

SPECIAL ISSUE

Kenya Gazette Supplement No. 15 (Senate Bills No. 2)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2018

NAIROBI, 28th February, 2018

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**THE RETIREMENT BENEFITS (DEPUTY
PRESIDENT AND DESIGNATED STATE
OFFICERS) (AMENDMENT) BILL, 2018**

A Bill for

**AN ACT of Parliament to amend the Retirement
Benefits (Deputy President and Designated State
Officers) Act**

ENACTED by the Parliament of Kenya, as follows

1. This Act may be cited as the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, 2018.

Short title.

2. Section 2 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015, hereinafter referred to as the "principal Act", is amended by deleting the definition of the term "retired vice-president" and substituting therefor—

Amendment of section 2 of No. 8 of 2015.

"retired Vice-President" means a person who, having held the office of the Vice-President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution.

3. Section 3 of the principal Act is amended by deleting the words "sections 5(3)" appearing immediately after the words "subject to" and substituting therefor the words "sections 8A".

Amendment of section 3 of No. 8 of 2015.

4. The principal Act is amended by inserting the following new section immediately after section 3—

Insertion of new section 3A in No. 8 of 2015

Joint Committee on Entitlements

3A. (1) There is established a joint committee on entitlements comprising of—

- (a) leaders of the Majority Party in the National Assembly and the Senate;
- (b) leaders of the Minority Party in the National Assembly and the Senate;
- (c) whips of the Majority Party in the National Assembly and the Senate;

- (d) whips of the Minority Party in the National Assembly and the Senate; and
 - (e) five members, two of whom shall be senators, appointed by Parliament, from among its members in the following manner—
 - (i) three shall be appointed by the party or coalition of parties forming the national government, of whom at least one shall be a woman; and
 - (ii) two shall be appointed by the party or coalition of parties not forming the national government, of whom at least one shall be a woman.
- (2) The Committee shall consider—
- (a) a petition that seeks to alter the entitlements of an entitled person under this Act;
 - (b) a complaint or dispute regarding the entitlements due to an entitled person under this Act; and
 - (c) any other petition committed to the committee by the Speaker for consideration.
- (3) The Committee shall—
- (a) consider a petition under subsection (2) within thirty days of receipt of such petition; and
 - (b) table its report in the National Assembly and the Senate for adoption.

5. Section 5 of the principal Act is amended—

- (a) in the marginal note by deleting the words “an entitled person” appearing immediately after the words “benefits of” and substituting therefor the words “a Speaker”; and

Amendment of section 5 of No. 8 of 2015.

(b) by deleting subsection (3).

6. The principal Act is amended by inserting the following new section immediately after section 8—

Insertion of section 8A in No. 8 of 2015.

Death of entitled person while in service

8A. Where an entitled person dies in service after the commencement of this Act, a lump sum payment on death calculated as a sum equal to five times the entitled person's annual salary shall become payable to the entitled person's legal personal representatives.

7. The principal Act is amended by deleting section 10 and substituting therefor the following new section—

Amendment of section 10 of No. 8 of 2015.

Children's Benefits

10. Upon the death of an entitled person who is in receipt of, or who is entitled to a pension under this Act, the surviving eligible child shall be entitled to—

- (a) if there is only one eligible child, pension at the rate of twenty-five percent of the pension entitlement of the deceased entitled person; or
- (b) if there are two or more eligible children, a pension at the rate of fifty percent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

8. Section 12 of the principal Act is amended by—

Amendment of section 12 of No. 8 of 2015.

- (a) renumbering the existing provision as subsection (1); and
- (b) inserting the following new subsections immediately after subsection(1)—
 - (2) Without prejudice to the generality of subsection (1), where an entitled person is entitled to provision of security, the entitled person shall be accorded the opportunity to select the officers to serve them.

- (3) Where there is a need to reduce or alter the security arrangements of an entitled person, the Inspector-General shall refer the matter to the joint committee on entitlements for approval.
- (4) The committee shall consider the matter referred to it under subsection (3) within fourteen days and table its reports before the National Assembly and the Senate for consideration and adoption.

9. The Second schedule of the principal Act is amended in paragraph (j) by inserting the words “not less than six and a not exceeding ten” immediately before the words “armed security guards”.

Amendment of the
Second Schedule
of No. 8 of 2015.

10. The Third schedule of the principal Act is amended in paragraph (j) by inserting the words “not less than six and not exceeding ten” immediately before the words “armed security guards”.

