

Approved for tabling ^{BA} SNA
5/8/2021



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FIFTH SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING
.....

REPORT ON -

THE PERPETUITIES AND ACCUMULATIONS (AMENDMENT) BILL, 2021 (NATIONAL
ASSEMBLY BILL NO.24 OF 2021)

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE:	05 AUG 2021
TABLED BY:	Hon. Gladys Wangari Chair, Finance
CLERK-AT THE-TABLE:	Mairah Wanjiku

CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST 2021

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CHAIRPERSON'S FOREWORD

This report contains the Committee's proceedings on the consideration of the Perpetuities and Accumulations (Amendment) Bill (*National Assembly Bill No. 24 of 2021*) which was published on 12th May 2021.

The Bill went through the First Reading on Tuesday, 15th June, 2021 and was thereafter committed to the Departmental Committee on Finance and National Planning pursuant to Standing Order 127.

The Bill seeks to amend the Perpetuities and Accumulations Act Cap 161 to limit the application of the Act to dispositions relating to immovable property and allow for the accumulation of the income of a trust so that it can benefit multiple generations of beneficiaries, particularly in a family trust.

The amendment further proposes to create an enabling legal framework for preservation of generational wealth.

Following placement of adverts in the print media on Monday 21st June 2021 requesting for comments on the Bill from members of the public and relevant stakeholders, the Committee received memoranda from six (6) stakeholders. The Committee further discussed the Bill with stakeholders during a retreat held on Wednesday, 14th July 2021 at the Emara Ole Sereni Hotel, Mombasa Road. Ten (10) stakeholders attended the meeting with some submitting written memoranda.

Majority of the stakeholders noted that perpetuities and accumulations in Kenya is guided by pre-independence legislation and therefore it was necessary to amend the legal framework to align it to the present times in order re-engineer the administration and management of wealth held in trust for generational transfer.

The primary goal of the Bill is to limit the application of the Act to immovable property dispositions and to allow for the accumulation of trust income to benefit multiple generations of beneficiaries particularly in a family trust. Further, the Bill seeks to construct a legal framework that allows generational wealth to be preserved.

In considering the Bill, the Committee observed that the amendments to section 2 and section 19 of Cap.161 are mainly to ensure preservation of wealth and provide for the application of perpetuity period while exempting family trusts from the same.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to 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 Perpetuities and Accumulations (Amendment) Bill (N.A. Bill No. 24 of 2021). 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 further wishes to thank all stakeholders who submitted their comments on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the Perpetuities and Accumulations (Amendment) Bill (N.A. Bill No. 24 of 2021) and have the honour to report to the National Assembly with the recommendation that the Bill be approved with amendments as contained in the report.

Hon. Gladys Wanga, CBS, M.P.
Chairperson, Departmental Committee on Finance and National Planning

PART I

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:
 - a. *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;*
 - b. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
 - c. ***To study and review all the legislation referred to it;***
 - d. *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;*
 - e. *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;*
 - f. *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);*
 - g. *To examine treaties, agreements and conventions;*
 - h. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - i. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - j. *To examine any questions raised by Members on a matter within its mandate.*

1.2 COMMITTEE'S 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. State Department for Devolution
 - c. The Commission on Revenue Allocation (CRA)
 - d. Office of the Controller of Budget
 - e. Salaries and Remuneration Commission (SRC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning was re-constituted by the House in July, 2020 and comprises of the following Members:

Chairperson

Hon. Gladys Wanga, CBS, MP
Homabay County
ODM Party

Vice-Chairperson

Hon. Isaac W. Ndirangu
Roysambu Constituency
Jubilee Party

Members

Hon. Jimmy O. Angwenyi, MGH, MP
Kitutu Chache North Constituency
Jubilee Party

Hon. Christopher Omulele, CBS, MP
Luanda Constituency
ODM Party

Hon. Shakeel Shabbir Ahmed, CBS, MP
Kisumu Town Constituency
Independent Member

Hon. Daniel Epuyo Nanok, MP
Turkana West Constituency
Jubilee Party

Hon. (Dr.) Christine O. Ombaka, MP
Siaya County
ODM Party

Hon. Andrew Adipo Okuome, MP
Karachuonyo Constituency
ODM Party

Hon. David Mwalika Mboni, MP
Kitui Rural Constituency
CCU Party

Hon. Francis Kuria Kimani, MP
Molo Constituency
Jubilee Party

Hon. Joseph Maero Oyula, MP
Butula Constituency

ODM Party

Hon. Joshua Chepyegon Kandie, MP
Baringo Central Constituency
Jubilee Party

Hon. Stanley M. Muthama, MP
Lamu West Constituency
Jubilee Party

Hon. Edith Vethi Nyenze, MP
Kitui West Constituency
WDM-K

Hon. Catherine Waruguru, MP
Laikipia County
Jubilee Party

Hon. James Gichuhi Mwangi, MP
Tetu Constituency
Jubilee Party

Hon. (Prof.) Mohamud Mohamed, MP
Wajir South Constituency
Jubilee Party

Hon. Peter Lochakapong, MP
Sigor Constituency
Jubilee Party

Hon. Qalicha Gufu Wario, MP
Moyale Constituency
Jubilee Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following Members of the Secretariat:

Head of the Secretariat

Ms. Leah W. Mwaura

Senior Clerk Assistant

Ms. Jennifer Ndeto

Principal Legal Counsel I

Ms. Laureen Wesonga

Clerk Assistant II

Ms. Christine Nderitu

Clerk Assistant II

Mr. Josephat Motonu

Fiscal Analyst I

Mr. Chelang'a Maiyo

Research Officer II

Mr. John Njoro

Serjeant-At-Arms

Ms. Christine Maeri

Audio Officer

PART II

2 OVERVIEW OF THE PERPETUITIES AND ACCUMULATIONS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY NO. 24 OF BILL)

2.1 ANALYSIS OF THE BILL

6. The Perpetuities and Accumulations (Amendment) Bill, 2021 (National Assembly No. 24 of Bill) sets out to limit the application of the Act to dispositions relating to immovable property and allow for the accumulation of the income of a trust so that it can benefit multiple generations of beneficiaries, particularly in a family trust.
7. Additionally, the Bill seeks to create wealth an enabling legal framework for preservation of generational wealth. The Bill stipulates that any reference to with regard to dispositions of property shall be in reference to immovable property.
8. The Bill specifies the trusts to which perpetuity period applies and that family trusts will be accumulated beyond multiple generations within the life being of beneficiaries plus eighteen years.
9. Accumulation of income to be allowed and distributed within the perpetuity period provided in the law and trust deed.

