



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – SECOND SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, OCTOBER 03, 2018

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Speaker
4. **COMMUNICATION FROM THE CHAIR**

The Speaker issued the following Communication –

Nominations of Persons for Appointment as Commissioners to the National Cohesion and Integration Commission (NCIC)

“Honourable Members,

My office is in receipt of a letter from the Ministry of Interior and Co-ordination of National Government in the Office of the President, notifying that the term of office of the Chairperson and Commissioners of the National Cohesion and Integration Commission (NCIC) lapsed. The letter conveys that the term of office of the commissioners came to an end on the 12th day of August, 2018 in accordance with section 19 of the National Cohesion and Integration Act, No. 12 of 2008.

Honourable Members, section 17 of the National Cohesion and Integration Act, 2008 establishes the National Cohesion and Integration Commission. Under section 19 of the Act, a commissioner is appointed for a three-year term which is renewable once. Pursuant to section 17(1)(b) and the First Schedule to the National Cohesion and Integration Act, this House duly recommended persons who were appointed by His Excellency the President as NCIC Commissioners on 12th August, 2014. The President subsequently extended their term for a further one (1) year.

Honourable Members, section 17(1)(b) of the National Cohesion and Integration Act, 2008 now requires this House to recommend persons for appointment as Commissioners. For avoidance of doubt, section 17(1)(b) provides, and I quote:

“*The Commission shall consist of –*

- (a) *a chairperson appointed by the President from amongst the Commissioners appointed under paragraph (b);*

(b) *eight commissioners nominated by the National Assembly in accordance with the First Schedule and appointed by the President”.*

Honourable Members, in this regard, the First Schedule to the National Cohesion and Integration Act, 2008 requires the Clerk of the National Assembly to invite applications from qualified persons interested in nomination for appointment to the Commission in the *Kenya Gazette* and at least three daily newspapers of national circulation with the application period stipulated as twenty-one days. Thereafter, the relevant Committee of the House is required, within seven, days of the expiry of the application period, in consultation with the relevant Cabinet Secretary, to consider all the applications and recommend to the House suitably qualified persons. In submitting names to the House, the Committee is required to rank and provide comments on each shortlisted applicant. Upon receipt of the recommendations, the House is required to nominate fifteen persons from which H. E. the President is to appoint eight (8) commissioners. This was the procedure followed by the House in the last Parliament.

Honourable Members, the mandate of the Commissioners of the NCIC having ended on 12th August, 2018, the National Assembly is now required to commence the process of recruiting new commissioners under section 17(1)(b) of the Act in the manner contemplated in the First Schedule. The Act requires the National Assembly to undertake the recruitment process in a competitive manner. In this regard, I have directed the Clerk of the National Assembly to –

- (i) commence the requisite administrative processes necessary to actualize the recruitment of the Commissioners; and,
- (ii) publish, in the *Kenya Gazette* and at least three daily newspapers of national circulation, an advertisement inviting applications from qualified persons interested in being nominated by this House for appointment as Commissioners of the National Cohesion and Integration Commission.

Honourable Members, a precedent on the procedure for nominating the persons was set by the Eleventh Parliament. Therefore, I see no need to re-invent the wheel. The only departure is that the Committee on National Cohesion and Equal Opportunity will consider the applications and not the Departmental Committee on Justice and Legal Affairs as was the case in 2014. This departure is informed by the understanding that the process leading to appointment of Commissioners under section 17(1)(b) of the Act is essentially **recruitment** process and not the ordinary approval process of nominees contemplated under Standing Order 216(5)(f) on the mandate of Departmental Committees. In addition, under the current Standing Order No. 212C, the Committee on National Cohesion and Equal Opportunity is the relevant Committee of the House charged with the mandate of considering matters related to national cohesion. Indeed, in the old dispensation of the Standing Orders, the said Committee was a Joint Committee of both Houses. Consequently, it could not have handled the recruitment, which the law places under the **exclusive** jurisdiction of the National Assembly. Given the then prevailing circumstances, the relevant committee of the House at the time was the Departmental Committee on Justice and Legal Affairs, which is not the case today.

