

Approved for tabling.

REPUBLIC OF KENYA



BAT
SNA
30/10/19

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (THIRD SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

.....
REPORT ON THE CONSIDERATION OF THE PARLIAMENTARY PENSIONS
(AMENDMENT) BILL (N.A. BILLS NO. 56 OF 2019)

CLERKS CHAMBERS
DIRECTORATE OF COMMITTEE SERVICES
PARLIAMENT BUILDINGS
NAIROBI

OCTOBER, 2019

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CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of the Parliamentary Pensions (Amendment) (National Assembly Bill No. 56), 2019, which was read a first time on **Wednesday, 24th July, 2019** pursuant to Standing Order 127.

In processing the Bill, the Committee took account of the existence of a similar Bill i.e the Parliamentary Pensions (Amendment) (National Assembly Bill No. 45), 2019 which sought to amend the Parliamentary Pensions Act to provide for enhancement of living pensions for former members of parliament who served during the period between 1st July, 1984 and 1st January, 2001. The Committee further took the views submitted by stakeholders who submitted views with regards to Parliamentary Pensions (Amendment) (National Assembly Bill No. 45), 2019. These views formed the basis with which the Committee arrived to its decision.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Parliamentary Pensions (Amendment) Bill, 2019.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee wishes to thank the sponsor of the Bill, Hon. Wangari Mwaniki, M.P. and the stakeholders who responded to the Committee's call for memoranda.

Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Departmental Committee on Finance and National Planning has considered the Parliamentary Pensions (Amendment) Bill, 2019 and has the honour to report back to the National Assembly with the recommendation that the Bill is **approved with amendments**.

Hon. Joseph Limo, M.P.

Chairperson

EXECUTIVE SUMMARY

The Parliamentary Pensions (Amendment) Bill (N.A. Bills No. 56 of 2019) was published on **5th July, 2019** and read a first time on **Wednesday, 24th July 2019** and thereafter committed to the Departmental Committee on Finance and National Planning for consideration pursuant to Standing Order 127.

The principal object of this Bill is to amend the Parliamentary Pensions Act, Cap. 196. It proposes to raise the amount of pension due to former Members of Parliament who served between 1st July, 1984 and 1st January, 2001 to a minimum sum of Kenya Shillings one hundred thousand. This is in light of the fact that despite serving the nation, some former Members of Parliament are languishing in poverty and there is need to take care of their welfare.

These changes are in line with the recommendations of the Akiwumi Tribunal which was appointed in January 2009 by the Parliamentary Service Commission to review the terms and conditions of service of the Members and employees of Parliament. The Tribunal submitted its report on 12th November, 2009 in which one of its recommendations was that the five hundred former Members of Parliament (whose number is currently about three hundred and seventy) be paid the equivalent of one thousand dollars each as living pension with effect from 1st July, 2010. The Committee observed that the two Bills were similar save for the fact that the Parliamentary Pensions (Amendment) Bill (N.A. Bills No. 56 of 2019) was seeking to backdate the pension entitlement to 1st July, 2010.

The Parliamentary Service Commission adopted the report in June 2010 and resolved that any of the said former Members of Parliament earning a monthly pension of less than one hundred thousand shillings should be paid a monthly pension of one hundred thousand shillings.

CHAPTER ONE

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:
 - i. To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
 - ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
 - iii. To study and review all the legislation referred to it;**
 - iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
 - v. To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
 - vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);
 - vii. To examine treaties, agreements and conventions;
 - viii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - ix. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - x. To examine any questions raised by Members on a matter within its mandate.

1.2 Committee Subjects

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in

securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.

3. In executing its mandate, the Committee oversees the following Government Ministries and Departments;
 - a. The National Treasury and Planning
 - b. Ministry of Devolution and ASAL
 - c. The Commission on Revenue Allocation
 - d. Office of the Controller of Budget
 - e. Salaries and Remuneration Commission