2.2 REVIEW OF THE PERPETUITIES AND ACCUMULATIONS (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY NO. 24 OF BILL)

10. The Perpetuities and Accumulations (Amendment) Bill, 2021 contains (3) clauses that seek to amend Sections 2 and repeal Section 19 of the Principal Act Cap 161.
11. The Bill seeks to replace Section 19 of the Act with the following new Section thereof
 19. (1) Subject to Section 16 of this Act, the terms of any instrument or a trust may direct or authorize the accumulation of all or part of the income of such property for a period not exceeding the intended duration of the trust.
 - (2) Subject to any power of maintenance or advancement or other terms of the trust, income, which is not accumulated, shall be distributed.

PART III

3 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

12. Following the call for memoranda from the public through the placement of adverts in the print media on Monday 21st June 2021 requesting for comments from the public on the Bill and invitation of stakeholders vide letter REF: NA/DDC/F&NP/2021/19 dated 26th May 2021 for a stakeholder engagement retreat on the Bill which was held at the Ole Sereni Hotel, Mombasa Road from 12th to 16th July 2021, the Committee received memoranda from the following stakeholders:

- i. Prof. Tom Ojienda and Company Associates
- ii. Regent Management limited
- iii. Ashitiva Advocates LLP
- iv. Sisule and Associates
- v. Kisoo Mutua Advocates
- vi. Onganya Ombo Advocates
- vii. Kimakia Magara and Partners LLP
- viii. Roble Office
- ix. Kemunto Moturi

The stakeholders submitted as follows:

3.1 PROF. TOM OJIENDA AND ASSOCIATES

Prof. Tom Ojienda and Associates submitted their memorandum Ref: TO/NA/005/2021 dated 2nd July 2021. They proposed the following **THAT**—

13. Clause 2 of the Bill be amended by inserting the definition of “family trust” is as defined in the Trustees (Perpetual Succession) Bill, 2021. This is because the proposed adoption of the definition of ‘family trust’ will create ease of reference for new readers of the Act who might not be aware of an already existing definition in the Trustees (Perpetual Succession) (Amendment) Bill, 2021 (Kenya Gazette Supplement No. 93 (National Assembly Bills No 23).

Committee Observation

The Committee rejects the proposed the referencing to the Trustees (Perpetual Succession) Bill, 2021 given that it would be improper to reference with the Bill is making an assumption that the two Bills will be passed concurrently.

14. Clause 2 of the Bill be amended by inserting a new definition “Perpetuity period means the length of a life or lives in being, plus 18 years as provided in Section 5. This is because the provision of definition of perpetuity period shall be necessary as guiding principle every time one refers to the period.

Committee observation

The Committee observe that the definition is provided for in Section 5 of the Perpetuities and Accumulations Act. To provide for the interpretation of the Perpetuity period may therefore not be necessary.

3.2 REGENT MANGEMENT LIMITED

Regent Management Limited their memorandum dated 2nd July 2021 submitted **THAT—**

15. Clause 2 of the Bill be amended by inserting the definition of “family trust” is as define in the Trustees (Perpetual Succession) Bill, 2021. This is because the proposed adoption of the definition of ‘family trust’ shall be for ease of reference for new readers of the Act who might not be aware of an already existing definition in the Trustees (Perpetual Succession) (Amendment) Bill, 2021 (Kenya Gazette Supplement No. 93 (National Assembly Bills No 23)).

Committee Observation

The Committee rejects the proposed the referencing to the Trustees (Perpetual Succession) Bill, 2021 given that it would be improper to referencing with a Bill that has not been assented to.

16. Propose amendment of the new clause 2(9) of the bill by inserting the words “lives in being” in between the phrase “reference to” and “the perpetuity period”

Committee’s Observation

The Committee did not support the proposal to insert the words “lives in being” in Clause 2(9) as family trusts are already exempted in the limitations under the perpetuity period. The exemption will allow family trust to move from one generation to another leading to accumulation of family wealth.

3.3 ASHITIVA ADVOCATES LLP

Ashitiva Advocates LLP submitted their memorandum 1st July 2021. They proposed **THAT—**

17. Section 2 be amended by inserting the definition of “family trust” is as define in the Trustees (Perpetual Succession) Bill, 2021. This because the proposed adoption of the definition of ‘family trust’ shall be for ease of reference for new readers of the Act who might not be aware of an already existing definition in the Trustees (Perpetual Succession) (Amendment) Bill, 2021 (Kenya Gazette Supplement No. 93 (National Assembly Bills No 23)).

Committee Observation

The Committee rejects the proposed the referencing to the Trustees (Perpetual Succession) Bill, 2021 given that it would be improper to referencing with a Bill that has not been assented to

3.4 SISULE AND ASSOCIATES

In their memorandum and oral presentation made before the Committee on 13th July, 2021, Sisule and Associates submitted **THAT—**

18. The Bill proposes to amend section.2 of the principal Act, which is intended to help maintain the original goal of prohibiting perpetual property ownership. The resultant benefit of the proposed amendment will allow family trusts to function forever to serve multiple generations, therefore creating and preserving generational wealth. In effect , it will allow people to make more professionally managed investments thereby giving families more opportunities for accumulation of wealth for future generations

Committee’s Observations

The provision as contained in the amendment of section 2 is comprehensive and that the perpetuity of trusts will be irrevocable unless otherwise provided for in the trust deed.

19. The Bill intends to amend Section 19 of the principal Act as proposed in the Bill. Clause 3 intends to amend section 19 of the law Cap. 161 on accumulation of income. Subject to Section 16 of the Act, the terms of any instrument or a trust may direct or authorize the accumulation of all or part of the income of such property for a period not exceeding the intended duration of the trust.

3.5 KISOO MUTUA ADVOCATES

Kisoo Mutua Advocates in their memorandum dated 2nd July 2021 submitted **THAT —**

20. Clause 2 be amended by inserting the following new definition: “family trust” is as defined in the Trustees (Perpetual Succession) (Amendment) Bill, 2021. The proposed adoption of the definition of ‘family trust’ shall be for ease of reference for new readers of the Act who might not be aware of an already existing definition in the Trustees (Perpetual Succession) (Amendment) Bill, 2021 (Kenya Gazette Supplement No. 93 (National Assembly Bills No 23).

Committee Observation

The Committee rejects the proposal. Referencing to the Trustees (Perpetual Succession) Bill, 2021 is improper. It is making the assumption that the Trustees (Perpetual Succession) Bill, 2021 will be passed.

