



TWELFTH PARLIAMENT
THE NATIONAL ASSEMBLY - (THIRD SESSION)

COMMUNICATION FROM THE CHAIR

(No. 5 of 2019)

(to be issued before order No. 9)

**GUIDE ON CONSIDERATION OF PROPOSED AMENDMENTS TO THE
INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.
21 OF 2018)**

Honourable Members,

Before we proceed to the next order, being the Committee of the whole House, I wish to issue the following guidance which relates to consideration of the proposed amendments to the Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018).

As you are aware, Article 114(2) of the Constitution provides that if, in the view of the Speaker, a motion makes provisions for a matter listed in the definition of 'a money Bill', the Assembly may proceed only in accordance with the recommendation of the relevant Committee after taking into account the views of the Cabinet Secretary responsible for Finance.

Further, Standing Order 133 (5) provides that no amendment shall be permitted to be moved if the amendment deals with a different subject or proposes to unreasonably or unduly expand the subject of the Bill.

Therefore, I did direct the Clerk yesterday to omit the said amendments from today's Order Paper. However, the Member is at liberty to introduce a separate Bill in the manner contemplated under Standing Order 114, urging the House to legislate on the matter. Such a proposal would definitely be subjected to pre-publication scrutiny and public participation, among other processes.

(ii) Secondly, the Member for Kikuyu (Hon. Kimani Ichung'wah) is proposing to amend Clauses 3 and 10. The amendments to clause 3 are admissible. However, with regards to the proposed amendments to Clause 10 seeking to delete section 156 of the principal Act which provides for advance payment of premiums, you will notice a disclaimer has been made in the Order Paper. For ease of reference, these are the proposed amendments to new Section 156 (3) and (4) for which the words "***subject to Standing Order 133(5)***" are indicated.

The Member is seeking to introduce a requirement that the Cabinet Secretary shall, by regulations specify the categories of brokers and agents, the kind of business and **capital requirements** they may transact on credit with insurers; and specify the amount of the **guarantee** necessary against the volume of insurance business each broker undertakes. Further, the Member is seeking to introduce capital requirements and the related conditions for transaction of insurance business by brokers and agents. I find that these are entirely new matters which would then require public participation in furtherance to Article 118 of the Constitution.

In addition, the proposal may offend the spirit of Article 227 of the Constitution which require that, when a State organ or any other public entity contracts for goods or services, it shall do so in accordance with a system that is fair, equitable, transparent, competitive and cost-effective. **Therefore, the Committee of the Whole House shall not consider the proposed amendment to New Clause 10A as proposed by the Member.**

Nevertheless, the Member is also liberty to introduce a separate Bill in the manner contemplated under Standing Order 114 asking the House to legislate on the subject. Such a legislative proposal also undergoes public participation among other processes, and would also be subjected to the test of conformity with the Constitution.

Honourable Members, that is therefore the fate of the amendments that were received through my office on the Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018), which is due for consideration today. I urge the Committee of the whole House and indeed the Chairperson to also be vigilant and ensure all that the proceedings in the Committee stay within the requirements of the Constitution and the Standing Orders.

I thank you!


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

Wednesday, February 26, 2019