Amendment of the
Third Schedule of
No. 8 of 2015.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The Principal object of this Bill is to amend the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 to provide for the procedure to be followed when altering or modifying the entitlements due to a Deputy President and Designated State Officers as provided for in the Act.

The amendment seeks to ensure the executive does not use alteration or modification of entitlements due to an entitled person as a tool to intimidate or maltreat the entitled person. The amendment establishes a joint committee within Parliament to review decisions of the executive to alter or modify the personnel attached to the entitled person.

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

The Bill does not delegate legislative powers nor does it limit the fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill affects the powers and functions of the county government and it is therefore a Bill that concerns counties in terms of Article 110(1)(a) of the Constitution.

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

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

Dated the 19th January, 2018.

LEDAMA OLEKINA,
Senator.

Section 2 of No. 8 of 2015 which it is proposed to amend—

2. In this Act, unless the context otherwise require—

“benefits” means pension and other retirement benefits conferred by this Act;

“Deputy President” means a person who holds the office of Deputy-President of Kenya in accordance with the Constitution;

“eligible child” means any child of a deceased entitled person who—

- (a) is under eighteen years of age; or
- (b) is under twenty-four years of age and is undergoing a course of full time education; or
- (c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within paragraph (a) and (b) or is incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by the Government in a hospital or similar institution;

“entitled person” means any of the persons specified in section 3;

“retired Chief Justice” means a person who, having held the office of Chief Justice, has ceased to hold the office as such in the manner specified in the Constitution;

“retired Deputy Chief Justice” means a person who, having held the office of Deputy Chief Justice, has ceased to hold office as such in the manner specified in the Constitution;

“retired Deputy President” means a person who, having held the office of Deputy-President, has ceased to hold office as such in the manner specified in the Constitution;

“retired Prime Minister” means a person who, having held the office of Prime Minister, has ceased to hold office as such in the manner specified in the Constitution;

“retired Speaker” means a person who, having held the office of the Speaker of the National Assembly or Speaker of the Senate at any time after the 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

“retired Vice-President” means a person who, having held the office of Vice-President, has ceased to hold office as such in the manner

specified in the Constitution and does not include a person who served as Vice-President before the commencement of this Act;

“spouse” means the wife or husband of an entitled person who dies while holding office as such, and includes in the case of an entitled person under whose religion or custom polygamy is lawful, any person to whom the entitled person is lawfully married in accordance with the tenets of that religion or custom;

“term” means a Parliamentary term unless otherwise defined by the instrument of appointment; and

Section 3 of No. 8 of 2015 which it is proposed to amend—

3. Subject to sections 5(3) and 15, the persons entitled to the benefits conferred by this Act shall be persons who—

- (a) at any time after the 1st January, 1993, retire as Deputy President, Prime Minister, Vice-President or Speaker; or
- (b) at any time after the 27th August, 2010, retire as Chief Justice or Deputy Chief Justice.

Section 5 of No. 8 of 2015 which it is proposed to amend—

5. (1) A retired Speaker of the National Assembly or the Senate shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person’s last monthly salary while in office;
- (b) a lump sum payment on retirement, calculated as a sum equal to one year’s salary paid for each term served in office;
- (c) one saloon vehicle of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person and the entitled person’s spouse;
- (g) the additional benefits set out in the First Schedule.

(2) Despite the provisions of this section, an entitled person who serves in office for less than a term, shall not be entitled to the benefits set out in this section but shall be entitled to—

- (a) gratuity paid at the end of the entitled person's service at the rate of thirty-one per cent of the entitled person's salary while in office;
- (b) one armed security guards who shall be provided on request by the entitled person;
- (c) diplomatic passports for the entitled person and his spouse; and
- (d) access to the V.I.P. lounge at all airports within Kenya.

(3) Where an entitled person dies in service after the commencement of this Act, a lumpsum payment on death calculated as a sum equal to five times his annual salary shall become payable to his legal personal representatives.

Section 8 of No. 8 of 2015 which it is proposed to amend—

8. (1) An entitled person shall be expected to play a consultative and advisory role to the Government and the people of Kenya.

(2) An entitled person may be requested by the Government to perform, subject to his or her concurrence, specific official functions and shall be paid a reasonable allowance in respect of such official functions.

