmed | - | Media Relations Officer III |
| 6. Mr. John Njoro | - | Serjeant-At-Arms |
| 7. Ms. Christine Maeri | - | Audio Officer |

NATIONAL TREASURY AND PLANNING

1. Hon. Nelson Gaichuhie
2. Mr. Michael Kagika, EBS
3. Ms. Alice Nyariki

KENYA DEPOSIT INSURANCE CORPORATION

1. Mr. Mohamud A.M.
2. Mr. Paul Manga
3. Mr. Chrispus Yanken

AGENDA

1. Prayers
2. Communication from the Chairperson
3. **Meeting with the National Treasury to consider the Public Finance Management (Amendment) (No. 3) Bill, 2020; and the Pensions (Amendment) Bill, 2020**
4. **Meeting with Kenya Deposit Insurance Corporation to consider the Kenya Deposit Insurance (Amendment) Bill, 2020**
5. Any Other Business
6. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2021/253 COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 3.13 p.m. and a prayer was said. The Chairperson then called for introduction of those present before inviting National Treasury to make their submissions on the Public Finance Management (Amendment) (No. 3) Bill, 2020; the Pensions (Amendment) Bill, 2020; and the Kenya Deposit Insurance (Amendment) Bill, 2020.

MIN.NO.NA/F&NP/2021/254: CONFIRMATION OF MINUTES Agenda deferred

MIN.NO.NA/F&NP/2021/255: MEETING WITH THE NATIONAL TREASURY TO CONSIDER THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 3) BILL, 2020; AND THE PENSIONS (AMENDMENT) BILL, 2020

The Chief Administrative Secretary, National Treasury, Hon. Nelson Gaichuhie submitted as follows:

Pensions (Amendment) Bill, 2020

National Treasury supports the amendment proposed in the Bill as it will expedite processing of pension to retirees. They will draft regulations that will ensure that the law is operationalized.

The Pensions Department is well capacitated to process pension in time but the delays are occasioned by delays in submitting documentation from government agencies that the pensioners were employed in.

MEMBERS' DELIBERATIONS

1. On how delays in the processing of pensions for teachers and police officers are being addressed, the meeting was informed that 30 officers from the Pensions Department have been assigned to TSC and National Police Service for document verification so that payment is made in time.
2. On the quantum of pension that becomes payable after retirement, the meeting was informed that the initial payment is a quarter of the pension amount (lump sum) and the balance is paid monthly.
3. The Committee requested the National Treasury to provide a list of documents required for pension to be processed.

Public Finance Management (Amendment) (No. 3) Bill, 2020

National Treasury proposed that the timeline is amended to two months in order to allow public entities adequate time to prepare financial statements, complete internal approvals and National Treasury quality reviews before submission to the Auditor General.

MEMBERS' DELIBERATIONS

On why National Treasury has been late in disbursing funds to public entities, Hon. Gaichuhie stated that this is because KRA has not been able to meet their revenue targets except the last FY where they surpassed their target.

Details of the submissions made by National Treasury on the two Bills are contained in Part III of the Report on the consideration of the Pensions (Amendment) Bill (N.A. Bill No. 26 of 2020) and the Public Finance Management (Amendment) Bill (N.A. Bill No. 39 of 2020).

MIN.NO.NA/F&NP/2021/256: MEETING WITH THE KENYA DEPOSIT INSURANCE CORPORATION TO CONSIDER THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL, 2020

The Chairperson invited the CEO, KDIC to make their submission on the Kenya Deposit Insurance (Amendment) Bill, 2020. Mr. Mohamud submitted as follows: KDIC did not support the amendments proposed in the Bill because there was a review of the coverage limit from KSh. 100,000 to KSh. 500,000 vide LN. NO. 159 of 2020 which was communicated vide gazette notice No. Vol. CXXII-NO. 159 on 28th August 2020.

Increasing the coverage limit to KSh. 1,000,000 will increase the Corporation Fund exposure to KSh. 950 billion against the current fund of KSh. 130 billion which. The difference will have to be funded from the exchequer pursuant to section 20(4) of the KDI Act.