21. Clause 2(9) of the Bill be amended by inserting the words “lives in being” in between the phrase “reference to” and “the perpetuity period”. The amendment will assist families more long term than just for existing living generation.

Committee Observation

The Committee did not support the proposal to insert the words “lives in being” in Clause 2(9) as family trusts are already exempted in the limitations under the perpetuity period. The exemption will allow family trust to move from one generation to another leading to accumulation of family wealth.

3.6 ONGANYA OMBO ADVOCATES

In their memorandum submitted to the Committee on 22nd June 2021 Ref: NA.02.01.GEN submitted **THAT**—

22. The Bill fails to define or make reference to what amounts to a “*family trust*.” It is proposed that the Section 2 of the Bill be amendment to define “Family Trust” as is defined in the Trustees (Perpetual Succession) Bill, 2021.

Committee Observation

The Committee did not support the amendment. Providing for a definition of terms in reference to another Bill will be counterproductive since there is no certainty that the two Bills approved and assented to in concurrence.

23. For purposes of this Act, any reference to “lives in being” the perpetuity period shall not apply to family trusts. This is to enhance the possibility of safely transferring wealth from one generation to the other without depleting the available wealth.

Committee Observation

The Committee did not support the proposal to insert the words “lives in being” in Clause 2(9) as family trusts are already exempted in the limitations under the perpetuity period. The exemption will allow family trust to move from one generation to another leading to accumulation of family wealth.

3.7 KIMAKIA MAGARA AND PARTNERS LLP

KMP Advocates LLP submitted their memorandum 1st July 2021. They proposed **THAT**—

24. Section 2 be amended by inserting the definition of “family trust” is as define in the Trustees (Perpetual Succession) Bill, 2021. The proposed adoption of the definition of ‘family trust’ shall be for ease of reference for new readers of the Act who might not be aware of an already existing definition in the Trustees (Perpetual Succession) (Amendment) Bill, 2021 (Kenya Gazette Supplement No. 93 (National Assembly Bills No 23).

Committee Observation

The Committee rejects the proposal and adopt the use of Family trusts without reference to the Trustees (Perpetual Succession) Bill, 202.

3.8 ROBLE OFFICE ADVOCATES

In their submission dated 2nd July 2021 Roble Office Advocates propose **THAT**—

25. Section 2 of the principal Act be amended by inserting the following definition: “Family trust” is as defined in the Trustees (Perpetual Succession) (Amendment) Bill, 2021. The proposed adoption of the definition of ‘family trust’ shall be for ease of reference for new readers of the Act who might not be aware of an already existing definition in the Trustees (Perpetual Succession) (Amendment) Bill, 2021 (Kenya Gazette Supplement No. 93 (National Assembly Bills No 23).

Committee Observation

The Committee did not support the amendment. Providing for a definition of terms in reference to another Bill will be improper since there is no certainty that the two Bills approved and assented to in concurrence.

3.9 KEMUNTO MOTURI ADVOCATES

In their submission dated 2nd July 2021, Kemunto Moturi Advocates proposed **THAT—**

26. Section 2 of the principal Act be amended by inserting the following definition: “Family trust” is as defined in the Trustees (Perpetual Succession) (Amendment) Bill, 2021. The proposed adoption of the definition of ‘family trust’ shall be for ease of reference for new readers of the Act who might not be aware of an already existing definition in the Trustees (Perpetual Succession) (Amendment) Bill, 2021 (Kenya Gazette Supplement No. 93 (National Assembly Bills No 23)).

Committee Observation

The Committee did not support the amendment. Providing for a definition of terms in reference to another Bill will be improper since there is no certainty that the two Bills approved and assented to in concurrence

27. Clause 2(9) of the Bill be amended by inserting the words “lives in being” in between the phrase “reference to” and “the perpetuity period”

Committee Observation

The Committee did not support the proposal to insert the words “lives in being” in Clause 2(9) as family trusts are already exempted in the limitations under the perpetuity period. The exemption will allow family trust to move from one generation to another leading to accumulation of family wealth.

PART IV

4 COMMITTEE OBSERVATIONS

Upon reviewing the Bill, the Committee observed the following:-

28. The proposed amendment will allow for accumulation of generational wealth where such wealth is preserved in a family trust. The Bill exempts family trust from perpetuity period, thereby allowing for building of generational wealth, and reduce intergenerational poverty; and
29. Allowing accumulation of intergenerational wealth will create discretionary income and also contribute to the number of potential passive income sources.

PART V

5 COMMITTEE RECOMMENDATION

30. The Committee having considered the Perpetuities and Accumulations (Amendment) Bill, 2021 (*National Assembly Bill No. 24 of 2021*) recommends that the House passes the Bill with amendments as proposed in the schedule in chapter 6.

PART VI

6 SCHEDULE OF PROPOSED AMENDMENTS

The Committees proposed the following amendments to be considered by the House in the Committee stage:

CLAUSE 3

5. THAT clause 3 of the Bill be amended in the proposed new section 19 by deleting the proposed subsection (2) and substituting therefor the following subsections-

(2) Subject to special and general power of maintenance and advancement or as predicted by the terms of the trust or as otherwise provided, income which is not accumulated shall be distributed.

(3) At all times income that is not accumulated shall be distributed to the intended beneficiaries.

Justification

The amendment to subsection 2 is to include the word "special" to recognise the special powers of a trustee provided for under the Trustees Act. Additionally, it is to require that all income that is not accumulated should be distributed to the intended beneficiaries.

SIGNED..... DATE.....

5th August 2021

THE HON. GLADYS WANGA, CBS, MP
CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

ANNEXTURES

1. Adoption Schedule
2. Minutes of the 52nd and 53rd sittings held on 14th July, 2021
3. Newspaper Advertisement – Submission for Memoranda for Public Participation

REPUBLIC OF KENYA



NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE

ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE PERPETUITIES AND ACCUMULATIONS (AMENDMENT) BILL (N.A. BILL NO. 240F 2021)

DATE:

NAME	SIGNATURE
1. HON. GLADYS WANGA, CBS, MP – CHAIRPERSON	
2. HON. ISAAC W. NDIRANGU – VICE-CHAIRPERSON	
3. HON. JIMMY O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, CBS, MP	
5. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
6. HON. DANIEL E. NANOK, MP	
7. HON. (DR.) CHRISTINE OMBAKA, MP	
8. HON. ANDREW A. OKUOME, MP	
9. HON. DAVID M. MBONI, MP	
10. HON. FRANCIS KURIA KIMANI, MP	Virtual
11. HON. JOSEPH M. OYULA, MP	
12. HON. JOSHUA KANDIE, MP	
13. HON. STANLEY M. MUTHAMA, MP	
14. HON EDITH NYENZE, MP	
15. HON. CATHERINE WARUGURU, MP	Virtual
16. HON. JAMES GICHUHI MWANGI, MP	
17. HON. PROF. MOHAMUD SHEIKH MOHAMED, MP	Virtual
18. HON. PETER LOCHAKAPONG, MP	
19. HON. QALICHA GUFU WARIO, MP	

MINUTES OF THE 65TH SITTING OF THE DEPARTMENTAL COMMITTEE ON
FINANCE AND NATIONAL PLANNING HELD IN COMMITTEE ROOM 9, MAIN
PARLIAMENT BUILDINGS ON THURSDAY, 5TH AUGUST, 2021 AT 10:30 A.M.

