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PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION (2021)

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY

REPORT ON:

THE BIRTHS & DEATHS REGISTRATION (AMENDMENT)
BILL, 2020

(NATIONAL ASSEMBLY BILLS No. 32 OF 2020)

Directorate of Departmental Committees,
The National Assembly,
Parliament Buildings,
NAIROBI

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- Annexure 2:** Signed list of Members who adopted the sitting which considered and adopted the report
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CHAIRPERSON'S FOREWORD

The Births and Deaths Registration (Amendment) Bill, 2020 (*National Assembly Bill No. 32 of 2020*) underwent First Reading on 22nd December, 2020. Thereafter, the Bill was committed to the Departmental Committee on Administration and National Security for review and report to the House pursuant to the provisions of Standing Order 216(5)(c).

Pursuant to the provisions of Article 118 of the Constitution of Kenya and Standing Order 127(3) of the National Assembly Standing Orders, the Committee through local daily newspapers of 22nd January, 2021 published an advertisement inviting the public to make representations on the Bill. There was however no response from the public. The Committee considered and adopted its report on the Bill in a sitting held on 9th February, 2021.

May I take this opportunity to thank and commend Committee Members for devotion and commitment to duty, the Speaker and Clerk of the National Assembly for providing leadership and direction and finally the Committee secretariat for exemplary performance in the provision of technical and logistical support. Indeed, their efforts were critical in the consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Administration and National Security and pursuant to the provisions of Standing Order 199 (6), it's my pleasant privilege and duty to present to the House a report of the Committee on the Births and Deaths Registration (Amendment) Bill, 2020 (*National Assembly Bills No. 32*)

HON. PAUL KOINANGE, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON
ADMINISTRATION AND NATIONAL SECURITY

1.0 PREFACE

1.1. Mandate of the Committee

1. The Departmental Committee on Administration and National Security derives its mandate from the provisions of Standing Order No. 216(5) which provides for the functions of Departmental Committees as follows-

- (a) 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) study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;*
- (c) study and review all legislation referred to it;*
- (d) study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
- (e) investigate and enquire 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) 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)*
- (g) examine treaties, agreements and conventions;*
- (h) make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- (i) consider reports of Commissions and Independent Offices submitted to the House pursuant to provisions of Article 254 of the Constitution; and*
- (j) examine any questions raised by Members on a matter within its mandate.*

2. The Second Schedule of the Standing Orders on Departmental Committees further outlines the Subjects of the Committee, as follows-

- (i) National security;
- (ii) Police services;
- (iii) Home affairs;
- (iv) Public administration;
- (v) Public service;
- (vi) Prisons;
- (vii) Immigration;
- (viii) Management of natural disasters; and
- (ix) Community service orders.

