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PARLIAMENT OF KENYA



KENYA NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT

SECOND SESSION

THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS
REPORT ON THE LAW SOCIETY OF KENYA BILL, 2013

Clerk's Chambers,
Parliament Buildings,
NAIROBI.

FEBRUARY, 2014

1.0 PREFACE

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order No. 199, it is my pleasure and duty to present to the House, the Committee's Report on the Law Society of Kenya Bill 2013.

1.1 COMMITTEE MEMBERSHIP

The Committee on Justice and Legal Affairs was constituted by the House on Thursday 16th May, 2013 comprising of the following members:

1. The Hon. Samuel Chepkong'a, M.P. –Chairperson
2. The Hon. Priscilla Nyokabi, M.P. –Vice Chairperson
3. The Hon. Njoroge Baiya, M.P.
4. The Hon. Muriithi Waiganjo, M.P.
5. The Hon. Ndirangu Waihenya, M.P.
6. The Hon. Florence Kajuju, M.P.
7. The Hon. Kang'ata Irungu, M.P.
8. The Hon. Benson Mutura, M.P.
9. The Hon. John Njoroge Chege, M.P.
10. The Hon. William Cheptumo, M.P.
11. The Hon. Mohamed Abdi Haji, M.P.
12. The Hon. Kangongo Bowen, M.P.
13. The Hon. Sammy Koech, M.P.
14. The Hon. Moses Cheboi, M.P.
15. The Hon. Paul Bii, M.P.
16. The Hon. Charles Gimose, M.P.
17. The Hon. Johanna Ng'eno, M.P.
18. The Hon. Boniface Otsiula, M.P.
19. The Hon. David Ouma Ochieng, M.P.
20. The Hon. Neto Agostinho, M.P.
21. The Hon. Kaluma Peter, M.P.
22. The Hon. Fatuma Ibrahim Ali, M.P.
23. The Hon. Ben Momanyi Orari, M.P.
24. The Hon. T. J. Kajwang', M.P.
25. The Hon. (Bishop)Mutua Mutemi, M.P.
26. The Hon. Olago Aluoch, M.P.
27. The Hon. Christine Oduor Ombaka, M.P.
28. The Hon. Munuve G. Mati, M.P.
29. The Hon. Mwamkale William Kamoti, M.P.

The Departmental Committee on Justice and Legal Affairs derives its mandate from provisions of standing order 216 (5) which outline functions of the Committee as being:

- 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, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;
- e) To investigate and inquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a Cabinet Secretary;
- 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); and
- g) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to consider:-

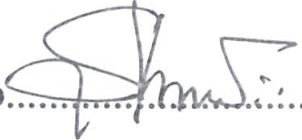
- a) Constitutional Affairs
- b) The administration of Law and Justice
- c) The Judiciary
- d) Public prosecutions
- e) Elections
- f) Ethics, Integrity and anti-corruption and
- g) Human rights

1.3 Committee Meetings

The Committee held five sittings during which the Law Society of Kenya Bill, 2013 was considered in accordance with the standing orders of the National Assembly. The Committee also received written and oral submissions from the Law Society of Kenya.

The Law Society of Kenya Bill, 2013 was read a first time on 24th September, 2013 and stood committed to the Committee. The Committee did not proceed and report as expected due to other Parliamentary matters before it. This Report contains deliberations of the Committee on the Bill and has proposed some amendments.

Finally it is now my pleasant duty and privilege, on behalf of the Departmental Committee on Justice and Legal Affairs, to introduce this report to the House, so that it may enrich debate on the Bill.

SIGNED.....

Hon. Samuel Chepkong'a, MP

(Chairperson)

Committee on Justice and Legal Affairs

DATE.....*1st February, 2014*

PROPOSED AMENDMENTS TO THE LAW SOCIETY OF KENYA BILL, 2013

SECTION 7

THAT the Bill be amended in subsection (2) by deleting the words '*has been suspended or*' immediately after the word 'proceedings'

THAT the Bill be amended in subsection (2) by deleting the words '*suspension or*' immediately before the word 'expulsion'

SECTION 13

Section 13 (1)

THAT the Bill be amended by deleting all the words appearing in subsection (1) thereof and inserting the following words 'Any member of the Society, other than an honorary member, may be suspended or expelled from the Society upon such grounds as are set out in the Advocates Act.'

Section 13(3)

THAT the Bill be amended in sub-section (3) by inserting the words:

'Subject to section 81 of the Advocates Act' immediately at the end of paragraph 13(3).