MEMBERS' DELIBERATIONS

1. On where KDIC invests the premiums collected from banks, Mr. Mohamud informed the meeting that KDIC collects between KSh. 5 billion and KSh. 6 billion from banks per year which is invested in Government securities. The fund is currently at KSh. 139 billion.
2. On how many depositors are covered with the coverage limit of KSh. 500,000, the meeting was informed that the amount covers 99% of the depositors.
3. KDIC was encouraged to engage more with the Committee.

Details of the submissions made by Kenya Deposit Insurance Corporation on the Bill are contained in Part III of the Report on the consideration of the Kenya Deposit Insurance (Amendment) Bill (N.A. Bill No. 43 of 2020).

MIN.NO.NA/F&NP/2021/257: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 5.25 p.m. The next meeting will be held on Friday, 16th July 2021 at 9.00 a.m.

**HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)**

SIGNED..........DATE. 5th August 2021.....

MINUTES OF THE 54TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN TALEK CONFERENCE ROOM AT EMARA OLE-SERENI HOTEL ON THURSDAY, 15TH JULY 2021 AT 9:00 A.M.

PRESENT

- | | | |
|---|---|-------------------------|
| 1. Hon. Gladys Wanga, CBS, MP | - | Chairperson |
| 2. Hon. Isaac W. Ndirangu, MP | - | Vice Chairperson |
| 3. Hon. Jimmy O. Angwenyi, MGH, MP | | |
| 4. Hon. Christopher Omulele, CBS, MP | | |
| 5. Hon. Shakeel Shabbir Ahmed, CBS, MP | | |
| 6. Hon. Daniel E. Nanok, MP | | |
| 7. Hon. (Dr.) Christine Ombaka, MP | | |
| 8. Hon. Andrew A. Okuome, MP | | |
| 9. Hon. David M. Mboni, MP | | |
| 10. Hon. Francis K. Kimani, MP | | |
| 11. Hon. Joseph M. Oyula, MP | | |
| 12. Hon. Joshua C. Kandie, MP | | |
| 13. Hon. Stanley M. Muthama, MP | | |
| 14. Hon. Edith Nyenze, MP | | |
| 15. Hon. James Gichuhi Mwangi, MP | | |
| 16. Hon. (Prof.) Mohamud Sheikh Mohamed, MP | | |
| 17. Hon. Peter Lochakapong, MP | | |
| 18. Hon. Qalicha Gufu Wario, MP | | |

ABSENT WITH APOLOGY

Hon. Catherine Waruguru, MP

INATTENDANCE

SECRETARIAT

- | | | |
|------------------------|---|--|
| 1. Ms. Leah Mwaura | - | Senior Clerk Assistant/Head of Secretariat |
| 2. Ms. Jennifer Ndeto | - | Principal Legal Counsel I |
| 3. Ms. Lauren Wesonga | - | Clerk Assistant II |
| 4. Mr. Chelang'a Maiyo | - | Research Officer II |
| 5. Mr. Yaqub Ahmed | - | Media Relations Officer III |
| 6. Mr. John Njoro | - | Serjeant-At-Arms |
| 7. Ms. Christine Maeri | - | Audio Officer |

MINISTRY OF FOREIGN AFFAIRS

1. Amb. Macharia Kamau
2. Mr. Abel Njuguga
3. Mr. Vincent Kimeli
4. CPA Zachaeus Psenjen
5. CPA Joel Jego

INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)