Section 10 of No. 8 of 2015 which it is proposed to amend—

10. A children's pension shall be payable for the Children's-benefit-benefit of an eligible child where an entitled person dies and—

- (a) if there is only one child, pension at the rate of twenty-five percent of the pension entitlement of the entitled person;
- (b) if there are two or more children, a pension at the rate of fifty percent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

Section 12 of No. 8 of 2015 which it is proposed to amend—

12. The professional and other staff required to be provided for an entitled person under the First Schedule shall be public officers, but no person shall be appointed or posted to serve on such staff except with the concurrence of the entitled person and such staff shall, in the performance of their duties, be responsible only to the entitled person.

The Second Schedule of No. 8 of 2015 which it is proposed to amend—

SECOND SCHEDULE

[Section 6 (g).]

ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED PRIME
MINISTER

- (a) Three drivers;
- (b) one personal assistant;
- (c) one accountant;
- (d) two secretaries;
- (e) two house keepers;
- (f) two senior support staff;
- (g) two gardeners;
- (h) two cooks;
- (i) two cleaners;
- (j) armed security guards who shall be provided on request by the entitled person;
- (k) diplomatic passports for the entitled person and his or her spouse;
- (l) office and office equipment;
- (m) maintenance expenses for the vehicles provided pursuant to this Act;
- (n) access to the V.I.P. lounge II at all airports within Kenya.

The Third Schedule of No. 8 of 2015 which it is proposed to amend—

THIRD SCHEDULE

[Section 7 (g).]

ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED DEPUTY
PRESIDENT OR RETIRED VICE-PRESIDENT

- (a) Two drivers;
- (b) one personal assistant;
- (c) one accountant;
- (d) one secretary;
- (e) two house keepers;

- (f) two senior support staff;
- (g) two cooks;
- (h) two gardeners;
- (i) two cleaners;
- (j) armed security guards who shall be provided on request by the entitled person;
- (k) diplomatic passports for the entitled person and his or her spouse;
- (l) office and office equipment;
- (m) maintenance expenses for the vehicles provided pursuant to this Act;
- (n) access to the V.I.P. lounge II at all airports within Kenya.

PARLIAMENT
OF KENYA
LIBRARY

TURDAY, MAY 12, 2018 The Standard

REPUBLIC OF KENYA



**TWELFTH PARLIAMENT
THE SENATE**

PUBLIC HEARINGS/ RECEIPT OF MEMORANDA

**The Retirement Benefits (Deputy President and Designated State Officers)
(Amendment) Bill (Senate Bills No. 2 of 2018)**

The Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill (Senate Bills No. 2 of 2018) was read a First Time in the Senate on Wednesday 18th April, 2018 and was thereafter committed to the Senate Standing Committee on Labour and Social Welfare for consideration.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 134 of the Standing Orders of the Senate, the Senate Standing Committee on Labour and Social Welfare now invites interested members of the public and stakeholders to submit their views on the Bill. The views may be submitted through submission of written memoranda in the following manner-

1. Public Hearings shall be held on **Wednesday 16th May, 2018 from 10:00 a.m. to 1:00 p.m. at the CPA Room, Ground Floor, Main Parliament Buildings, Nairobi;** or
2. Written Memoranda may be forwarded to the **Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi,** hand-delivered to the **Office of the Clerk of the Senate/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi** or emailed to **cSenate@parliament.go.ke**, to be received **on or before Wednesday, 16th May, 2018 at 5.00 p.m.**

The Bill may be found on the Parliament website at <http://www.parliament.go.ke/senate>.

**CLERK OF THE SENATE/ SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.**

Scramble for votes in western hots up with imminent merger



ONDARI OGEGA | NATION

Amani National Congress (ANC) party leader Musalia Mudavadi addresses a press conference in Kisumu yesterday.

BY PATRICK LANG'AT
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AND RUSHDIE OUDIA
rjudia@ke.nationmedia.com

Scramble for western Kenya votes has gone a notch higher after MMr Musalia Mudavadi's Amani National Congress (ANC) and Moses Wetang'ula-led Ford-Kenya yesterday reiterated their bid to merge in an effort to consolidate the vote-rich region. Deputy President William Ruto and opposition leader Raila Odinga too want a slice of the region.

Mr Mudavadi yesterday said the ongoing dialogue with Ford Kenya was going on well, and

will soon lead to a new party, different from the agreement in the National Super Alliance (Nasa).