1.3 Committee Membership

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members:-

Chairperson

Hon. Joseph K. Limo, MP
MP for Kipkelion East Constituency

Jubilee Party

Vice-Chairperson

Hon. Isaac W. Ndirangu
M.P for Roysambu Constituency

Jubilee Party

Members

Hon. Jimmy O. Angwenyi, MP
MP for Kitutu Chache North Constituency

Jubilee Party

Hon. Christopher Omulele, MP
MP for Luanda Constituency

ODM Party

Hon. Dr. Enoch Kibunguchy, MP
MP for Likuyani Constituency

FORD-K

Hon. Shakeel Shabbir Ahmed, MP
MP for Kisumu Town East

Independent Member

Hon. Abdul Rahim Dawood, MP
MP for North Imenti Constituency

Jubilee Party

Hon. Daniel E. Nanok, MP
MP for Turkana West Constituency

Jubilee Party

Hon. Andrew A. Okuome, MP
MP for Karachuonyo Constituency

ODM Party

Hon. David M. Mboni, MP
MP for Kitui Rural Constituency

CCU Party

Hon. Francis K. Kimani, MP
M.P. Molo Constituency

Jubilee Party

Hon. Joseph M. Oyula, MP
MP for Butula Constituency

ODM Party

Hon. Joshua C. Kandie, MP
MP for Baringo Central Constituency

MCC Party

The Hon. Lydia H. Mizighi, MP
MP for Taita Taveta County

Jubilee Party

Hon. Mohamed A. Mohamed, MP
MP for Nyali Constituency

Independent Member

Hon. Purity W. Ngirici, MP
MP for Kirinyaga County

Jubilee Party

Hon. Samuel Atandi, MP
MP for Alego Usonga Constituency

ODM Party

Hon. Stanley M. Muthama, MP
MP for Lamu West Constituency

MCC Party

The Hon. Edith Nyenze, MP
MP for Kitui West Constituency

WDM-K

1.4 Committee Secretariat

5. The Committee is facilitated by the following Secretariat:-

Ms. Leah W. Mwaura
Senior Clerk Assistant
Lead Clerk

Ms. Jennifer Ndeto
Principal Legal Counsel I

Ms. Laureen Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Fiscal Analyst I

Mr. Chelang'a Maiyo
Research Officer II

CHAPTER TWO

2 OVERVIEW OF THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL (N.A. BILLS NO. 56 OF 2019)

Statement of Objects and Reasons for the Bill

6. The principal object of the Bill is to amend the Parliamentary Pensions Act, Cap. 196. It proposes to raise the amount of pension due to former Members of Parliament who served between 1st July, 1984 and 1st January, 2001 to a minimum sum of Kenya Shillings one hundred thousand. This is in light of the fact that despite serving the nation, some former Members of Parliament are languishing in poverty and there is need to take care of their welfare.
7. **Clause 1** of the Bill provides for the short title of the Bill.
8. **Clause 2** provides for the amendment to section 8 of the Act to provide that a former Member of Parliament who, having served in Parliament between 1st July, 1984 and 1st January, 2001 and is entitled to pension under this section and whose monthly pension amounts to less than one hundred thousand shillings, shall be entitled to, with effect from 1st July, 2010, to a monthly pension of one hundred thousand shillings.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

9. The Bill does not delegate legislative powers to the Cabinet Secretary and neither does it limit fundamental rights and freedoms.

Statement on whether the Bill concerns county governments

10. The Bill does not affect the functions of county governments and is therefore not a Bill concerning counties for purposes of the Constitution and Standing Orders.

Statement whether the Bill is a money bill

11. The Bill is a money bill for purposes of Article 114 of the Constitution. The enactment of the Bill shall occasion additional expenditure of public funds.

CHAPTER THREE

3. PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

12. In processing the Bill, the Committee took account of the existence of a similar Bill i.e the Parliamentary Pensions (Amendment) (National Assembly Bill No. 45), 2019 which sought to amend the Parliamentary Pensions Act to provide for enhancement of living pensions for former members of parliament who served during the period between 1st July, 1984 and 1st January, 2001. The Committee further took the views submitted by stakeholders who submitted memoranda with regards to Parliamentary Pensions (Amendment) (National Assembly Bill No. 45), 2019. These views formed the basis with which the Committee arrived to its decision.
13. The stakeholders whose views were taken into consideration are as follows: -
- i. Former Parliamentarians Association of Kenya (FOPAK)
 - ii. Hon. Mary Wanjiru,
 - iii. Hon. Dr. Phoebe Muga Asiyo
 - iv. Mr. Jackson Oyoo Odeny
 - v. Mr. Elijah Odhiambo
 - vi. Mr. Ted Abala
 - vii. Mr. Jashon Otieno
 - viii. Hon. John Kiplagat Cheruiyot
 - ix. Ms. Pamela Moro, Mr. Moses Otienoc, Ms. Elizabeth Aloo and Mr. Lawrence Otiende
14. The Committee extensively considered the contents of the submissions. Details of the deliberations and the Committee's observations and resolutions are contained in chapter four of this report.

3.1 Submission by Stakeholders

3.1.1 Former Parliamentarians Association of Kenya

15. The Association was in support of the Bill in its entirety. They stated that former Members of Parliament were living in deplorable and pathetic conditions. The association Petitioned Parliament in 2016 to implement enhanced pension (Living Pension) as recommended by the Akiwumi Tribunal. In its 2009 report, Akiwumi Tribunal recommended enhanced pension, by way of improved terms and conditions of service for MPs and employees of Parliament and living pension of KSh. 100,000 per month for former MPs who served from 1984 upwards.

16. Parliament however only effected the recommendations touching on MPs and employees of Parliament. Recommendations touching on living pension for former MPs were predicated on an anticipated amendment of the Parliamentary Pensions Act. Its on this backdrop that they were in support of the Bill.