SECTION 14

THAT the Bill be amended by inserting a new subsection 14(c) for it to read;

'Any person who has been expelled from membership of the Society shall not be re-admitted as a member of the Society without the authority of a special resolution'

SECTION 17

THAT the Bill be amended in subsection (2) (c) by inserting the words:

"One of whom shall be an Advocate of at least 25 years standing" immediately at the end of paragraph 17(2)(c) for it to read:

"Three representatives of the general member of the Society one of whom shall be an Advocate of at least 25 years standing"

SECTION 18

THAT the Bill be amended in subsection (1) (b) by deleting and replacing with the words;

“is qualified to be a Judge of the Supreme Court”

SECTION 19

THAT the Bill be amended in subsection (d) by deleting all the words thereof and inserting the words;

‘The election shall be conducted on the same day by members physically present’

SECTION 20

THAT the Bill be amended by deleting the Paragraph and replacing with:

“The elections for the members of the Council shall be conducted by such body as the Council may propose and approved by the General meeting preceding the election”

SECTION 22

THAT the Bill be amended in;
subsection 1(b) by deleting all the words thereof and inserting the words;
‘Suspended or expelled as provided under the Act’

By deleting subsection 1(d) and inserting the words;

‘Failure to attend four consecutive council meetings’

By deleting subsection 1(e)

SECTION 23

THAT the Bill be amended in subsection 3 by deleting the words

‘Co-opt persons who are not members’ and inserting the words ‘engage any person who is not by resolution a member’

SECTION 24

THAT the Bill be amended in subsection (1):

By deleting the word 'eight' and inserting the word 'ten'

By deleting the word 'centres' and inserting the word 'Counties'

By inserting new subsections 24(1) (i) and (j) to read as follows;

(i) Lake Region

(j) Northern Region

The Bill be amended in subsection 2(a);

By deleting the words 'that'

By deleting the words 'Centres' and inserting the words 'Counties'

THAT the Bill be amended by deleting subsection (3)

SECTION 26

THAT the Bill be amended in subsection (4) by inserting the word 'as' immediately after the word 'appointment'

By deleting subsection 4(b) and inserting the words 'meets the requirements of Chapter six of the Constitution'

THAT the Bill be amended in subsection 6(e) by deleting the words 'neglect' and inserting the words 'desertion'

SECTION 28

THAT the Bill be amended in subsection 2 (b) by inserting the words 'and evaluation' immediately after the word 'receipt'

THAT the Bill be amended in subsection 2 (d) by inserting the words 'legislation' immediately after the word 'issues'

SECTION 31

THAT the Bill be amended in subsection 2(a) by inserting the word 'in' immediately after the word 'be'

SECTION 36

THAT the Bill be amended by deleting subsection (2)

SECTION 38

THAT the Bill be amended in subsection (1) by deleting the words 'on' immediately after the words 'audited as' and inserting the words 'of'

SECTION 41

THAT the Bill be amended in paragraph 1 by deleting the word 'to' immediately after the words 'Act and' and inserting the word 'with'

THAT the Bill be amended in subsection 1 by deleting the word 'in' immediately after the word 'representatives' and inserting the words 'subject to any written law'

SECTION 43

THAT the Bill be amended by deleting subsection (2).

SCHEDULE (s.26)

COAST BRANCH

THAT the schedule to the Bill be amended by deleting the word 'Taveta' and inserting the word 'Voi'

NORTH RIFT BRANCH

THAT the schedule to the Bill be amended;

By deleting 'Nandi'

By deleting 'Pokot' and inserting 'Kapenguria'

By deleting 'Elgeyo Marakwet'

By deleting the words 'Trans-Nzoia' and inserting 'Kitale'

By deleting the words 'Turkana' and inserting the words 'Lodwar'

RIFT VALLEY BRANCH

THAT the schedule to the Bill be amended;

By deleting the words 'Rift valley' and inserting the words 'South Rift Branch'

By deleting 'Baringo' and inserting 'Kabarnet'

By deleting 'Samburu' and inserting 'Maralal'

By deleting 'Molo'

By deleting 'Sotik'

By inserting 'Ol Kalou'

SOUTH EASTERN BRANCH

THAT the Schedule to the Bill be amended;

By deleting 'Kagundo'

By deleting 'Kitengela'

WEST KENYA BRANCH

THAT the Schedule to the Bill be amended by deleting the following;

Kisumu

Bondo

Mumias

Webuye

Maseno

THAT the schedule to the Bill be amended by inserting 'Vihiga'

THAT the schedule to the Bill be amended by inserting a new branch to read as follows;

LAKE REGION BRANCH

Siaya

Kisumu

SOUTH WEST KENYA BRANCH

THAT the schedule to the Bill be amended by deleting the following;

Rongo

Oyugis

NORTHERN KENYA BRANCH

THAT the schedule to the Bill be amended by inserting a new branch to read Northern Kenya Branch.

NORTHERN KENYA BRANCH

Garissa

Wajir

Mandera

Moyale

Marsabit