"We are satisfied that emerging political realities dictate that we seek to strengthen the emerging partnership ANC and Ford Kenya," Mr Mudavadi told journalists in Kisumu yesterday. He said that a joint technical committee was almost done with its work, and will update the two parties in their next individual meetings.

As Mr Mudavadi rallied his troops behind the deal in Nakuru, Mr Wetang'ula was addressing women members of the county assembly from his

party in Elementaita, Nakuru County, waxing lyrical about the prospects of the proposed partnership.

"Moving into the Ford-Kenya-ANC merger, we have resolved that we shall form the next government with others or others will form the next government with us. Being outside government is not funny," Ford-Kenya deputy party leader Boni Kha-wale said.

But while the two leaders supported the bid, last week, divisions over who between them will be the leader of the yet-to-be-formed party exposed the thin foundation that the proposed relationship rests.

Mr Wetang'ula will also get another chance to rally his troops around the deal today when the party leadership meets the National Executive Council, and the parliamentary group in Nakuru.

The meeting will make a formal stand, or way forward, on the proposed partnership, and the future of Ford-Kenya in Nasa—a coalition Mr Wetang'ula had last month said turned his back on him, when he was removed from his Senate minority leader post in favour of Mr Odinga's ally and confidante, Siaya senator James Orengo. It is out of this anger, Mr Wetang'ula explained, that the party wanted to forge a new alliance with ANC led by Musalia Mudavadi.

REPUBLIC OF KENYA



TWELFTH PARLIAMENT
THE SENATE

PUBLIC HEARINGS/ RECEIPT OF MEMORANDA

The Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill (Senate Bills No. 2 of 2018)

The Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill (Senate Bills No. 2 of 2018) was read a First Time in the Senate on Wednesday 18th April, 2018 and was thereafter committed to the Senate Standing Committee on Labour and Social Welfare for consideration.

Pursuant to the provisions of Article 118(1)(b) of the Constitution and standing order 134 of the Standing Orders of the Senate, the Senate Standing Committee on Labour and Social Welfare now invites interested members of the public and stakeholders to submit their views on the Bill. The views may be submitted through submission of written memoranda in the following manner-

1. Public Hearings shall be held on **Wednesday 16th May, 2018 from 10:00 a.m. to 1:00 p.m. at the CPA Room, Ground Floor, Main Parliament Buildings, Nairobi;** or
2. Written Memoranda may be forwarded to the **Clerk of the Senate/ Secretary, Parliamentary Service Commission, P.O. Box 41842-00100, Nairobi,** hand-delivered to the **Office of the Clerk of the Senate/ Secretary, Parliamentary Service Commission, First Floor, Main Parliament Buildings, Nairobi** or emailed to **csenate@parliament.go.ke**, to be received on or before **Wednesday, 16th May, 2018 at 5.00 p.m.**

The Bill may be found on the Parliament website at <http://www.parliament.go.ke/senate>.

**CLERK OF THE SENATE/ SECRETARY,
PARLIAMENTARY SERVICE COMMISSION.**

MINUTES OF THE 37TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 16TH OCTOBER, 2018 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDINGS FROM 12 Noon.

MEMBERS PRESENT

- | | |
|-------------------------------------|---------------|
| 1. Sen. Sakaja Johnson Arthur, MP | - Chairperson |
| 2. Sen. Stewart Madzayo, MP | -Member |
| 3. Sen. (Dr.) Mwaura Isaac, CBS, MP | -Member |
| 4. Sen. Samson Cherargey, MP | -Member |
| 5. Sen. (Dr.) Gertrude Musuruve, MP | -Member |

ABSENT WITH APOLOGIES

- | | |
|---|-------------------|
| 6. Sen. (Dr.) Milgo Alice Chepkorir, MP | -Vice Chairperson |
| 7. Sen. Poghio Samuel Losuron, EGH, MP | -Member |
| 8. Sen. Petronila Were Lokorio, MP | -Member |
| 9. Sen. Beatrice Kwamboka, MP | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|--------------------|
| 1. Ms. Mwanate Shaban | -Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Vitus Oketch | - Research Officer |
| 4. Mr. Patrick Murindo | - SAA |

MINUTE SEN/SCLSW/157/2018: PRELIMINARIES

The Chairperson called the meeting to order at 12.30 pm followed by a word of prayer.