3.1.2 Hon. Mary Wanjiru

17. In her memorandum, Hon. Wanjiru, former M.P. for Kinangop Constituency submitted that in addition to the pension, former M.P.s should be given KSh. 20M to build their retirement homes and KSh. 8M to buy a car. She also proposed that the pension should be enhanced to KSh. 300,000 due to the high cost of living.

The Committee was of the view that her proposal was outside of scope and would have a big financial implication.

3.1.3 Ms. Pamela Moro, Mr. Moses Otienoc, Ms. Elizabeth Aloo and Mr. Lawrence Otiende

18. They wrote in support of the Bill stating that former MPs need to earn a pension in order to give them some dignity since most were living in deplorable conditions.

3.1.4 Hon. Dr. Phoebe Muga Asiyo and Hon John Cheruiyot

19. Dr. Asiyo and Hon. Cheruiyot submitted that the Bill should be passed as it will make it possible for the recommendations of the Akiwumi Tribunal to be implemented.

3.1.5 Mr. Jackson Odeny, Mr. Elijah Odhiambo, Mr. ted Abala and Jashon Otieno

20. Mr. Odeny, Mr. Odhiambo, Mr. Abala and Mr. Otieno just like other stakeholders submitted that the Bill should be enacted into law as soon as possible since most former Members of Parliament were living miserable lives.

CHAPTER FOUR

4 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

21. This part deals with the clause by clause consideration of the Bill by the Committee after taking into consideration the views of the aforementioned stakeholders.

4.1 Clause 1

22. Clause 1 provides for the short title of the Bill.

4.1.1 Committee's Observation and Recommendation on Clause 1

23. The Committee observed that there was no stakeholder comment on the clause.

24. The Committee recommended that the clause be agreed to as it appears in the Bill.

4.2 Clause 2

25. Clause 2 amends section 8 of the Principle Act.

4.2.2 Committee's Observation and Recommendation on the Clause

26. The Committee observed that all the stakeholders were in support of the clause.

27. The Committee recommended that the clause the Bill be amended by deleting clause 2 and substituting therefor the following new clause-

2. Section 8 of the Parliamentary Pensions Act is amended—

(a) in sub-section (1) (b) by deleting the word “two” and substituting therefor the word “one”; and

(b) by inserting the following new subsection immediately after subsection (2)-

(3) Notwithstanding subsection (2), a former Member of Parliament who, having served in Parliament between 1st July, 1984 and 1st January, 2001 and is entitled to pension under this section, and whose monthly pension amounts to less than one hundred thousand shillings, shall be entitled, with effect from 1st July, 2010, to a monthly pension of one hundred thousand shilling.

CHAPTER FIVE

5 COMMITTEE'S GENERAL OBSERVATIONS

28. The Committee observed that the enactment of this law will ensure that the living standards of Members of Parliament who served between 1st July, 1984 and 1st January, 2001 improve. This will enable them earn respect from the public as former leaders and also accord them some dignity.

CHAPTER SIX

6 COMMITTEE RECOMMENDATION

29. The Committee, having considered the Bill clause by clause proposes that the Bill be passed subject to the inclusion of the proposed amendments.

SIGNED.......... DATE.....30/10/19.....

THE HON. JOSEPH LIMO, MP

CHAIRPERSON

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

ANNEXTURES

- 1.MINUTES OF THE 60TH SITTING
- 2.MINUTES OF THE 56TH SITTING
- 3.MINUTES OF THE 55TH SITTING
- 4.ADOPTION SCHEDULE

MINUTES OF THE 60TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON TUESDAY, 29TH OCTOBER, 2019 IN 4TH FLOOR PROTECTION HOUSE AT 09.30 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Jimmy O. Angwenyi, MGH, MP
3. Hon. Abdul Rahim Dawood, MP
4. Hon. Andrew A. Okuome, MP
5. Hon. David M. Mboni, MP
6. Hon. Francis K. Kimani, MP
7. Hon. Joseph M. Oyula, MP
8. Hon. Joshua C. Kandie, MP
9. Hon. Mohamed A. Mohamed, MP
10. Hon. Purity Ngirici, MP
11. Hon. Samuel Atandi, MP
12. Hon. Stanley M. Muthama, MP

ABSENT WITH APOLOGY

1. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
2. Hon. Daniel E. Nanok, MP
3. Hon. Edith Nyenze, MP

ABSENT

1. Hon. Christopher Omulele, MP
2. Hon. Dr. Enoch Kibunguchy, MP
3. Hon. Shakeel Shabbir Ahmed, CBS, MP
4. Hon. Lydiah Mizighi, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Lead Clerk
2. Ms. Jennifer Ndeto - Principal Legal Counsel
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Mr. Josephat Motonu - Fiscal Analyst I
5. Mr. Chelang'a Maiyo - Research Officer II
6. Ms. Christine Maeri - Audio Officer
7. Mr. John Njoro - Serjeant-At-Arms
8. Mr. Vitalis Augo - Office Assistant
9. Mr. Faustine Rotich - Intern