In summary, Honourable Members, I wish to guide the Committee and the House as follows –

- (i) THAT, Clerk of the National Assembly is directed to immediately commence the requisite administrative processes necessary to actualize the recruitment of the members of the Commission;

- (ii) THAT, the names of persons who shall have made their applications at the expiry of the statutory period shall stand committed to the Committee on National Cohesion and Equal Opportunity for short-listing, interviewing, ranking and recommending the suitable candidates to be nominated by the House, as contemplated under section 17(1)(b) of the National Cohesion and Integration Act;
- (iii) THAT, in addition to the provisions of the National Cohesion and Integration Act relating to consideration of the applications, the Committee shall also be guided by the provisions of the Public Appointments (Parliamentary Approval) Act 2012, with necessary modifications particularly, with regard to the requirements on notification of shortlisted applicants and the general public of the time and place for holding the interviews; and,
- (iv) THAT, the House shall nominate fifteen (15) persons for submission to the President, from whom he shall appoint Commissioners of the National Cohesion and Integration Commission.

The House is accordingly guided.

I thank you!"

5. **PETITIONS**

- (i) The Speaker conveyed the following Petition –

Non-payment and harmonization of hardship to public servants

“Honourable Members,

Standing Order 225(2)(b) requires that the Speaker reports to the House any Petition other than those presented through a Member. I therefore wish to convey to the House that my office has received a Petition from Messrs Jerry SaoliOlekina and Mr. Justus K. Mugo on behalf of members of the Union of Kenya Civil Servants regarding non-payment and harmonization of hardship allowances for all public servants.

The Petitioners contend that Public Service Policy stipulates that Public Servants working in hardship areas are entitled to hardship allowances and that the Government has been discriminative in paying the said hardship allowances. The Petitioners contend the following, that: -

- i) the Judicial Service Commission and the Teachers Service Commission together with other State Organs receive hardship allowances in more areas than other offices under the Public Service Commission; and
- ii) there is urgent need to appreciate and recognize the marginal differences of hardship in arid and semi-arid areas in terms of award of proportionate hardship allowances;

Honourable Members, the Petitioners therefore prays that the National Assembly: -

- i) conducts investigations into the circumstances under which there are disparities and/or discrimination in payment of hardship allowances for public servants;

- ii) causes the Government to gazette the classification of current arid and semi-arid areas and cause the Public Service Commission to honour the 2012 gazetted list of hardship areas;
- iii) recommends that Salaries and Remuneration Commission should harmonize and standardize the rate of allowances for arid and semi-arid areas; and
- iv) recommends that Salaries and Remuneration Commission should harmonize payment of hardship allowances for all Public Servants.

Honourable Members, this Petition therefore stands committed to the Departmental Committee on Administration and National Security for consideration. I wish to inform the House that, a similar Petition has already been presented in the House by the Member for Ndaragwa Constituency, the Hon. Jeremiah Kioni, MP. I therefore direct that the Committee consolidates and considers the two Petitions and report its findings to the House and the Petitioners in accordance with Standing Order 227(2).

Thank you”.

- (ii) The Member for Mwingi Central (Hon. Gideon Mulyungi) presented a Petition on behalf of residents of Mui, Mwingi East Sub-County in Kitui County regarding coal mining activities in the area and the decision to relocate residents from the area without following due process of law.

Petition referred to the relevant Departmental Committee pursuant to Standing Order 227(1)

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Report of the Auditor-General and Financial Statements of the Central Bank of Kenya for the year ended 30th June, 2018 and the certificate therein
- (ii) The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30th June, 2017 and the certificates therein:-
 - a) Kenya Airports Authority; and
 - b) Regional Centre for Mapping of Resources for Development.
- (iii) The Reports of the Auditor-General and Financial Statements in respect of the following Constituencies for the year ended 30th June, 2017 and the certificates therein: -
 - a) Kipkelion East Constituency;
 - b) Samburu East Constituency;
 - c) Sigor constituency;
 - d) Tetu Constituency; and
 - e) Tiaty Constituency.

(iv) Annual Reports and Financial Statements in respect of the following institutions for the year ended 30th June, 2017: -

- a) Kirinyaga University;
- b) University of Eldoret;
- c) The Kenya Accountants and Secretaries National Examinations Board (KASNEB); and
- d) Kenyatta National Hospital (KNH).

(The Leader of the Majority Party)

(v) The Second Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Nairobi City County for the Financial years 2013/2014, 2014/2015 and 2015/2016.