PRESENT

1. Hon. Gladys Wanga, CBS, MP - Chairperson
2. Hon. Isaac W. Ndirangu, MP - Vice Chairperson
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Andrew A. Okuome, MP
5. Hon. David M. Mboni, MP
6. Hon. Edith Nyenze, MP
7. Hon. James Gichuhi Mwangi, MP
8. Hon. Joshua C. Kandie, MP
9. Hon. Francis K. Kimani, MP
10. Hon. Catherine Waruguru, MP
11. Hon. (Prof.) Mohamud Sheikh Mohamed, MP

ABSENT WITH APOLOGY

1. Hon. Christopher Omulele, CBS, MP
2. Hon. Shakeel Shabbir Ahmed, CBS, MP
3. Hon. Daniel E. Nanok, MP
4. Hon. (Dr.) Christine Ombaka, MP
5. Hon. Joseph M. Oyula, MP
6. Hon. Stanley M. Muthama, MP
7. Hon. Peter Lochakapong, MP
8. Hon. Qalicha Gufu Wario, MP

INATTENDANCE

SECRETARIAT

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of Secretariat
2. Ms. Brigitta Mati - Legal Counsel II
3. Mr. John Njoro - Serjeant-At-Arms
4. Ms. Christine Maeri - Audio Officer
5. Ms. Hannah Mwangi - Intern

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes from the previous sitting(s) and Matters Arising
4. Adoption of Reports on the following Bills:
 - i. Report on the Pensions (Amendment) Bill (*National Assembly Bill No. 26 of 2020*)
 - ii. Report on the Public Procurement and Asset Disposal (Amendment) Bill (*National Assembly Bill No. 34 of 2020*)
 - iii. Report on the Public Finance Management (Amendment) Bill (*National Assembly Bill No. 39 of 2020*)
 - iv. Report on the Kenya Deposit Insurance (Amendment) Bill, 2020 (*National Assembly Bill No. 43 of 2020*)
 - v. Report on the Central Bank of Kenya (Amendment) Bill (*National Assembly Bill No. 47 of 2020*)

- vi. **Report on the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 49 of 2020)**
- vii. **Report on the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 10 Of 2021)**
- viii. **Report on the Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No. 23 of 2021)**
- ix. **Report on the Perpetuities and Accumulations (Amendment) Bill, 2021 (National Assembly Bill No.24 of 2021)**

5. Any Other Business

6. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2021/298: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10:10 a.m and a prayer was said.

MIN.NO.NA/F&NP/2021/299: CONFIRMATION OF MINUTES
Agenda deferred

MIN.NO.NA/F&NP/2021/300: ADOPTION OF REPORTS ON BILL

The Chair invited Members to consider the following Reports which were subsequently adopted as follows: -

1. Report on the Pensions (Amendment) Bill (National Assembly Bill No. 26 of 2020)
Proposed by- Hon. Jimmy O. Angwenyi
Seconded by -Hon. James G. Mwangi
2. Report on the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 34 of 2020)
Proposed by- Hon. Isaac W. Ndirangu
Seconded by -Hon. David M. Mboni
3. Report on the Public Finance Management (Amendment) Bill (National Assembly Bill No. 39 of 2020)
Proposed by- Hon. Edith Nyenze
Seconded by -Hon. Jimmy Angwenyi
4. Report on the Kenya Deposit Insurance (Amendment) Bill, 2020(National Assembly Bill No. 43 of 2020)
Proposed by- Hon. Jimmy O. Angwenyi
Seconded by -Hon. James G. Angwenyi
5. Report on the Central Bank of Kenya (Amendment) Bill (National Assembly Bill No. 47 of 2020)
Proposed by- Hon David M. Mboni
Seconded by -Hon Jimmy O. A
6. Report on the Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 49 of 2020)

Proposed by- Hon. James Gichuhi, M.P
Seconded by – Hon. David Mboni, M.P

MINUTES OF THE 53RD SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN TALEK CONFERENCE ROOM AT EMARA OLE-SERENI HOTEL ON WEDNESDAY, 14TH JULY 2021 AT 2:00 P.M.

PRESENT

1. Hon. Gladys Wanga, CBS, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Christopher Omulele, CBS, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Daniel E. Nanok, MP
7. Hon. (Dr.) Christine Ombaka, MP
8. Hon. Andrew A. Okuome, MP
9. Hon. David M. Mboni, MP
10. Hon. Francis K. Kimani, MP
11. Hon. Joseph M. Oyula, MP
12. Hon. Joshua C. Kandie, MP
13. Hon. Stanley M. Muthama, MP
14. Hon. Edith Nyenze, MP
15. Hon. James Gichuhi Mwangi, MP
16. Hon. (Prof.) Mohamud Sheikh Mohamed, MP
17. Hon. Peter Lochakapong, MP
18. Hon. Qalicha Gufu Wario, MP

ABSENT WITH APOLOGY

Hon. Catherine Waruguru, MP

INATTENDANCE

SECRETARIAT

1. Mr. Anthony Njoroge - Director, Litigation
2. Ms. Leah Mwaura - Senior Clerk Assistant/Head of Secretariat
3. Ms. Jennifer Ndeto - Principal Legal Counsel I
4. Ms. Laureen Wesonga - Clerk Assistant II
5. Mr. Chelang'a Maiyo - Research Officer II
6. Mr. Yaqub Ahmed - Media Relations Officer III
7. Mr. John Njoro - Serjeant-At-Arms
8. Ms. Christine Maeri - Audio Officer

NATIONAL TREASURY AND PLANNING

1. Hon. Nelson Gaichuhie
2. Mr. Eric Korir
3. Mr. Elijah Nyamamba
4. Mr. Peter Ndung'u

AGENDA

1. Prayers
2. Communication from the Chairperson
3. **Meeting with the National Treasury to consider the Trustees (Perpetual Succession) (Amendment) Bill, 2021; the Perpetuities and Accumulations (Amendment) Bill, 2021; the Public Procurement and Asset Disposal (Amendment) Bill, 2020 by Hon. Richard Tongi, MP; and the Public Procurement and Asset Disposal (Amendment) Bill, 2020 by Hon. Benjamin Gathiru, MP**

4. **Clause by Clause consideration of the Trustees (Perpetual Succession) (Amendment) Bill, 2021; and the the Perpetuities and Accumulations (Amendment) Bill, 2021**
5. **Briefing on the Amendments Proposed to the Parliamentary Pensions (Amendment) Bill 2019 By Hon. Andrew Mwadime, MP**
6. Any Other Business
7. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2021/241

**COMMUNICATION FROM THE
CHAIRPERSON**

The meeting was called to order at 2.10 p.m. and a prayer was said. The Chairperson then called for introduction of those present before welcoming the Chief Administrative Secretary, National Treasury to present National Treasury's submissions.