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chairperson
3. Confirmation of Minutes

4. Matters Arising
 5. **Meeting to adopt the reports on the consideration of:-**
 - i. **The Equalisation Fund Bill, 2019;**
 - ii. **The Parliamentary Pensions (Amendment) Bill (N.A. Bills No. 45 of 2019); and**
 - iii. **The Parliamentary Pensions (Amendment) Bill (N.A. Bills No. 56 of 2019).**
 6. Adjournment/ Date of the next meeting
- MIN.NO.NA/F&NP/2019/327: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON**

The Chairperson called the meeting to order at 09.48 am and a prayer was said. The Chairperson then invited Members to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2019/328: CONFIRMATION OF MINUTES
 Agenda deferred

MIN.NO.NA/F&NP/2019/329: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE EQUALISATION FUND BILL, 2019

The Committee adopted the report on the consideration of the Equalisation Fund Bill, 2019 having been proposed and seconded by Hon. Andrew Okuome, MP and Hon. Joseph Oyula, MP respectively. The Committee proposed the following amendments to be considered in the Committee of the Whole House:-

CLAUSE 6

THAT Clause 6 of the Bill be amended in sub-clause (2)

- (a) by deleting the word "charging" appearing immediately after the word "holding," under paragraph (b)

Justification

The paragraph provides that the Equalisation Fund Board is capable of charging movable and immovable property belonging to the Board. The rationale for the amendment is that the fund is a special fund established under the Constitution to be utilised to enhance the provision of basic services in marginalised areas and contemplating using such funds in the manner provided under paragraph (b) would be inappropriate.

- (b) by deleting paragraph (c)

Justification

The paragraph provides that the Equalisation Fund Board is capable of borrowing money or making investments. The rationale for the amendment is that the fund is a special fund established under the Constitution to be utilised to enhance the provision of basic services in marginalised areas and contemplating using such funds in the manner provided under paragraph (b) would be inappropriate.

CLAUSE 7

THAT Clause 7 of the Bill be amended

- (a) in sub-clause (1)
 - (i) by deleting the words "from a marginalized community appointed" appearing immediately after the word "chairperson" under paragraph (a)

Justification

The paragraph provides that the Board shall comprise of a Chairperson from a marginalized community appointed. The rationale for the amendment is that a chairperson appointed from a minority community may not be impartial where he or she oversees disbursement of funds meant for marginalised areas.

- (ii) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “water” appearing in paragraph (b)

Justification

The rationale for the amendment is to empower a principal secretary to appoint a person to attend the meetings of the Board where he or she cannot attend in person.

- (iii) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “roads” appearing in paragraph (c)

Justification

The rationale for the amendment is to empower a principal secretary to appoint a person to attend the meetings of the Board where he or she cannot attend in person.

- (iv) by inserting the words “or a person designated in writing by the Principal Secretary” immediately after the word “health” appearing in paragraph (d)

Justification

The rationale for the amendment is to empower a principal secretary to appoint a person to attend the meetings of the Board where he or she cannot attend in person.

- (v) by inserting the following new paragraph immediately after paragraph (d)

“(da) the Principal Secretary in the Ministry for the time being responsible for matters relating to National Treasury or a person designated in writing by the Principal Secretary;”

Justification

The rationale for the amendment is to include a the principal secretary responsible for matters relating to energy as a member of the Board because to oversee the implementation of projects to improve access to electricity services as provided for under Article 204 of the Constitution.

- (vi) by deleting the paragraph (f) and substituting therefor the following new paragraph –

(f) three persons appointed by the Cabinet Secretary for the time being responsible for the National Treasury to represent marginalized areas;

Justification

The rationale for the amendment is to provide that the principal secretary in charge of the National Treasury appoints persons representing marginalised areas in accordance with Article 204 and reduce the number of persons from four to three to accommodate the inclusion of the principal secretary responsible for matters relating to energy as a member of the Board.

(b) in subclause (4) by deleting the word “ten” appearing immediately after the word “exceeding” and substituting therefor the words “one hundred” under paragraph (d)

CLAUSE 8

THAT Clause 8 of the Bill be amended in paragraph (c) in paragraph (c) by inserting the word “engineering” appearing immediately after the word “accounting,” under sub paragraph (iv) by —

- (a) inserting the following new sub-paragraph immediately after sub-paragraph (iv)—
- (v) engineering;
- (b) renumbering the exist sub-paragraph (v) as (vi).

Justification

The rationale for the amendment is to provide for engineering as one or the professional qualifications to be appointed as a board member on the grounds that the Fund is to provide for improvement of electricity as one of the basic services and therefore it would be an essential qualification.

CLAUSE 9

THAT Clause 9 of the Bill be amended by deleting clause 9 and substituting therefor the following new clause

“9. The chairperson and members of the Board shall hold office for a term of three years and shall be eligible for reappointment for one further and final term of three years.”

