



## **REPUBLIC OF KENYA**

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### **TWELFTH PARLIAMENT (FOURTH SESSION)**

#### **THE NATIONAL ASSEMBLY**

#### **MESSAGES**

#### **MESSAGE FROM THE PRESIDENT**

***\_\_\_\_\_ (No. 07 of 2020) \_\_\_\_\_***

#### **REFERRAL BY H.E. THE PRESIDENT OF THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL, 2019**

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#### **Honourable Members,**

You may recall that on 5<sup>th</sup> August, 2020, the National Assembly passed the Parliamentary Pensions (Amendment) Bill (National Assembly Bill No. 45 of 2019). The Bill was sponsored by the Leader of the Minority Party, the Hon. John Mbadi, MP. Following its passage, I did present the Bill for Assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, in exercise of the powers conferred under Article 115(1)(b) of the Constitution, H.E. the President, by way of a Memorandum dated 7<sup>th</sup> September, 2020, has since referred the Bill back to the National Assembly for reconsideration.

**Honourable Members,** in his Memorandum, H.E. the President has expressed reservations on Clause 2 of the Bill which sought to amend section 8 of the Parliamentary Pensions Act (Cap. 196) to provide for an entitlement for former Members of Parliament who served between 1<sup>st</sup> July, 1984 and 1<sup>st</sup> January, 2001 to a monthly pension of one hundred thousand shillings.

Amongst the reasons for his reservations, H.E. the President notes the following-

- (i) Members' pensions under the Act are calculated according to the contributions paid into the Scheme during their parliamentary term. The proposed amendment fails to provide for such calculation, and makes no reference to the Members' contributions;
- (ii) The Bill overlooks the mandate of the Salaries and Remuneration Commission under the Constitution, which comprises, among other things, the setting and review of remuneration and benefits for all State officers, who include Members of Parliament; and,
- (iii) The proposed pension payment will result in an annual cost implication of about four hundred and forty-four million shillings. Added to this, will be the almost certain demand for similar upward review of pension benefits by other retired State and public officers, which is within their rights to demand. The resultant ripple effect is unaffordable and fiscally unsustainable.

Consequently, H.E. the President recommends deletion of the said Clause of the Bill, which as a matter of fact, is the primary content of the Bill.

**Honourable Members,** Standing Order 154(2) requires the House to consider the President's Reservations **within twenty one (21) days** upon receipt of the Memorandum. In this regard, the Reservations of the President, as contained in his Memorandum, now stand committed to the Departmental Committee on Finance and National Planning for consideration, which should table its report soonest to allow the House to consider the President's Reservations within the said timelines.

**Honourable Members,** may I, at this point, remind the House of the *Speaker's Communication* of July 28, 2015 concerning the consideration of the President's reservations to a Bill and amendments thereto. I particularly draw your attention to my guidance, that the voting threshold for the passage of amendments proposed by a Committee or an individual Member that have the effect of **fully accommodating** the President's reservations is **a simple majority** as contemplated under Article 122(1) of the Constitution as read together with Article 115(2)(a).

On the other hand, an amendment that **does not fully accommodate** the President's reservations, or indeed one that has the effect of a total override of the President's reservations, including negating his proposed text, would require a **two-thirds voting** threshold to be passed in keeping with the provisions of Article 115(4) of the Constitution.

**Honourable Members,** I therefore direct the Clerk to circulate the memorandum from H.E. the President to all Members so that they familiarize themselves with its contents.

**I thank you!**



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

Thursday, September 10, 2020