1. CPA Edwin Makori
2. Mr. Elias Wakhisi
3. Mr. Hillary Onami
4. Mr. Evance Juma
5. Ms. Nancy Moraa

HEADS OF ACCOUNTING AND FINANCE UNITS IN THE PUBLIC SECTOR

1. CPA Chrispus Mbogo
2. CPA Evans Moturi

PUBLIC SERVICE ACCOUNTING STANDARDS BOARD

1. CPA Fred Riaga
2. Mr. Benuel Bosire

OFFICE OF THE AUDITOR GENERAL

1. CPA Nancy Gathungu
2. Mr. Sylvester Kiini
3. Ms. Milcah Ondiek
4. Mr. Antony Waiganjo
5. Mr. Jesse Mutua

SALARIES AND REMUNERATION COMMISSION

1. CPA Sophie Moturi
2. Ms. Nelly Ashubwe
3. Ms. Anne Gitau
4. Ms. James Sitienei

MEDIA

1. Mr. Eliud Kibii - The Star
2. Mr. Moses Odhiambo - The Star

AGENDA

1. Prayers
2. Communication from the Chairperson
3. **Briefing on the Public Finance Management (Amendment) (No. 3) Bill, 2020; the Pensions (Amendment) Bill, 2020; and the Kenya Deposit Insurance (Amendment) Bill, 2020**
4. **Stakeholder engagement on the Public Finance Management (Amendment) (No. 3) Bill, 2020**
5. **Meeting with Salaries and Remuneration Commission to consider the Pensions (Amendment) Bill, 2020**
6. Any Other Business
7. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2021/247

COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 9.23 a.m. and a prayer was said. The Chairperson then welcomed the Legal Counsel to brief the Committee on the Public Finance Management (Amendment) (No. 3) Bill, 2020; the Pensions (Amendment) Bill, 2020; and the Kenya Deposit Insurance (Amendment) Bill, 2020.

MIN.NO.NA/F&NP/2021/248:

CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2021/249:

BRIEFING ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 3) BILL, 2020; THE PENSIONS (AMENDMENT) BILL, 2020; AND THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL, 2020

The Legal Counsel, Ms. Jennifer Ndeto, briefed the Committee on the amendments proposed in the three Bills.

On the Kenya Deposit Insurance (Amendment) Bill, 2020, Members noted that the figure of compensation had been reviewed from KSh. 100,000 to KSh. 500,000 in 2020 through Regulations.

On the Pensions (Amendment) Bill, 2020, the meeting observed that the timeline is important as it will ensure that retirees are paid their pension soon after retirement.

MIN.NO.NA/F&NP/2021/250:

STAKEHOLDER ENGAGEMENT ON THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) (NO. 3) BILL, 2020

The stakeholders were invited into the meeting. The Chairperson called for introduction of those present before inviting stakeholders to make submissions on the Bill. They submitted as follows:

Ministry of Foreign Affairs

Were opposed to the amendment because of the following reasons:

1. Delay in disbursement of budgetary allocation to the Ministry sometimes towards the end of the fourth quarter which poses a challenge in spending and finalizing the reporting of those funds in the shortened time period;
2. The Ministry has 56 Mission stations abroad and it therefore takes time to collate the financial data on revenue and expenditure from all the units especially since they are not automated (not in the IFMIS platform);
3. Draft financial statements are normally reviewed for quality assurance by the National Treasury before submission to the Office of the Auditor General and other required offices. The review may not be possible with the proposed timeline;
4. The proposed timeline will shorten the time to prepare financial statements and key reports that make up the annual reports and financial statements and have them internally reviewed; and
5. The Ministry does not have any alternative system outside the IFMIS for reporting on all financial activities of the Missions abroad. In the absence of this interface, real time reporting is currently not practically feasible.

MEMBERS' DELIBERATIONS

1. On whether it is possible to submit piecemeal reports to the Office of the Auditor General, the meeting was informed that this is not possible because the OAG wants a comprehensive report. National Treasury demands full reporting of the amounts issued to the Ministry.
2. On why all Mission stations are not on the IFMIS system, the meeting was informed that this has been caused by lack of exchequer and internet connectivity in some missions. The Ministry is however working on completing connection of all Missions to the system in the next three years depending on availability of exchequer.
3. On whom the sanctions in the Bill are directed to, the meeting was informed that the sanctions are directed to the accounting officers. The sanctions can be more meaningful as opposed to serving a jail term of five years.

Institute of Certified Public Accountants of Kenya (ICPAK)

For the timeline to be revised, measures have to be put in place to ensure that there is fiscal discipline and National Treasury disburses exchequer to Government Agencies in time.