Justification

The rationale for the amendment is to provide that the term of persons appointed to serve on the Board shall be three years renewable once on the basis that the Fund has a lifespan of twenty years under the Constitution.

CLAUSE 10

THAT Clause 10 of the Bill be amended by inserting the words “and approve” immediately after the word “consider” under paragraph (b)

Justification

The rationale for the amendment is to include approval of projects by the Board as one of its functions in harmony with clause 25 that provides that the Board shall scrutinize and approve projects of the Local Committee.

CLAUSE 16

THAT Clause 16 of the Bill be amended by deleting clause 16 and substituting therefor the following new clause

“(2) The Chief Executive Officer shall hold office for a term of three years and shall be eligible for re-appointment for one further and final term of three years.”

CLAUSE 20

THAT Clause 20 of the Bill be amended in sub-clause (1)

- (a) by deleting the word “ward” and substituting therefor the word “Constituency”

Justification

The rationale for the amendment is to provide that the Constituency shall be the administrative unit for establishment of a Local Committee to limit the cost and number that would be incurred if the Local Committee was established under the Ward

- (b) in sub clause (2) by deleting paragraph (g)

Justification

The rationale for the amendment is to remove representation of an officer of the relevant county government from the Committee in light of the fact that Article 204 of the Constitution states that it is the national government that shall implement the Fund.

CLAUSE 21

THAT Clause 21 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause:-

(1) A person may present a petition to the Board for the dissolution of a Local Committee setting out the alleged facts constituting any one or more of the following grounds for dissolution—

- (a) serious violation of the Constitution or any other law including a contravention of Chapter Six;
- (b) gross misconduct, whether in performance of the members’ or office holders’ functions or otherwise;
- (c) incompetence; or
- (d) any other cause as may be deemed justifiable.

Justification

The rationale for the amendment is to remove bankruptcy as ground for dissolution of a Local Committee because the Committee is not a legal or juristic person and therefor incapable of being bankrupt and to amend paragraph (b) to provide for gross misconduct of all members of the Committee as a ground for dissolution.

CLAUSE 22

THAT Clause 22 of the Bill be amended by inserting the words “with the approval of the Board” immediately after the word “staff”

Justification

The rationale for the amendment is to provide that the Local Committee may only hire staff with the approval of the Board.

CLAUSE 23

THAT Clause 23 of the Bill be amended by deleting in sub-clause (2) the word “Ward” and substituting therefor the following new, word “Constituency”

(2) Despite subsection (1), the Committee shall before identifying the projects, receive presentations from marginalized areas within the constituency.

Justification

The rationale for the amendment is to provide that the Constituency shall be the administrative unit for identification of a project by the Local Committee to ensure harmony with national government structures.

CLAUSE 26

THAT Clause 26 of the Bill be amended

- (a) in paragraph (a) by deleting word “and”;
- (b) inserting the following new paragraph immediately after paragraph (ba)
- (c) status of implementation of projects.

Justification

The rationale for the amendment is to ensure that shall submit the status of implementation of projects in its summary of the quarterly report to the National Assembly.

CLAUSE 28

THAT Clause 28 of the Bill be amended by inserting the word “Asset” immediately after the word “and”

Justification

The rationale for the amendment is to correct a typographical error and provide for the correct citation of the Public Procurement and Asset Disposal Act, 2015

CLAUSE 31

THAT Clause 31 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (5)

“(4) The Board shall set aside a sum not exceeding five per centum of the total allocation for the Fund to cater for the administration expenses of the Board.

(5) The Board shall ensure that a sum not exceeding five per centum of the total allocation for a project shall be utilised for the administration expenses of the project.”

Justification

The rationale for the amendment is to put a cap on the amount of money that can be spent on administration expenses.

CLAUSE 32

THAT Clause 32 of the Bill be amended by deleting the words “At least four months before” and substituting therefor the words “Within the period of three months after”.

Justification

The rationale for the amendment is to harmonize the submission of accounts to the Auditor General with the requirements of the Public Finance Management Act and the Public Audit Act.

CLAUSE 35

THAT Clause 35 of the Bill be amended by deleting the words “line ministries” and substituting therefor the words “Local Committees” appearing immediately after the words “accounts of” under paragraph (3).

Justification

The rationale for the amendment is to ensure efficient distribution of Funds for projects from Central Bank of Kenya to the Local Committees for project implementation.

SCHEDULE

THAT the SCHEDULE of the Bill be amended by deleting the word “consensus” and substituting therefor the words “voting through simple majority” appearing immediately after the words “reached by” under paragraph (4)

Justification

The rationale for the amendment is to ensure that the Board may make a decision by voting through simple majority where there is no unanimous decision.