MINUTE SEN/SCLSW/158/2018: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Madzayo and seconded by Sen. Mwaura as follows:

AGENDA

1. Preliminaries;
-Prayers
2. Adoption of the Agenda;
3. **Confirmation of minutes 35 and 36;**
3. **Adoption of the Report on the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill, 2018; and**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/159/2018: CONFIRMATION OF MINUTES 35 AND 36

- i. The Minutes of the 35th Sitting held on Wednesday, 9th October, 2018 in the Senate Lounge, Main Parliament Buildings from 12.30 pm were confirmed as a true reflection of the meeting after having being proposed by Sen. Sakaja and seconded by Sen. Musuruve.
- ii. The Minutes of the 36th Sitting held on Wednesday 17th September, 2018 in the Red Cross Ground Floor Boardroom from 11.30 am were confirmed as a true reflection of the meeting after having being proposed by Sen. Cherargey and seconded by Sen. Madzayo.

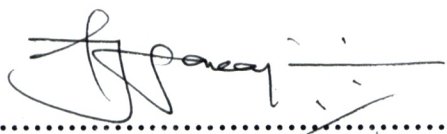
MINUTE SEN/SCLSW/160/2018: ADOPTION OF THE REPORT ON THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL, 2018

The Committee went through the report on the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill, 2018 and resolved to adopt it after being proposed by Sen. Mwaura and seconded by Sen. Cherargey.

MINUTE SEN/SCLSW/161/2018: ANY OTHER BUSINESS AND ADJOURNMENT

- 1) The Committee noted the letter from the East African Youth Parliament inviting the committee to the 3rd Biannual East African Youth Leadership Conference to be held from 22nd – 23rd November, 2018 in Mombasa County and nominated Sen. Kwamboka, Sen. Cherargey and Sen. Musuruve to participate in the event.
- 2) The Chair briefed the Members on the status of the County Governments Retirement Scheme Bill, 2018 and informed the Members that there had been an informal communication to both Houses to pause on the Bill to allow for more consultations. The Senate Business Committee wrote to the Ministry of Devolution and Council of Governors and gave them 14 days to submit their amendments. The Chair further said that the issue has been under discussion and that the National Assembly has proceeded with their Bill and is now at the Committee of the whole. He stated that since the two bills are similar, and it is in the best interests of the Counties to get a legislation that will protect worker's pension, he advised the Committee to consider the Bill from the National Assembly if it comes first and give input.

There being no other business the meeting was adjourned at 1pm.

SIGNATURE.....
(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE.....17th October 2018.....

MINUTES OF THE 36TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 16TH OCTOBER, 2018 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDINGS FROM 11.00 AM.

MEMBERS PRESENT

- | | |
|-------------------------------------|---------------|
| 1. Sen. Sakaja Johnson Arthur, MP | - Chairperson |
| 2. Sen. Stewart Madzayo, MP | -Member |
| 3. Sen. (Dr.) Mwaura Isaac, CBS, MP | -Member |
| 4. Sen. Samson Cherargey, MP | -Member |
| 5. Sen. (Dr.) Gertrude Musuruve, MP | -Member |

ABSENT WITH APOLOGIES

- | | |
|--|-------------------|
| 6. Sen. (Dr.) Milgo Alice Chepkorir, MP | -Vice Chairperson |
| 7. Sen. Poghisio Samuel Losuron, EGH, MP | -Member |
| 8. Sen. Petronila Were Lokorio, MP | -Member |
| 9. Sen. Beatrice Kwamboka, MP | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|--------------------|
| 1. Ms. Mwanate Shaban | -Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Vitus Oketch | - Research Officer |
| 4. Mr. Patrick Murindo | - SAA |

MINUTE SEN/SCLSW/153/2018: PRELIMINARIES

The Chairperson called the meeting to order at 11.30 am followed by a word of prayer.

MINUTE SEN/SCLSW/154/2018: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted having been proposed by Sen. Isaac Mwaura and seconded by Sen. Gertrude Musuruve as follows:

AGENDA

1. Preliminaries;
-Prayers
2. Adoption of the Agenda;
3. **Consideration to the amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill, 2018; and**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/155/2018: CONSIDERATION TO THE AMENDMENTS TO THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL, 2018

The legal counsel took the Members through the public hearing matrix and the Committee considered the amendment and resolved as outline in the matrix below.