MIN.NO.NA/F&NP/2021/242:

CONFIRMATION OF MINUTES

Agenda deferred

MIN.NO.NA/F&NP/2021/243:

**MEETING WITH THE NATIONAL
TREASURY TO CONSIDER THE TRUSTEES
(PERPETUAL SUCCESSION)
(AMENDMENT) BILL, 2021; THE
PERPETUITIES AND ACCUMULATIONS
(AMENDMENT) BILL, 2021; THE PUBLIC
PROCUREMENT AND ASSET DISPOSAL
(AMENDMENT) BILL, 2020 BY HON.
RICHARD TONGI, MP; AND THE PUBLIC
PROCUREMENT AND ASSET DISPOSAL
(AMENDMENT) BILL, 2020 BY HON.
BENJAMIN GATHIRU, MP**

The CAS, Hon. Nelson Gaichuhie informed the meeting that the National Treasury will send submit written memoranda on the Trustees (Perpetual Succession) (Amendment) Bill, 2021 and the Perpetuities and Accumulations (Amendment) Bill, 2021 by Friday, 16th July 2021.

The Public Procurement and Asset Disposal (Amendment) Bill, 2020 by Hon. Richard Tongi, MP

The National Treasury did not support all amendments to the Bill except the amendment proposed to section 157(9) of the Public Procurement and Asset Disposal Act.

The Public Procurement and Asset Disposal (Amendment) Bill, 2020 by Hon. Benjamin Gathiru, MP

The National Treasury did not support Hon. Gathiru's amendment because allowing the amendment implies that the CS shall set thresholds of above KSh. 20 billion for citizen contractors (firms wholly owned and controlled by Kenyan citizens). This will lock out local contractors (firms registered in Kenya with above 51% Kenyan shareholding) and foreign contractors (firms owned by foreign nationals).

MEMBERS' DELIBERATIONS

Regarding comprehensive amendment to the Public Procurement and Asset Disposal Amendment Act, the meeting was informed that National Treasury had submitted 50 amendments to the Attorney General for submission to the National Assembly for consideration.

Details of the amendments proposed by National Treasury on the two Bills are contained in Part III of the Reports on the consideration of the Public Procurement Asset Disposal (Amendment) Bill (N.A. Bill No. 34 of 2020) and the Public Procurement Asset Disposal (Amendment) Bill (N.A. Bill No. 49 of 2020)

**MIN.NO.NA/F&NP/2021/244: CLAUSE BY CLAUSE CONSIDERATION OF
THE TRUSTEES (PERPETUAL
SUCCESSION) (AMENDMENT) BILL, 2021
AND THE PERPETUITIES AND
ACCUMULATIONS (AMENDMENT) BILL,
2021**

The Perpetuities and Accumulations (Amendment) Bill, 2021

The meeting deliberated and agreed as follows on the Bill:

Clause 1: Agreed to

Clause 2: Agreed to

Clause 3: Amend 19(2) as per Prof. Tom Ojienda's proposal.

The Trustees (Perpetual Succession) (Amendment) Bill, 2021

The meeting deliberated and agreed as follows on the Bill:

Clause 1: Agreed to

Clause 2: Amend as per stakeholder comments
Delete definition of the word "*discretionary trust*"

Clause 3: (3)(1) amend as per Kenya Community Development Foundation/East Africa
Philanthropy Network proposal

Clause 4

3A: Agreed to

3B: Redraft

3C: Amend (1) by inserting the words "*non-charitable*".

3D: Agreed to

3E: Agreed to

3F: Agreed to

3G: Agreed to

3H: Agreed to

3I: Agreed to

3J: Agreed to

The Public Procurement and Asset Disposal (Amendment) Bill, 2020 by Hon. Tongi

The meeting deliberated and agreed to adopt National Treasury's position on the Bill.

**MIN.NO.NA/F&NP/2021/245: BRIEFING ON THE AMENDMENTS
PROPOSED TO THE PARLIAMENTARY
PENSIONS (AMENDMENT) BILL 2019 BY
HON. ANDREW MWADIME, MP**

The Chairperson invited Mr. Anthony Njoroge, Director Litigation to brief the meeting on amendments proposed by Hon. Peter Kaluma, MP and Hon. Wafula Wamunyinyi during consideration of the Bill in the Committee of the Whole House.

Mr. Njoroge implored on Members not to insist on the non-contributory post-retirement medical scheme as it will take away the benefits carried in the Parliamentary Pensions (Amendment) Bill, 2019. He noted that the PSC had consulted with the Salaries and Remuneration Commission before the Bill was drafted.

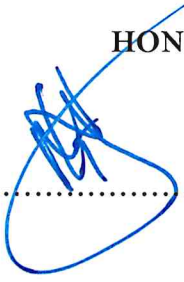
MIN.NO.NA/F&NP/2021/246:

ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 4.49 p.m. The next meeting will be held on Thursday, 15th July 2021 at 9.00 a.m.

HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)

SIGNED.....



DATE.....

5th August 2021

MINUTES OF THE 52ND SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN TALEK CONFERENCE ROOM AT EMARA OLE-SERENI HOTEL ON WEDNESDAY, 14TH JULY 2021 AT 9:00 A.M.

