

**THE PARLIAMENTARY SERVICE (AMENDMENT)
BILL, 2014**

A Bill for

**AN ACT of Parliament to amend the
Parliamentary Service Act and for connected
purposes**

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Parliamentary Service (Amendment) Act, 2014.

Short title.

2. Section 8 of the Parliamentary Service Act, in this Act referred to as the “principal Act”, is amended in subsection (1) by deleting the words “and the National Assembly” and substituting therefor the words “the National Assembly and the Senate”.

Amendment of
section 8 of No.
10 of 2000.

3. Section 12 of the principal Act, is amended by deleting subsection (5).

Amendment of
section 12 of No.
10 of 2000.

4. The principal Act is amended by inserting the following new section immediately after section 12 —

Insertion of new
sections
immediately after
section 12 in No.
10 of 2000.

Committees of the
Commission.

12A (1) The Commission may, from time to time, establish such committees as it may consider necessary for the effective discharge of its functions and the exercise of its powers under the this Act.

(2) The Commission may co-opt into the committees established under subsection (1) such persons as it may determine, whose knowledge or skills are found necessary for the proper performance of the functions of the Commission.

(3) A person co-opted under subsection

(2) may attend the meetings of the committee and participate in the deliberations but shall have no right to vote at the meeting.

National
Assembly and
Senate Services
Committees.

12B (1) In addition to the committees established under section 12A the Commission shall constitute the following Committees —

(a) the National Assembly Services Committee; and

(b) the Senate Services Committee.

(2) The National Assembly Services Committee shall consist of —

(a) the Speaker of the National Assembly who shall be the chairperson;

(b) two persons nominated by the Commission from amongst the members of the Commission nominated by the National Assembly and appointed by Parliament under Article 127 (2) (c) of the Constitution;

(c) one person nominated by the Commission from amongst the members of the Commission nominated by the Senate and appointed by Parliament under Article 127 (2) (c) of the Constitution; and

(d) the Clerk of the National Assembly, who shall be the secretary to the Committee.

(2) The Senate Services Committee shall consist of —

- (a) the Speaker of the Senate who shall be the chairperson;
- (b) two persons nominated by the Commission from amongst the members of the Commission nominated by the Senate and appointed by Parliament under Article 127 (2) (c) of the Constitution;
- (c) one person nominated by the Commission from amongst the members of the Commission nominated by the National Assembly and appointed by Parliament under Article 127 (2) (c) of the Constitution; and
- (e) the Clerk of the Senate who shall be the secretary to the Committee.

Functions of the National Assembly and Senate Services Committee.

12C (1) The functions of the National Assembly Services Committee and the Senate Services Committee shall, in their respective House, be to —

- (a) facilitate and coordinate the provision, by the Commission, of services and facilities to the two Houses of Parliament;
- (b) monitor and evaluate the implementation of policies, plans and strategies formulated by the Commission with respect to each House and report to the Commission on such

implementation;

- (c) make recommendations to the Commission on the formulation and implementation of plans and programmes to promote the efficient and effective functioning of the respective House of Parliament;
- (d) provide a platform for the articulation of issues that are unique to each House of Parliament;
- (e) make recommendations to the Commission on interventions targeting the specific issues relating to the respective House;
- (f) advise and make recommendations to the Commission on matters affecting the performance of the functions of each House of Parliament;
- (g) perform such other function as may be assigned to the Committee by the Commission.

(2) The National Assembly Services Committee and the Senate Services Committee shall be under the direction and control of the Commission in the performance of their functions under this Act.

(3) The National Assembly Services Committee and the Senate Services Committee shall prepare and submit to the Commission, such reports as the

Commission may require for the effective performance of its functions under this Act.

Insertion of new section 17A immediately before section 18 in No. 10 of 2000.

5. The principal Act is amended by inserting the following new section immediately before section 18 —

Non-money Bill status.

17A. (1) For the avoidance of doubt, nothing in this Act may be construed as providing for or dealing with-

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(2) There may be established a fund which shall consist of monies specified under subsection (3).

(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from –

- (a) such gifts, grants or donations as may be given;
- (b) such monies as may, in the future, be provided by the National Assembly for defraying the expenses incurred in the

implementation of this Act; and

- (c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Article 114 of the Constitution.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Parliamentary Service Act to provide for the establishment of committees by the Commission. The Bill specifically provides for the establishment of the National Assembly Services Committee and the Senate Services Committee with the aim of enhancing the efficiency of the Commission in the performance of its functions under the Constitution and the Parliamentary Service Act. This is informed by the fact that the Constitution establishes the Senate and the National Assembly each of which has its members of Parliament and staff. This has had the effect of increasing the number of members and staff of Parliament and brings with it an increased demand for service delivery by the Commission. The proposed establishment of the Committees is aimed at ensuring that the needs of each House of Parliament are considered and addressed by the Commission in a coordinated and effective manner.

The Bill also proposes to amend the Parliamentary Service Act to delete the section 12(5) relating to the removal of a member of the Commission as this is covered under Article 251 of the Constitution on removal of commissioners which applies to the Parliamentary Service Commission.

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 proposes the creation of committees to promote the efficiency of the Parliamentary Service Commission in delivering services to the National Assembly and the Senate and, in turn, promotes the oversight role played by the Senate over the counties. The Bill is therefore a Bill concerning county governments 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

Clause 5 of the Bill specifically removes the Bill from the ambit of the matters listed under Article 114 of the Constitution. The clause further provides that any expenses that may be occasioned in the implementation of the Act as relates to the proposed committees are to be provided from such gifts, grants or donations as may be given or from such monies as the National Assembly may, in the future, provide for the defraying of such

expenses. The Bill also provides that a fund may be established for the purposes of the custody of such funds. The Bill does not therefore appropriate funds for the implementation of the Act; any appropriation would be effected through separate legislation which would be introduced and enacted in terms of Article 114 of the Constitution. This Bill is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 21st May, 2014.

KIRAITU MURUNGI,
Senator.

Section 8 of No. 10 of 2000 which it is proposed to amend—

8. (1) In nominating or appointing any person as a member of the Commission, the Parliamentary party or parties concerned and the National Assembly respectively shall have regard to the person's experience or interest in consolidating and advancing the ideals and objectives of Parliamentary democracy.

Qualifications of members of the Commission.

(2) A member of the Commission shall serve in his personal capacity.

Section 12 of No. 10 of 2000 which it is proposed to amend—

12. (1) The chairman shall convene a meeting of the Commission at least once every fortnight.

Meetings and procedure of the Commission.

(2) The chairman or in his absence the vice-chairman may at any time convene a special meeting of the Commission, and shall do so within seven days of the receipt by him of a written requisition therefor signed by at least three members.

(3) If the chairman fails to convene a special meeting of the Commission pursuant to a requisition under subsection (2), the members making the requisition may convene such meeting which shall be held within seven days after the expiry of the period prescribed in that subsection.

(4) The quorum for a meeting of the Commission shall be four members who shall include one member appointed under subparagraph (i) and one member appointed under subparagraph (ii) of section 45B(1)(e) of the Constitution.

(5) A member of the Commission other than an ex officio member may be removed from office by the appointing authority upon the recommendation of the Commission, if such member—

- (a) has been absent from three consecutive meetings of the Commission without the permission of the chairman; or
- (b) is, in the opinion of the Commission, otherwise unable or unfit to discharge the functions of his office.