**STAKEHOLDER VIEWS ON THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) BILL, 2018
(SENATE BILLS NO. 2 OF 2018)**

NO	CLAUSE	STAKE HOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
1.	2	Salaries and Remuneration Commission	Include the definition of the salary to be used to compute the benefits so referred.	It should be clear that any retirement or pension benefits should be computed based on basic salary. The term pensionable salary should be defined to mean that it is the basic salary without fluctuating emoluments.	Accepted
2.	5	Salaries and Remuneration Commission	Maintain the marginal note or provide for a similar one for the Chief Justice and Deputy Chief Justice.	The deletion of the marginal note in section 5 of the principal Act technically removes the benefits payable to the Chief Justice. The Chief Justice should also be excluded from the requirement of term limit as they do not serve on a term limit.	Rejected
3.	7	Retirement Benefit Authority	Insert a provision that provides- “Provided that where the entitled person has no surviving spouse or an eligible child as defined in this Act, and the entitled person is entitled to a benefit under this Act, the benefits payable shall form part of the estate of the deceased for administration”	The Bill and the parent Act have not envisioned a situation where an entitled person dies and has no surviving spouse or has no eligible children or dependants who are not necessarily eligible and had not received his benefits (for instance a lumpsum) and he is entitled to a benefit under the Act.	Accepted

NO	CLAUSE	STAKE HOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
4.	INSERTION OF NEW CLAUSES				
5.	New clause	Salaries and Remuneration Commission	Introduce a new clause in the Bill to provide that payment of pension benefit or retirement benefit should cease on appointment of the entitled person to another office in the public service.	No justification provided.	Rejected
			Introduce a new clause in the Bill to provide that payment of pension benefit or retirement benefit should cease on appointment of the entitled person to another pensionable office in the public service.	No justification provided.	Rejected
PROPOSED AMENDMENTS TO THE PARENT ACT					
6.	Sections 5 (1) (e), 5A (e), 5B (e), 6 (e), 7 (e)	Salaries and Remuneration Commission	Amend the sections to provide that the fuel allowance should be pegged on the obtaining salary of the member prior to leaving office and not on the office,	No justification provided	Rejected
7.	Provision of additional staff	Salaries and Remuneration Commission	Amend the parent Act to provide that additional staff should be limited to one except for drivers who should be two.	This is in order to manage the recurrent expenditure associated with maintaining the entitled persons in retirement.	Rejected

NO	CLAUSE	STAKE HOLDER	PROPOSED AMENDMENT	JUSTIFICATION	COMMITTEE RESOLUTION
8.	8, 9 & 10	Committee	Delete the Clauses	Clauses contravene Article 245 of the Constitution	Accept
9.	First Schedule (h)	Committee	Remove the word "two" at the beginning "h"		Accept

MINUTE SEN/SCLSW/156/2018: ANY OTHER BUSINESS AND ADJOURNMENT

- 1) Members were informed of the invitation letter from KNATCOM to attend the 4th Edition of Kenya Week at UNESCO, Paris France from 12th to 16th November, 2018. The Committee resolved that Sen. Cherargey and Sen. Were should represent them in France.
- 2) Members were also reminded of the upcoming county visit in Mombasa, Kwale and Kilifi counties from 29th October – 3rd November, 2018 and given a copy of the draft program.

There being no other business the meeting was adjourned at 12.01 pm.

SIGNATURE.....

(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... 17th October 2018

MINUTES OF THE 18TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 30TH MAY, 2018 IN THE GROUND FLOOR BOARDROOM, RED CROSS BUILDING FROM 11.00 AM.

MEMBERS PRESENT

- | | |
|--|-------------------|
| 1. Sen. Sakaja Johnson Arthur, MP | - Chairperson |
| 2. Sen. (Dr.) Milgo Alice Chepkorir, MP | -Vice Chairperson |
| 3. Sen. Stewart Madzayo, MP | -Member |
| 4. Sen. Poghisio Samuel Losuron, EGH, MP | -Member |
| 5. Sen. Beatrice Kwamboka, MP | -Member |

ABSENT WITH APOLOGIES

- | | |
|-------------------------------------|---------|
| 6. Sen. (Dr.) Mwaura Isaac, CBS, MP | -Member |
| 7. Sen. Petronila Were Lokorio, MP | -Member |
| 8. Sen. (Dr.) Gertrude Musuruve, MP | -Member |
| 9. Sen. Samson Cherargey, MP | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | -Clerk Assistant |
| 2. Mr. Jeremy Chabari | - Legal Counsel |
| 3. Mr. Abdihabib Dekow | -Serjeant At Arms |

MINUTE SEN/SCLSW/80/2018: PRELIMINARIES

The Chairperson called the meeting to order at 11.30 am followed by a word of prayer by Sen. Kwamboka. The Committee appreciated and congratulated Sen. Madzayo for his appointment to the Pan African Parliament. Sen. Madzayo thanked the members.

