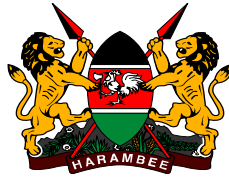


REPUBLIC OF KENYA



TWELFTH PARLIAMENT – (SECOND SESSION)

THE NATIONAL ASSEMBLY

COMMUNICATION FROM THE CHAIR

(No. 47 of 2018)

ON

**NOMINATION OF PERSONS FOR APPOINTMENT AS COMMISSIONERS
TO THE NATIONAL COHESION AND INTEGRATION COMMISSION**

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 a **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!

THE HON. JUSTIN B. MUTURI, E.G.H., MP
SPEAKER OF THE NATIONAL ASSEMBLY

Wednesday, October 3, 2018