They proposed that the timeline should be changed to two months (31st August) as opposed to the one month proposed in the Bill. This will facilitate compliance and ensure that good quality reports are submitted. The one month timeline may result in submitting substandard work and it will not be possible to carry out quality review which has improved public financial reporting.

MEMBERS' DELIBERATIONS

On why they were requesting for a review of the timeline to two months, they stated that this is because of late disbursement of funds by National Treasury and due to complexities in Government.

Heads of Accounting and Finance Units in the Public Sector

Some state agencies still use the manual system for financial reporting. It will therefore be difficult for them to submit their reports within the revised timeline. Additionally, some government offices are located in places where there is no internet coverage.

They proposed that the timeline should be revised to two months.

Public Service Accounting and Standards Board (PSASB)

They submitted that the one month proposed in the Bill may not be sufficient for internal auditors to review the report.

They noted that the Office of the Auditor General should be strengthened. Additionally, Government operations should be automated in order to make it easier for the reports to be prepared.

The capacity of government accountants should be enhanced. This is because there have been no systemic errors in the IFMIS System but there have been human errors.

MEMBERS' DELIBERATIONS

1. On what should be done to ensure that National Treasury disburses funds in time, the meeting was informed that cash-flows may not make it possible for National Treasury to disburse funds earlier in the quarter. Measures should be put in place to enable accrual accounting to be done.
2. On why internal audit is done yet the Auditor General audits the accounts too, the meeting was informed that internal audit is an internal process to provide internal assurance to the management and should therefore be delinked from external audit.

Office of the Auditor General

The Office supported the proposed amendment because:

1. It will improve relevance and usefulness of the information reported;
2. Enables management to take any remedial action early enough if required;
3. Indicates the responsiveness of the government to the public's concerns and informs superior managerial capability and greater openness and transparency about how peoples' business is conducted;
4. Helps to build trust and confidence in government thereby increasing the confidence of investors and development partners in government;
5. Is a basis for performance evaluation;

6. Improves financial and managerial discipline;
7. Synchronization of the budgeting and accountability cycles;
8. Evaluation of performance of government;
9. Enable Parliament and county assemblies make informed budget decisions;
10. Make it possible for in-year audits to be done; and
11. Improved efficiency in auditing.

MEMBERS' DELIBERATIONS

1. On how reporting can be done within the shortened timeline despite late disbursement of funds by National Treasury, the Auditor General stated that there is need to introduce accrual accounting. An end should be brought to the National Treasury sending money at the end of a financial year and forcing it to be accounted for in the previous financial year. Parliament should ensure that the cut off period is adhered to by all government entities.
2. On how the quality of reports can be improved, the meeting was informed that this can be done by empowering internal audit departments in government offices.
3. On whether the Auditor General has met the Constitutional timeline of auditing, the Auditor General stated that her office has never met the timeline due to late submission of reports by government agencies.
4. On what can be done to increase fiscal discipline, the Auditor General stated that this can be done by enforcing the Public Finance Management Act and the Public Finance Management Regulations.

Details of the amendments proposed by stakeholders on the Bill are contained in Part III of the Report on the consideration of the public Finance Management (Amendment) (No. 3) Bill (N.A. Bill No. 39 of 2020).

MIN.NO.NA/F&NP/2021/251: MEETING WITH SALARIES AND REMUNERATION COMMISSION TO CONSIDER THE PENSIONS (AMENDMENT) BILL, 2020

The Chairperson called for introduction of those present before inviting SRC to make their submission on the Pensions (Amendment) Bill, 2020.

Ms. Anne Gitau, CEO, SRC submitted that the proposal to have a timeline for payment of pension is good. It is however important to find out reasons that have been hindering processing of pension in time and address them.

Details of the amendments proposed by SRC on the Bill are contained in Part III of the Report on the consideration of the Pensions (Amendment) Bill (N.A. Bill No. 26 of 2020).

MIN.NO.NA/F&NP/2021/252: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 2.24 p.m. The next meeting will be held at 3.00 p.m.

**HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)**

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

8th August 2021