PRESENT

1. Hon. Gladys Wanga, CBS, MP - **Chairperson**
2. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
3. Hon. Jimmy O. Angwenyi, MGH, MP
4. Hon. Christopher Omulele, CBS, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Daniel E. Nanok, MP
7. Hon. (Dr.) Christine Ombaka, MP
8. Hon. Andrew A. Okuome, MP
9. Hon. David M. Mboni, MP
10. Hon. Francis K. Kimani, MP
11. Hon. Joseph M. Oyula, MP
12. Hon. Joshua C. Kandie, MP
13. Hon. Stanley M. Muthama, MP
14. Hon. Edith Nyenze, MP
15. Hon. James Gichuhi Mwangi, MP
16. Hon. (Prof.) Mohamud Sheikh Mohamed, MP
17. Hon. Peter Lochakapong, MP
18. Hon. Qalicha Gufu Wario, MP

ABSENT WITH APOLOGY

Hon. Catherine Waruguru, MP

INATTENDANCE

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2. Ms. Jennifer Ndeto - Principal Legal Counsel I
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5. Mr. Yaqub Ahmed - Media Relations Officer III
6. Mr. John Njoro - Serjeant-At-Arms
7. Ms. Christine Maeri - Audio Officer

SISULE AND ASSOCIATES ADVOCATES

1. Mr. Mutua Mutuku
2. Ms. Cynthia Chebet
3. Mr. Moses Mathini

ANJARWALLA & KHANNA LLP

Ms. Mona Doshi

EAST AFRICA PHILANTHROPY NETWORK (EAPN)

Mr. Evans Okinyi

KENYA COMMUNITY DEVELOPMENT FOUNDATION (KCDF)

1. Ms. Grace Maingi
2. Ms. Susan Githaiga

INTERNATIONAL CENTER NOT-FOR PROFIT LAW

Ms. Faith Kisinga Gitonga

HAVELOCK NDUATI AND CO. ADVOCATES

1. Ms. Wanjiru Nduati
2. Ms. Evelyne Mueni
3. Ms. Betty Mueni Mwanza
4. Mr. Edgar Kinyua Warui

AGENDA

1. Prayers
2. Communication from the Chairperson
3. **Briefing on the Trustees (Perpetual Succession) (Amendment) Bill, 2021 and the Perpetuities and Accumulations (Amendment) Bill, 2021**
4. **Stakeholder engagement on the Trustees (Perpetual Succession) (Amendment) Bill, 2021 and the Perpetuities and Accumulations (Amendment) Bill, 2021**
5. Any Other Business
6. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2021/236 COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 9.20 a.m. and a prayer was said. The Chairperson then welcomed the legal counsel to brief the Committee on the Trustees (Perpetual Succession) (Amendment) Bill, 2021 and the Perpetuities and Accumulations (Amendment) Bill, 2021.

MIN.NO.NA/F&NP/2021/237: CONFIRMATION OF MINUTES
Agenda deferred

MIN.NO.NA/F&NP/2021/238: BRIEFING ON THE TRUSTEES (PERPETUAL SUCCESSION) (AMENDMENT) BILL, 2021 AND THE PERPETUITIES AND ACCUMULATIONS (AMENDMENT) BILL, 2021

The Legal Counsel, Ms. Jennifer Ndeto, briefed the Committee on the two Bills.

Members agreed that it is important to listen to stakeholders then make a decision on the two Bills.

MIN.NO.NA/F&NP/2021/239: STAKEHOLDER ENGAGEMENT ON THE TRUSTEES (PERPETUAL SUCCESSION) (AMENDMENT) BILL, 2021 AND THE PERPETUITIES AND ACCUMULATIONS (AMENDMENT) BILL, 2021

The Chairperson called for introduction of those present before inviting stakeholders to make submissions on the Trustees (Perpetual Succession) (Amendment) Bill, 2021 and the Perpetuities and Accumulations (Amendment) Bill, 2021. They submitted as follows:

Sisule and Associates Advocates

The Perpetuities and Accumulations (Amendment) Bill, 2021

The Bill maintains the original goal of the Act of prohibiting perpetual property ownership. It will allow family trusts to function forever for multiple generations therefore creating and preserving generational wealth.

The Bill will lessen, intergenerational poverty, wealth gap between generations, nesting seasons of Kenyan youth and less fortunate seemingly inexorable reliance on the elusive generosity of others. This will allow Kenyans to make more professionally managed investments, increasing the tax base, discretionary income and the number of potential passive income sources.

Trustees (Perpetual Succession) (Amendment) Bill, 2021

They proposed a number of amendments to the Bill with a view of making the legislation better.

MEMBERS' DELIBERATIONS

1. On their proposed amendment to the term “*enforcer*”, they stated that the devil is in the details hence the need of the Act to be as detailed as possible in order to prevent misinterpretation.
2. On why the legal fraternity has shown a lot of interest in the two legislation, the meeting was informed that this is because clients have been inquiring on how they can preserve their wealth with few squabbles. Additionally, the Bills have diverse effects across many areas hence the interest.
3. On what causes issues during inheritance, the meeting was informed that this happens mainly because of sibling rivalry and this law will sort it out.

Anjarwalla and Khanna LLP

Trustees (Perpetual Succession) (Amendment) Bill, 2021

The Bill will provide legal and secure ways to pass wealth to generations. It provides an opportunity to keep wealth in Kenya and attract wealth to Kenya.

Trustees should however be accountable to beneficiaries and should not be in a place of conflict of interest. Measures should be put in place to ensure that trustees do not invest in their companies.

MEMBERS' DELIBERATIONS

1. Regarding investment of the trust fund in illegal businesses, Ms. Doshi stated that trustees should be cognizant that they should not be involved in money laundering or any prohibited business.
2. On whether their proposed amendment to stop trustees from investing money in the trust fund in their companies will stop trustees from doing business, the meeting was informed that this will not be the case since trustees can invest their personal funds.
3. With regards to hiding money in off-shore accounts, the meeting was informed that most off-shore trust havens have updated their legislation due to the previous issues that arose in order to ensure that wealth is no longer hidden in their countries and the jurisdictions are not used as tax havens.

East Africa Philanthropy Network and Kenya Community Development Foundation

Trustees (Perpetual Succession) (Amendment) Bill, 2021

The Bill is addressing the bedrock foundation for trusts and foundations in Kenya. This will keep wealth in Kenya.

Registering a trust has been difficult, it would take between three to five years to register one. This Bill will play a big role in reducing the time significantly.

MEMBERS' DELIBERATIONS

1. On the minimum amount required to start a trust, the meeting was informed that there is no threshold on this.
2. With regards to investment by trusts, the meeting was informed that trusts should be supported to make income, own property, have businesses, open bank accounts e.t.c. However, this needs to be protected so that it is not abused by trustees.
3. On why the registration process has been long, the meeting was informed that this is because the process of movement of the deed from the office of the Principal Registrar to the Cabinet Secretary is not clear in the current law. From the Cabinet Secretary, the deed would go through vetting then go back to the office of the CS who goes through the vetting report before issuing approval.
4. Regarding dissolution of trusts, the meeting was informed that it is important to incorporate both voluntary and involuntary dissolution of trusts in law.