1.2. Committee Membership

3. The Committee was constituted on Thursday, 14th December, 2017 and comprises the following Honourable Members-

Chairperson

Hon. Paul Karuga Koinange, MP
Kiambaa Constituency

Jubilee Party

Vice-Chairperson

Hon. Fatuma Gedi, MP
Wajir County

PDR Party

Hon. Peter Kaluma, MP
Homa Bay Town

ODM Party

Hon. (Dr.) Tecla Tum, MP
Nandi County

Jubilee Party

Hon. Dr. Makali Mulu, MP
Kitui Central Constituency

Wiper Party

Hon. Josphat Kabinga, MP
Mwea Constituency

Jubilee Party

Hon. Joshua Aduma Owuor, MP
Kitui Central Constituency

Wiper Party

Hon. Nimrod Mbai, MP
Kitui East Constituency

Jubilee Party

Hon. Rozaah Abuyu, MP
Kisumu County

ODM Party

Hon. Ngunjiri Wambugu, MP
Nyeri Town Constituency

Jubilee Party

Hon. Jeremiah Lomurukai, MP
Loima Constituency

ODM Party

Hon. Abdi Shurie Omar, MP
Balambala Constituency

Jubilee Party

Hon. Mishra Swarup, MP
Kesses Constituency

Jubilee Party

Hon. Halima Mucheke, MP
Nominated Member

Jubilee Party

Hon. Geoffrey King'ang'i, MP
Mbeere South Constituency

Jubilee Party

Hon. Oku Kaunya, MP
Teso North Constituency

ANC Party

Hon. Arbelle, Marselino Malimo, MP
Laisamis Constituency
Jubilee Party

Hon. William Chepkut, MP
Ainabkoi Constituency
Independent Party

Hon. Peter Masara, MP
Suna West Constituency
Independent Party

1.3. Committee Secretariat

4. The Committee's secretariat comprises by the following officers

Mr. George Gazemba
Principal Clerk Assistant

Mr. Joshua Ondari
Clerk Assistant

Ms. Brigitta Mati
Legal Counsel

Mr. Josphat Bundotich
Serjeant-at-Arms

Mr. Edson Odhiambo
Fiscal Analyst

Mr. Yaqub Ahmed
Media Officer

Ms. Eva Kaare
Serjeant-at-Arms

Mr. Rodgers
Audio Recording Officer

Mr. James Oloo
Office Attendant

2.0 THE BIRTH AND DEATH REGISTRATION (AMENDMENT) BILL, 2020 (NATIONAL ASSEMBLY BILLS No. 32 OF 2020)

2.1 Memorandum of objects and reasons of the Bill

5. The Bill seeks to amend the Births and Deaths Registration Act, Cap 149 to ensure that the Cabinet Secretary responsible for matters births and deaths establishes at least one registration area in each constituency.

3.0 PUBLIC PARTICIPATION IN THE REVIEW OF THE BILL

3.1 Legal provisions on public participation

6. Article 118 (1) (b) of the Constitution of Kenya provides as follows-

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”

7. Standing Order 127(3) provides as follows-

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

3.2 Methodology used by the Committee in public participation

8. The Bill was read a First time on 22nd December, 2020 and immediately committed to the Departmental Committee on Administration and National Security for review. The review process was to entail public participation through appropriate mechanisms including inviting submission of memoranda, holding public hearings and consulting relevant stakeholders pursuant to the provisions of Article 118 (1) (b) of the Constitution of Kenya and Standing Order 127(3) of the National Assembly Standing Orders.
9. Pursuant to the said provisions of the Constitution and Standing Orders, the Committee in the local daily newspapers of 22nd January, 2021 invited the public to make representations on the Bill by way of written memoranda as per annexure of the report.

4.0 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

10. Clause 1- Short title

Clause 1 relates to the short title of the Bill.

11. Clause 2 - Amendment of Section 5 of the Principal Act

The clause proposes to amend the Births and Deaths Registration Act, Cap 149 to require the Cabinet Secretary to establish at least one registration area in each constituency.

12. Clause 3 - Amendment of Section 9 of the Principal Act

The Clause proposes to amend Section 9 of the Principal Act to change terminologies used in the Act and align them with the Constitution.

13. Clause 4 – Amendment of Section 15 of the Principal Act

The clause proposes to amend Section 15 of the Principal Act to change terminologies used in the Bill and align them with the Constitution.

14. Clause 5- Amendment of Section 29 of the Principal Act

The Clause proposes an amendment to Section 29 of the Principal Act to change terminologies used in the Bill in order to align them with the Constitution.

5.0 OBSERVATIONS

15. Upon considering the Bill clause by clause, the Committee observed the following-

- (a) There were no public representations received on the Bill;
- (b) The proposed amendment seeks to ensure that births and deaths registration offices are decentralised;
- (c) Registration creates a document (certificate) that can be used to establish and protect the rights of individuals and creates a data source for the government;
- (d) The proposed amendment should be simple and clear in stating the main purpose of the Act i.e. registration of persons.

6.0 RECOMMENDATIONS

16. Upon considering the Bill clause by clause, the Committee recommends as follows-

17. Clause 1- Short title

Clause 1 relates to the short title of the Bill.

The Committee recommends that the Clause be agreed to as it appears in the Bill.

18. Clause 2- Amendment of Section 5 of the Principal Act

The clause proposes an amendment to the Births and Deaths Registration Act to require the Cabinet Secretary to establish at least one registration area in each constituency.

The Committee observed as follows—

- a) There were no stakeholder comments received on this provision;
- b) The proposed amendment seeks to ensure that births and deaths registration offices are decentralised;
- c) Registration creates a document (certificate) that can be used to establish and protect the rights of individuals and creates a data source for the government;
- d) The proposed amendment should be simple and clear, stating the main purpose of the Act i.e. registration of persons.

The Committee recommends as follows—

That the Bill be amended by deleting clause 2 of the Bill and substituting therefor the following new clause—

2. Section 5 of the Births and Deaths Registration Act, (in this Act referred to as “the principal Act”), is amended—

(a) by deleting subsection (1) and substituting therefor the following new subsection—

“(1) A sub county shall be a registration area for the purposes of this Act.”

(b) by deleting the words “the Minister may” and substituting therefor the words “The Cabinet Secretary shall”, in subsection (2)