(Chairperson, Public Accounts Committee)

(vi) Reports of the Departmental Committee on Health on the: -

- a) Joint East African Community heads of State Retreat on Infrastructure, Health Financing and Development held in Kampala from 21st to 22nd February, 2014;
- b) Third Annual UHC Financing Forum held on 19th to 20th April, 2018 in Washington DC, USA and the International Convention of Public Health “*Cuba Salud*” Conference held from 23rd to 27th April, 2018 in Havana, Cuba;
- c) 12th Stop Cervical, Breast and Prostate Cancers in Africa (SCC) Conference held from 22nd to 25th July, 2018 in Maseru, Lesotho;
- d) 71st Session of the World Health Assembly held from 21st to 26th May, 2018 in Geneva, Switzerland; and
- e) 22nd International Aids Conference held from 23rd to 27th July, 2018 in Amsterdam, Kingdom of Netherlands

(Chairperson, Departmental Committee on Health)

7. **NOTICE OF MOTION** – Chairperson, Special Funds Accounts Committee

The following Notice of Motion was issued -

Notice of Motion - Adoption of the Second Report on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Nairobi City County for the Financial Years 2013/14, 2014/15 and 2015/16

THAT, this House **adopts** the Second Report of the Special Funds Accounts Committee on Audited Financial Statements for the National Government Constituencies Development Fund for Constituencies in Nairobi City County for the Financial Years 2013/14, 2014/15 and 2015/16, laid on the Table of the House on Wednesday, October 03, 2018.

8. **QUESTIONS**

The following Questions were made to various Ministries–

- (i) Question No.15/2018 by the Member for Tetu South (Hon. Geoffrey Omuse) regarding the status of the Last Mile Connectivity Programme. Question was referred to the Departmental Committee on Energy.
- (ii) Question No.17/2018 by the Member for Nambale (Hon. SakwaBunyasi) regarding irrigation along Sio River. Question was referred to the Departmental Committee on Agriculture and Livestock.
- (iii) Question No.18/2018 by the Nominated Member (Hon. Godfrey Osotsi) regarding proceeds of sports lottery and taxes collected. Question was referred to the Department Committee on Finance and National Planning.

9. **THE SUPPLEMENTARY APPROPRIATION (NO.2) BILL (NATIONAL ASSEMBLY BILL NO.23 OF 2018)**

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

10. **THE HEALTH LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.14 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Health Laws (Amendment) Bill (National Assembly Bill No.14 of 2018) be now read a Second Time

(Leader of the Majority Party – 02.10.2018)

Debate arising;

Mover replied;

Question put and agreed to.

Bill read a Second Time and committed to the Committee of the whole House.

11. **THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATEBILL NO.4 OF 2017)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Urban and Cities (Amendment) Bill (Senate No.4 of 2017) be now read a Second Time

(Leader of the Majority Party)

Debate arising;

Mover replied;

(Change of Chair from the Speaker to the Second Chairperson)

Question deferred to another day

12. **THE PARLIAMENTARY SERVICE COMMISSION BILL (NATIONAL ASSEMBLY BILL NO.6 OF 2018)**

Order for Second Reading read;

Motion deferred to another day

13. **MOTION:REPORT ON THE EAST AFRICAN LEGISLATIVE ASSEMBLY (EALA) PLENARY SESSIONS**

Order for Motion read;

Motion made and Question proposed –

THAT, this House **notes** the Report of the Select Committee on Regional Integration on the East African Legislative Assembly (EALA) Plenary Session held between 13th to 16th March, 2018, and 17th to 25th April, 2018, in Arusha and Dodoma Tanzania respectively, laid on the Table of the House on Thursday, 14th June, 2018.

(Chairperson, Committee on Regional Integration)

Debate arising;

Mover replied;

Question of the Motion deferred to another day

(Change of Chair from the Second Chairperson to Fourth Chairperson)

14. **MOTION:REPORT ON THE INSPECTION VISIT TO THE ISEBANIA ONE STOP BORDER IN MIGORI COUTNTY**

Order for Motion read;

Motion deferred to another day

And the time being SevenO'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

15. **HOUSE ROSE** - at SevenO'clock

M E M O R A N D U M

The Speaker will take the Chair on Thursday, October 04, 2018 at 2.30 p.m.