Details of the amendments proposed by stakeholders on the two Bills are contained in Part III of the Reports on the consideration of the Trustees (Perpetual Succession) (Amendment) Bill, 2021 and the Perpetuities and Accumulations (Amendment) Bill, 2021.

**MIN.NO.NA/F&NP/2021/240: ADJOURNMENT/DATE OF NEXT
MEETING**

There being no other business to deliberate on, the meeting was adjourned at 12.52 p.m. The next meeting will be held at 2.00 p.m.

**HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)**

SIGNED..........DATE.....*5th August 2021*.....



National Assembly Speaker Justin Muturi

BRIEFLY

Speaker Muturi lobbies for use of telemedicine amid pandemic

KISUMU • National Assembly Speaker Justin Muturi has called for fast-tracking of the use of telemedicine in hospitals during the Covid-19 pandemic as a step towards achievement of Universal Health Care. Speaking as he closed the Kenya Medical Association Annual Scientific conference, he said: "It is time to embrace more advanced technology that will make tele-health, Nano-medicine and robotic surgery possible within our shores." Ruth Mbula

Father stabs two minors after quarrel

NYANDARUA • Two minors are fighting for their lives at a Nyahururu hospital after they were reportedly stabbed by their father at Ziwanu Estate in Nyandarua. According to police, Ken Mburu stabbed the two minors aged one and seven years on Saturday after a quarrel with his wife before he set their house ablaze. Steve Njuguna

Two arrested over murders of children

UASIN GISHU • Police in Uasin Gishu County have arrested two suspects in connection with Mor's Bridge serial killings of minors aged between eight and 14 years. The arrest came after residents staged a demo, accusing police of laxity. County Police Commander Ayub Gitonga said the suspects will be arraigned in court this week. Titus Ominde

Magoha takes blame for placement mess

BUNGOMA • Education CS George Magoha has taken the blame for the Form One student placement mess that saw a boy from Bungoma County placed in a girls' school. Spencer Wangila received the letter from Narok County on Friday. Prof Magoha assured the family that the mess has been fixed. Francis Mureithi

Ransom Bosire's wife had been given seven days to raise Sh2 million

Man, 79, narrates ordeal at the hands of kidnappers



Mr Kennedy Bosire Nyabwari at his Bwayi home in Mailli Saba, Trans Nzoia County. PHOTO: IPOOL

Bosire, a relative of Senator Sam Ongeri, was held for over two weeks

BY GERALD BWISA

When Mr Kennedy Bosire Nyabwari left his Kitale home on a Sunday afternoon to visit his ailing aunt in Kisii, it never occurred to him that he would end up in captivity.

The 79-year-old ran into trouble as he was abducted, kept in different houses for more than two weeks, and his family asked to fork out a Sh2 million ransom. That's the ordeal Mr Bosire, a relative of Kisii Senator Sam Ongeri, endured until his rescue by a team of detectives last Tuesday evening. On June 6, Mr Bosire had left his home at 5pm, somewhat in a hurry, following news of his ailing aunt at a Kisii hospital. He badly needed to see her.

His wife, Rhoda, even raised an issue that the travel was planned in a hurry, asking him to leave in

the morning, instead.

But Mr Bosire wanted to go.

He took a Sh70 motorbike ride to Mailli Saba stage, but he soon realised his journey to Kisii might not be possible as all the cars available only wanted to terminate their trips in Eldoret.

Keen to take the earliest matatu out of the town to Kisii, the old man decided to book a room, instead of going back home, and do the trip back to the matatu stage in the morning.

An attempt to book a room at Skynest Hotel was not possible as a room, going for between Sh2,000 and Sh3,000, was way beyond his plan.

He went further down the road and paid Sh600 for a room.

"I had a nice meal and later on requested the attendant to wake me up the following morning around 4am since I had a long journey and wanted to be in Kisii early for the hospital visiting hours," a scared but happy Mr Bosire told the Nation at his home last Thursday.

At around 3am, Mr Bosire was already up, prepared himself and left his room. At the gate, he

asked a watchman if he could get a motorbike to town and was told to walk towards the road, where he could easily get one.

He waited but did not see any boda boda so he decided to walk slowly towards town hoping to get a rider. "When I reached All Saints Cathedral area near Skynest Hotel, I saw a motorbike approaching from the other side of the road. I asked the rider if he was heading to town, which he agreed at Sh50," he said.

However, after connecting the T-junction to the main road towards Kitale town, the rider diverted to a different direction towards Kenya Forest Service.

Worried, Mr Bosire beckoned on the rider to get back to the right route.

The rider said he was dropping the other passengers with him, before heading to town through a short route he knew.

When all the other passengers alighted, and in the dark of the early morning breeze, two men emerged just as the motorbike was near the Kitale Showground.

They commanded Mr Bosire off the motorbike, and asked him to switch off his mobile phone. "As I was being ordered, one of them covered my head with a sack. That is when I realised that my life was in danger," he recalled.

Knife on neck

They jumped on the motorbike and sandwiched him. One was holding him from behind, and the other was holding the sack covered on his head as the rider took charge to an unknown location. On arrival at the house that became his home for a few days, Mr Bosire was thrown into a room until 7pm when he was given food, his first meal that day.

Even though he should have been hungry, a confused Mr Bosire refused to eat.

He was woken up late in the night by someone who placed a knife close to his neck asking him why he had not eaten.

"I was so scared the only words that came from my mouth was 'please allow me to eat the following day,'" he narrated.

The following morning, unsure what was happening to him, Mr Bosire attempted suicide.

"I was so scared that I wanted to take my own life. I tried to look for a place but the ceiling was too low, it could not tie my shirt and allow me space to hang. But then I heard a sharp knock at the door that forced me to abandon the idea," he explained.

Unknown to him, the kidnappers had contacted his wife,

Rhoda, and asked her to fork out Sh2 million for his release.

She had been given seven days to raise the money.

When he refused to eat, the kidnappers called the wife in his presence, demanding that she asks her husband to eat. "I pleaded with him to obey the instructions and not to give up. I know my husband and he listens to me," Rhoda recounted.

Meanwhile, the desperate search for the Sh2 million ransom had begun.

Rhoda had told the kidnappers to allow her to sell a piece of her land. But while she sought for a buyer, she informed police of the events, providing key details like the kidnappers' phone numbers.