MINUTE SEN/SCLSW/81/2018: ADOPTION OF THE AGENDA

The agenda of the meeting was adopted after being proposed by Sen. Poghisio and seconded by Sen. Kwamboka as follows:-

Agenda

1. Preliminaries
 - Prayers
 - Introductions
2. Adoption of the Agenda;
3. **House-Keeping**
 - a) **Confirmation of minutes**
 - Minutes 17
 - Minutes 16
 - Minutes 15
 - b) **Correspondence before the committee**
 - c) **Consideration of Amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment Bill), 2018**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/82/2018: House-Keeping

a) Confirmation of minutes

The Minutes of the 15th sitting held on Monday, 14th May, 2018 in the Africana Boardroom, Windsor Arcade, Windsor Golf Hotel and Country Club from 7.30 am were confirmed after being proposed by Sen. Poghismo and seconded by Sen. Milgo.

The Minutes of the 16th Sitting of the public hearing on the Retirement Benefits Amendment Bill, held on Wednesday 16th May, 2018 in the County Hall Mini Chambers, County Hall Building from 10.00 am were confirmed after being proposed by Sen. Poghismo and seconded by Sen Milgo.

The Minutes of the 17th Sitting held on Thursday 17th May, 2018 in the Ground Floor Boardroom, Red Cross Building from 11.30 am were confirmed after being proposed by Sen. Kwamboka and seconded by Sen Milgo.

b) Correspondence before the committee

The Committee was informed of an invitation from the Ministry of Sports and Heritage to be part of the Kenyan Delegation to the FIFA 2018 World Cup in Russia from 1 – 17th July, 2018 and that the delegation was as follows –

- 1) Sen Johnson Sakaja
- 2) Sen Beatrice Kwamboka
- 3) Sen. Stewart Madzayo

The Committee was also informed of the invitation from the Ministry of Labour & Social Protection to attend the Global Summit on Disability in London on 24th July 2018. The Committee will be represented by Chairman, Sen. Johnson Sakaja, Sen. Gertrude Musuruve and Sen. Isaac Mwaura.

c) Consideration of Amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment Bill), 2018

The Committee noted that they had written to the Speaker seeking further direction on the constitutionality of the Bill and that it is a money Bill. They resolved to hold on further analysis on the Bill until they receive written communication from the Speaker of the Senate.

MINUTE SEN/SCLSW/83/2018: ANY OTHER BUSINESS & ADJOURNEMENT

Members were informed that Sen. Alice Milgo and Sen. Isaac Mwaura had been nominated to represent the Committee in the ILO meeting that was taking place in Geneva from the 28th May to 8th June, 2018.

Members resolved to perform county visits to Uasin Gishu, Trans Nzoia, Nandi and Elgeyo Marakwet counties to assess the labour and social welfare issues in the counties.

Members were notified that the Committee will hold a consultative meeting the stakeholders in the creative industry the following week on Wednesday 6th June, 2018 from 9.30 am to iron out issues of regulations and licensing. The Secretariat was requested to add Kenya Film Commission to the list of invitees. There being no other business, the meeting was adjourned at 13.15 pm.

SIGNATURE.....


(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE..... 4.7.2018

MINUTES OF THE 16TH MEETING OF THE STANDING COMMITTEE ON LABOUR AND SOCIAL WELFARE HELD ON WEDNESDAY 16TH MAY, 2018 IN THE COUNTY HALL MINI CHAMBERS, COUNTY HALL BUILDING FROM 10.00 AM.

