

REPUBLIC OF KENYA



ELEVENTH PARLIAMENT (FOURTH SESSION) THE NATIONAL ASSEMBLY

MESSAGES

MESSAGE FROM THE PRESIDENT (No. 9 of 2016)

ON THE APPOINTMENT OF MEMBERS OF THE NATIONAL CLIMATE CHANGE COUNCIL

Honourable Members, pursuant to the provisions of Standing Order No. 42(1) of the National Assembly Standing Orders, I wish to convey to the House a Message from His Excellency the President, asking Parliament to approve the following persons for appointment as members of the National Climate Change Council:

1. Mr. Suresh Patel;
2. Mr. John Kioli;
3. Ms. Cynthia Wechabe; and
4. Dr. Jane Mutheu Mutune.

In the Message, His Excellency the President conveys that, in exercise of powers vested in him under section 7 of the Climate Change Act, 2016, he has nominated the said persons from the entities listed in sub-section (2) paragraphs (f), (g), (h) and (i) of the Act, respectively. Further section 7(4) of the same Act provides that the names of persons nominated for appointment under subsection (2) paragraphs (f), (g), (h) and (i) shall be submitted to **Parliament** for approval before appointment. A plain reading of section 7(4) of the said Act implies that the approval process is to be considered by both Houses of Parliament.

Honourable Members, as you may be aware, it is a matter of public notoriety that the approval of appointment of persons to public office generally falls within the province

of the National Assembly. Nonetheless, there are exceptional instances where the Constitution or the applicable laws require a bi-cameral approval of public appointments. A precedent was already established last year during the appointment of the Inspector-General of Police, whose vetting was undertaken by both Houses of Parliament. In this regard, the vetting process for appointment of members of the National Climate Change Council will proceed in a manner similar to that of the Inspector-General of Police.

Honourable Members, for clarity, allow me to guide the House as follows:-

- (i) THAT, the vetting of the nominees for appointment as members of the National Climate Change Council shall be conducted by the Departmental Committee on Environment and Natural Resources, jointly sitting with the relevant Committee of the Senate;
- (ii) THAT, the quorum of the joint sittings will be the respective quorums of each of the committees as stipulated in the respective Standing Orders;
- (iii) THAT, as contemplated under Rule 9(6) of the Joint Rules unless a decision is reached by consensus, any vote to be taken in the joint sittings of the Committees shall be by separate Houses. This will ensure that the numerical difference of the individual Members representing the Houses in the joint sittings has no effect on the decisions of the joint sittings of the Committees;
- (iv) THAT, the joint Committees shall, having conducted the vetting hearings, submit a Joint Report to the respective Houses in the manner contemplated by Paragraph 7 of the Joint Rule No. 9; and
- (v) THAT, the approval process shall be conducted in accordance with the provisions of the Public Appointments (Parliamentary Approval) Act of 2011.

Honourable Members, section 8 of the Public Appointments (Parliamentary Approval) Act, 2011 provides that the relevant Committee should table its Report for consideration within fourteen (14) days from the date when the notification of nomination is conveyed to the House. The Act also requires that the public be given a seven (7) days notification for submission of views regarding the suitability of nominees

proposed for appointment to an office requiring approval of Parliament. In this regard, and in accordance with the provision of Article 259(5)(a) of the Constitution as read together with section 5 of the said Act, the counting of the seven (7) days' notification to the public shall start running on the day following the day when the notice is published in the dailies.

Further Section 9 of the said law provides thus:-

" If after the expiry of the period for consideration specified in Section 8, Parliament has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved."

Honourable Members, it is therefore advisable that the concerned committees expeditiously proceed to jointly notify the nominees and the public. Thereafter, the two committees should commence the joint approval hearings and table a Joint Report in good time, to enable the Houses of Parliament to consider the Report. This Message, together with the resumes of the nominees stand committed to the Departmental Committee on Environment and Natural Resources, sitting jointly as earlier explained.

I thank you.

THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

Tuesday, November 29, 2016