MIN.NO.NA/F&NP/2019/330: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL (N.A. BILLS NO. 45 OF 2019)

The Committee adopted the report on the above mentioned Bill having been proposed and seconded by Hon. Rahim Dawood, MP and Hon. David Mboni, MP respectively. The Committee proposed the following amendments to be considered in the Committee of the Whole House:-

CLAUSE 2

THAT, the Bill be amended by deleting clause 2 and substituting therefor the following new clause-

2. Section 8 of the Parliamentary Pensions Act is amended—

- (a) in sub-section (1) (b) by deleting the word “two” and substituting therefor the word “one”; and
- (b) by inserting the following new subsection immediately after subsection (2)-
“(3)Notwithstanding subsection (2), a former Member of Parliament who, having served in Parliament between 1st July, 1984 and 1st January, 2001 and is entitled to pension under this section, and whose monthly pension amounts to less than one hundred thousand shillings, shall be entitled, with effect from 1st July, 2010, to a monthly pension of one hundred thousand shilling.”

Justification

This is to improve the living standards of the former Members of Parliament substantively.

MIN.NO.NA/F&NP/2019/331: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL (N.A. BILLS NO. 56 OF 2019)

The Committee adopted the report of the Bill having been proposed and seconded by Hon. Andrew Okuome, MP and Hon. Joseph Oyula, MP respectively. The Committee proposed the following amendment to be considered in the Committee of the Whole House:-

CLAUSE 2

THAT, the Bill be amended by deleting clause 2 and substituting therefor the following new clause-

2. Section 8 of the Parliamentary Pensions Act is amended—

(a) in sub-section (1) (b) by deleting the word “two” and substituting therefor the word “one”; and

(b) by inserting the following new subsection immediately after subsection (2)-

(3) Notwithstanding subsection (2), a former Member of Parliament who, having served in Parliament between 1st July, 1984 and 1st January, 2001 and is entitled to pension under this section, and whose monthly pension amounts to less than one hundred thousand shillings, shall be entitled, with effect from 1st July, 2010, to a monthly pension of one hundred thousand shilling.

MIN.NO.NA/F&NP/2019/332: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 11.38 a.m. The next meeting will be held on Tuesday, 3rd November, 2019 at 10.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED  DATE..... 30/10/19

MINUTES OF THE 56TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON TUESDAY, 1ST OCTOBER, 2019 IN COMMITTEE ROOM, SECOND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Abdul Rahim Dawood, MP
6. Hon. Daniel E. Nanok, MP
7. Hon. David M. Mboni, MP
8. Hon. Joseph M. Oyula, MP
9. Hon. Joshua C. Kandie, MP
10. Hon. Lydiah Mizighi, MP
11. Hon. Stanley M. Muthama, MP
12. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Christopher Omulele, MP
2. Hon. Mohamed A. Mohamed, MP
3. Hon. Andrew A. Okuome, MP
4. Hon. Samuel Atandi, MP
5. Hon. Dr. Enoch Kibunguchy, MP
6. Hon. Francis K. Kimani, MP
7. Hon. Purity Ngirici, MP

INATTENDANCE

COMMITTEE SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Lead Clerk
2. Ms. Mercy Wanyonyi - Legal Counsel I
3. Ms. Christine Maeri - Audio Officer
4. Mr. John Njoro - Serjeant-At-Arms
5. Mr. Vitalis Augo - Office Assistant

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Consideration of the Parliamentary Pensions (Amendment) Bill, 2019**
6. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2019/308: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 10.30 am and a prayer was said. The agenda was then adopted having been proposed and seconded by Hon. Abdul Rahim Dawood, MP and Hon. Daniel Nanok, MP respectively.

MIN.NO.NA/F&NP/2019/309: CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2019/310: CONSIDERATION OF THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL, 2019 (NATIONAL ASSEMBLY BILLS NO. 45 OF 2019) SPONSORED BY CPA HON. JOHN MBADI, M.P, LEADER OF THE MINORITY

The Chairperson directed the Secretariat to go through the cost analysis presentation as prepared by the Parliamentary Budget Office. The cost analysis of the Bill was done simultaneously with a similar Bill sponsored by Hon. Wangari Mwaniki, M.P i.e. Parliamentary Pensions (Amendment) (No.2) Bill, 2019 (National Assembly Bills No. 56 of 2019)

The Committee was informed as follows:-

- (i) The costing and assessment of the financial implication of the Bill was performed based on the assumptions that there were currently about one hundred and sixty (160) former Members of Parliament entitled to the proposed pension and about one hundred and thirty (130) widows/widowers. The analysis assumed that each former member was entitled to an average amount of Kshs. 33,000 per month as pension benefits and that each widow/widower was entitled to an average amount of Kshs. 16,500 per month; and
- (ii) Should the Committee recommend backdating the pension to 1st July, 2010 it was estimated that it would cost approximately a total of Kshs. 1.76 billion in the first year of implementing the Bill including arrears from effective date. The government would also be paying Kshs. 15.075 million per month. Therefore annual pension payment would amount to approximately Kshs 180.9 million.