A team of detectives from Special Service Unit and Crime Research and Intelligence Bureau, supported by investigators based in Kitale, was immediately mobi-

lised to track down the kidnappers. At some point, when the seven-day deadline ended on Monday night, the kidnappers threatened to take Mr Bosire to Tanzania to "sell him there."

Scared, Rhoda promised to send a down payment to save her husband. But she did not get to do it.

Under the cover of darkness, detectives, who had been pinpointing the phone signal, swooped in, raiding a home at Mailli Saba on the Eldoret-Kitale highway.

"Following suspected abduction report of Kennedy Bosire Nyagwari, we managed to raid the house of one Jackson Atei Nyauendi, who escaped through his homestead fence," said County Criminal Investigations Officer Francis Kihara. Grace Kerubo (wife of the escapee), Richard Okali Matunda and Samuel Atuya were arrested in the operation.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT (FIFTH SESSION)
DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

In the matter of Article 118 (1)(b) of the Constitution and National Assembly Standing Order 127(3) and

In the matter of consideration by the National Assembly of the:

1. Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No. 23 of 2021);
2. Perpetuities and Accumulations (Amendment) Bill (National Assembly Bill No. 24 of 2021); and
3. Certified Managers Bill (National Assembly Bill No. 26 of 2021)

INVITATION FOR PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Standing Order (S.O.) 127(3) provides that, "The Departmental Committee to which a Bill is committed shall facilitate public participation and take into account the views and recommendations of the public when the Committee makes its report to the House".

The Trustees (Perpetual Succession) (Amendment) Bill (National Assembly Bill No. 23 of 2021) introduced by Hon. Gladys Wanga, CBS, M.P. seeks to enable accumulation of generational wealth for the benefit of multiple generations. It makes provisions for and defines the various types of trusts, including charitable trusts and non-charitable purpose trusts. Additionally, the Bill makes new provisions for enforcers of a trust. The Bill also proposes to amend the provisions on incorporation of trustees to recognise that trusts are registered with the Principal Registrar of Documents and not the Minister.

The Perpetuities and Accumulations (Amendment) Bill (National Assembly Bill No. 24 of 2021) introduced by Hon. Gladys Wanga, CBS, M.P. seeks to limit application of the Act to dispositions relating to immovable property and allow for the accumulation of the income of a trust so that it can benefit multiple generations of beneficiaries, particularly in a family trust. The intention is to create an enabling legal framework for preservation of generational wealth.

The Certified Managers Bill (National Assembly Bill No. 26 of 2021) introduced by the Hon. Gladys Wanga, CBS, M.P. seeks to establish the Institute of Certified Managers and to provide for a legal framework for the registration and regulation of the standards and practice of the profession and for connected purposes.

The Bills were read a First Time on Tuesday, 15th June 2021 and committed to the Departmental Committee on Finance and National Planning for consideration in accordance with the provisions of Standing Order 127(3).

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3) of the National Assembly, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the Bill.

The memoranda may be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday, 2nd July 2021 at 5.00 p.m.

Copy of the Bill is available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

MICHAEL R. SIALAL, CBS
CLERK OF THE NATIONAL ASSEMBLY

21st June, 2021

BBI THUNDERBOLT



High Court, May 13 judgment

The decision has been instant gunpowder that seems to have rocked the dream of an expanded Executive. It has thrown the political elite club into confusion and opened up old rivalries and political animosities.

THE OTHER VIEW



Francis Atwoli, Cotu boss
 "There will be no elections without BBI. We will push for an extension of the life of the present government for a year or two... to make way for the success of the Building Bridges Initiative before elections."



President Uhuru Kenyatta (centre), his deputy William Ruto (left) and Former Prime Minister Raila Odinga during the launch of Building Bridges Initiative report at Bomas of Kenya in Nairobi in November 2019. [Stafford Onogo, Standard]

term of office. Nearly half of the current crop are, accordingly, on their way out in the next 13 months.

There is palpable panic among this fraternity. People who have enjoyed unbridled trappings of power and the perks that go with it now face political oblivion. BBI held the promise of rebirth for them.

Ma have been encouraged to countenance the possibility of seeking election to Parliament, in the hope that they could then be appointed to the Cabinet as ministers, under the BBI

propositions. Particularly outstanding among second term governors who have cast their sights on greater things have been Wycliffe Oparanya (Kakamega), Hassan Joho (Mombasa), Kivutha Kibwana (Makueni), James Ongwae (Kisii) and Mwangi wa Iria (Murang'a). For these ace governors and national political party leaders alike, it is time to go back to the drawing board. Regardless of the BBI determination in the Court of Appeal, the contestation would appear to be predictably destined for the Supreme

Court, for the last word.

Meanwhile it is difficult to legally predicate the next General Election upon the successful conclusion of the BBI process.

The two are independent of each other and the electoral process has indeed now officially kicked off, with the launch of the IEBC strategic plan for the period 2021-2024.

Stopping the electoral process is a rocky assignment. Someone may need to take Kenya to war before the life of the present Parliament is extended. Article 102 (2) reads, "When


Kenya is at war, Parliament may, by a resolution supported in each House, by at least two-thirds of the members of the House, from time to time extend the term of Parliament by not more than six months at a time."

Besides, Article 102(3) restricts such extension to a total of not more than 12 months.

Atwoli's projection of extending the tenure of the 12th Parliament seems to be an impossible mission. Worse still is the idea of a two-year extension, for nowhere does the Constitution provide for that.

It is really check time for the entire political fraternity in the country. The BBI stalwarts have travelled with the mantra of "Nobody can stop reggae." It would appear that the 2022 General Election is the one tough reggae that nobody can stop. Everyone must seek to get their act together, afresh.

As the saying goes, it is time for everyone to fend for themselves, with the possibility that the devil will take the hindmost. And the hindmost is likely to be the one who still banks heavily on the reggae of BBI.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
TWELFTH PARLIAMENT (FIFTH SESSION)
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 and
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The Certified Managers Bill (National Assembly Bill No. 26 of 2021) introduced by the Hon. Gladys Wanga, CBS, M.P. seeks to establish the Institute of Certified Managers and to provide for a legal framework for the registration and regulation of the standards and practice of the profession and for connected purposes.


The Bills were read a First Time on Tuesday, 15th June 2021, and committed to the Departmental Committee on Finance and National Planning for consideration in accordance with the provisions of Standing Order 127(3).

Pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3) of the National Assembly, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the Bill.

The memoranda may be addressed to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke; to be received on or before Friday, 2nd July 2021 at 5:00 p.m.

Copy of the Bill is available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/bills.

MICHAEL R. SHALAI CBS
 CLERK OF THE NATIONAL ASSEMBLY
 21st June 2021




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