MEMBERS PRESENT

- | | |
|---|------------------------------------|
| 1. Sen. (Dr.) Milgo Alice Chepkorir, MP | -Vice Chairperson –Ag. Chairperson |
| 2. Sen. Poghisio Samuel Losuron,EGH, MP | -Member |
| 3. Sen. (Dr.) Mwaura Isaac,CBS, MP | -Member |
| 4. Sen. (Dr.) Gertrude Musuruve,MP | -Member |
| 5. Sen. Petronila Were Lokorio,MP | -Member |

ABSENT WITH APOLOGIES

- | | |
|-----------------------------------|---------------|
| 6. Sen. Sakaja Johnson Arthur, MP | - Chairperson |
| 7. Sen. Stewart Madzayo, MP | -Member |
| 8. Sen. Samson Cherargey,MP | -Member |
| 9. Sen. Beatrice Kwamboka,MP | -Member |

SENATE SECRETARIAT

- | | |
|------------------------|-------------------|
| 1. Ms. Mwanate Shaban | -Clerk Assistant |
| 2. Mr. Jeremy Chambari | - Legal Counsel |
| 3. Mr. Reuben Kimosop | -Serjeant At Arms |
| 4. Mr. Patrick Murindo | -SAA |

IN ATTENDANCE (COUNTY ASSEMBLY STAFF ON ATTACHMENT TO THE SENATE)

1. Maureen Ogombe - Legal Counsel, Busia County Assembly
2. Joseph Muchemo - Legal Counsel, Murang'a County Assembly

STAKEHOLDERS – As per attached attendance register

MINUTE SEN/SCLSW/72/2018: PRELIMINARIES

The Chairperson called the meeting to order at 10.30 a.m. followed a word of prayer. This was followed by introductions by all present.

MINUTE SEN/SCLSW/73/2018: ADOPTION OF THE PROGRAM

The agenda of the meeting was adopted after being proposed by Sen. Poghisio and seconded by Sen. Were as follows:-

1. Preliminaries
-Prayers & -Introductions
2. Adoption of the Agenda;
3. **Public Hearing on the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Bill, 2018**
4. Any Other Business & Adjournment.

MINUTE SEN/SCLSW/74/2018: PUBLIC HEARING ON THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL, 2018

The Chair welcomed the stakeholders and informed the Sitting that the principal objective of the Bill is to ensure, that the Inspector General of the Police Service seeks approval from Parliament before reducing or altering the security arrangements of the Deputy President and the Designated State officers under the Retirement Benefits (Deputy President and Designated State Officers) Act.

She then welcomed the public to give their views on the Bill:-

1) *Mr. Wanjohi Nyamu*

Mr. Nyamu thanked the Committee for calling for public participation on the Bill and cautioned that retirement benefits should go hand in hand with economic growth.

He informed the Committee that exports have been declining and that increasing benefits to leaders may hurt the economy of the country.

He further mentioned that there is an increase in the population growth at 1,000,000 persons annually. Of these, he stated that government employees are about 900,000. He added that the economy could not sustain this legislation.

He said that the leaders should be looking at ways to strengthen the Kenyan shilling noting that about 15 years ago the shilling was exchanging at 56 Kshs to the dollar while it is now at 100 Kshs to the dollar.

Mr. Nyamu notified the Committee that the government has not done much to support the creativity background that he comes from and that the country is declining further by discarding the 8.4.4 system of education which encouraged creativity at a very early age. He cautioned that the new system of education will lead in to churning of office workers who will then have to look for work in the Middle East where they are mistreated.

He concluded by advising the leaders to embrace humanity and make legislation that are in tandem with the current political and economic environment.

2) *The Salaries and Remuneration Commission.*

The Commission was represented by the Pensions Deputy Director and the Legal Deputy Director. They mentioned that the Bill kept referring to salary but the term salary is not defined. They advised that the Salary to be used should be the basic salary so as to manage any costs associated with fluctuating emoluments. "Basic Salary without emoluments"

They also said that the Bill is not clear on what happens to the entitled person when he assumes another public office. In ideal circumstances, the pension should cease when this happens.

They then advised that Section 5 of the Bill should be deleted as the earlier provision in the Act was more clear.

There was also need to clarify "term" for Chief Justice and Deputy Chief justice.

They informed the committee that the benefits have an added cost implication especially over time as the number of entitled persons increase.

They concluded by mentioning that there is a draft bill dealing with Pensions of Judges and retired Judges in the works.

MINUTE SEN/SCLSW/75/2018: ANY OTHER BUSINESS & ADJOURNEMENT

There being no other business, the Chairperson thanked the stakeholders and the meeting was adjourned at 12.45 pm.

SIGNATURE.....



(CHAIRPERSON: SEN. JOHNSON SAKAJA)

DATE.....

30 May 2018