Debate Arose

The following issues were raised:-

- (i) The Committee observed the need to carry out a cost analysis on the impact of inclusion of the Members who served for one term (1984 - 2017) who by dint of Section 8 of the Parliamentary Pensions Act did not qualify for pension.
- (ii) The Committee noted the need to also carry out a cost analysis on the implication of backdating to 1st July, 2010 as proposed by the Parliamentary Pensions (Amendment) (No.2) Bill, 2019 (National Assembly Bills No.56 of 2019).

Way forward

The Secretariat was directed to undertake the above analysis to assist the Committee make an informed decision. As such, debate/ decision on the Parliamentary Pensions (Amendment) Bill, 2019 (National Assembly Bills No.45 of 2019) was suspended pending the outcome of the above mentioned cost analysis.

MIN.NO.NA/F&NP/2019/311: ANY OTHER BUSINESS

- (i) The Committee observed that there was need to evaluate the cost impact of running all the Independent Commissions on full time basis. It was noted that the Commissioners could be appointed on part time while the Secretariats are left to run the day to day affairs of their respective Commissions. The Committee resolved that it would be seeking to propose amendments to the respective Acts of Parliament with a view to making all the Commissions part time;
- (ii) The Chairperson registered his appreciation to the Members who attended the breakfast meeting (that day) organized by the Institute of Certified Public Accountants of Kenya. The meeting was organized for the launch of the *Study on the assessment of uptake and impact of tax Amnesty*. The Committee directed the Secretariat to summarise the issues contained in the study so as to go through it at an appropriate time; and
- (iii) The Members were reminded of the proposed retreat that was scheduled to take place from 3rd to 6th October, 2019 in Mombasa. The objective of the retreat was to consider the *Equalisation Fund Bill, 2019*, the *Kenya Uwezo Fund Bill, 2019* and the *Public Procurement and Asset Disposal (Amendment) Bill, 2019*. The Members were requested to submit to the Secretariat their preferred travel itinerary to and from Mombasa.

MIN.NO.NA/F&NP/2019/312: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 11.40 a.m. The next meeting will be held on Friday, 3rd October, 2019 at 9.00 a.m in Mombasa.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED  DATE..... 30/10/19

MINUTES OF THE 55TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON THURSDAY, 26TH SEPTEMBER, 2019 IN COMMITTEE ROOM 12, MAIN PARLIAMENT AT 10.00 AM

PRESENT

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Shakeel Shabbir Ahmed, CBS, MP
5. Hon. Abdul Rahim Dawood, MP
6. Hon. Daniel E. Nanok, MP
7. Hon. Andrew A. Okuome, MP
8. Hon. Joseph M. Oyula, MP
9. Hon. Joshua C. Kandie, MP
10. Hon. Lydia Mizighi, MP
11. Hon. Samuel Atandi, MP
12. Hon. Stanley M. Muthama, MP
13. Hon. Edith Nyenze, MP

ABSENT WITH APOLOGY

1. Hon. Christopher Omulele, MP
2. Hon. David M. Mboni, MP
3. Hon. Mohamed A. Mohamed, MP

ABSENT

1. Hon. Dr. Enoch Kibunguchy, MP
2. Hon. Francis K. Kimani, MP
3. Hon. Purity Ngirici, MP

INATTENDANCE

COMMITTEE SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Lead Clerk
2. Ms. Laureen Wesonga - Clerk Assistant II
3. Ms. Mercy Wanyonyi - Legal Counsel I
4. Mr. Chelang'a Maiyo - Research Officer II
5. Ms. Christine Maeri - Audio Officer
6. Mr. John Njoro - Serjeant-At-Arms
7. Mr. Vitalis Augo - Office Assistant

FORMER PARLIAMENTARIANS ASSOCIATION OF KENYA (FOPAK)

1. Hon. Otieno Mak'Onyango - Secretary
2. Hon. Immanuel Imana - Member
3. Hon. Francis Mutwol - Member
4. Hon. Aloo Ogeka - Member
5. Hon. Saulo W. Busolo - Member

6. Hon. Joseph D. Lotodo - Member
7. Hon. John K. Marirmoi - Member

AGENDA

1. Prayers
2. Preliminaries/Introductions/Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting with Former Parliamentarians Association of Kenya to consider the Parliamentary Pensions (Amendment) Bill, 2019**
6. Adjournment/ Date of the next meeting

MIN.NO.NA/F&NP/2019/303: PRELIMINARIES/COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 10.13 am and a prayer was said. The agenda was then adopted having been proposed and seconded by Hon. Andrew Okuome, MP and Hon. Daniel Nanok, MP respectively.

The Chairperson informed the meeting that the Committee will consider both the Parliamentary Pensions (Amendment) Bill, 2019 by Hon. John Mbadi, EGH, MP and the Parliamentary Pensions (Amendment) Bill (No. 2) of 2019 by Hon. Wangari Mwaniki, MP and table both reports in the House. The House would ultimately decide which of the two Bills will be prioritized. The Secretariat was tasked to find out which Committee had carried out the pre-publication scrutiny of the Parliamentary Pensions (Amendment) Bill (No. 3) of 2019 by Hon. Andrew Mwadime, MP.

The Chairperson then called for introduction of those present before inviting the meeting to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2019/304: CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2019/305: MEETING WITH FORMER PARLIAMENTARIANS ASSOCIATION OF KENYA TO CONSIDER THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL, 2019

The Chairperson invited the Secretary to the Former Parliamentarians Association of Kenya, Hon. Mak'onyango to present on behalf of the members of the Association. Hon. Mak'Onyango submitted that:-

- (i) In its 2009 report, the Akiwumi Tribunal recommended enhanced pension, by way of improved terms and conditions of service for MPs and employees of Parliament and living pension of KSh. 100,000 per month for former MPs who served from 1984 upwards;
- (ii) In 1999, an amendment was made to the Parliamentary Pensions Act amended the provisions of Section 8 of the Act setting the period applicable for pensions to one term. However, a subsequent amendment was done through a Statute Law (Miscellaneous

Amendments) Act No.2 of 2002 effectively increasing the period to two terms. This meant that the former MPs who would have been eligible for pensions having served for one term were locked out. Following this amendment, the affected former MPs went to Court and the matter was ruled that Parliament had acted *ultra vires* by denying the former legislators what was rightfully granted to them through Justice Akiwumi Tribunal. The ruling was never implemented;

- (iii) In 2002, a tribunal headed by Justice Cockar recommended ex-gratia payment of Kenya Shillings five hundred thousand to one million. This amount was expected to be paid to all former MPs. However, only those that served between the period 1963 to 1983 were paid ex-gratia since at that time there was no pension. Those that served between 1984 to 2001 were left out;
- (iv) The Association petitioned Parliament in 2016 to implement the enhanced pension (living pension) as recommended by the Akiwumi Tribunal. They also proposed that the minimum age be reduced to forty (40) years to take care of MPs who serve at a very young age; and
- (v) The difference between the Bill sponsored by Hon. Mbadi and the one by Hon. Mwaniki was that Hon. Mwaniki's Bill had a commencement date of 1st July, 2010 which they were in support of.

Members' Deliberation

1. On whether former MPs were earning pension, FOPAK informed the meeting that Members who had served in the 7th Parliament earn a pension of between KSh. 2000 and KSh. 8,000 including those that had served for one term as a result of an amendment to the Act in 1999.
2. On whether FOPAK represented all former MPs, the meeting was informed that the Association represented MPs who served between 1963 to 2017.
3. On why they had settled on a pension of KSh. 100,000, the meeting was informed that the Commonwealth Parliamentary Association had recommended in 2009 that former MPs from Parliaments in the Association should be paid a minimum of \$1000.
4. The Association was directed to present to the Committee a summary of issues that they wanted to be addressed in the Bill.
5. The Committee Secretariat was directed to:-
 - i. Find out why Parliament was dilly dallying in paying pension to former MPs; and
 - ii. Follow up with the Parliamentary Pensions Department why Hon. Francis Mutwol was not earning a pension.

MIN.NO.NA/F&NP/2019/306: ANY OTHER BUSINESS


The Chairperson informed Members that communication will be made on whether the Committee will proceed for the scheduled retreat depending on the availability of a suitable venue.

MIN.NO.NA/F&NP/2019/307: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 12.40 p.m. The next meeting will be held on Tuesday, 1st October, 2019 at 10.00 a.m.

HON. JOSEPH K. LIMO, MP

(CHAIRPERSON)

SIGNED  DATE 30/10/19

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

**DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE
PARLIAMENTARY PENSIONS (AMENDMENT) BILL (N.A. BILLS NO. 56 OF 2019)**

DATE: 29TH OCTOBER, 2019

NAME	SIGNATURE
1. HON. JOSEPH K. LIMO, MP – CHAIRMAN	
2. HON. ISAAC W. NDIRANGU – VICE-CHAIRMAN	
3. HON. JIMMY O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, MP	
5. HON. ENOCH KIBUNGUCHY, MP	
6. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
7. HON. ABDUL RAHIM DAWOOD, MP	
8. HON. DANIEL E. NANOK, MP	
9. HON. ANDREW A. OKUOME, MP	
10. HON. DAVID M. MBONI, MP	
11. HON. KURIA KIMANI, MP	
12. HON. JOSEPH M. OYULA, MP	
13. HON. JOSHUA KANDIE, MP	
14. HON. LYDIA H. MIZIGHI, MP	
15. HON. MOHAMED ALI, MP	
16. HON. PURITY NGIRICI, MP	
17. HON. SAMUEL ATANDI, MP	
18. HON. STANLEY M. MUTHAMA, MP	
19. HON. EDITH NYENZE, MP	

