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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – FIFTH SESSION – 2021  
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON -  
THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.

19 OF 2021)

THE NATIONAL ASSEMBLY  
PAPERS LAID

DATE: 11 AUG 2021 DAY: Wed

TABLED BY:	Hon. Gladys Wanga
CLERK-AT THE-TABLE:	Chair, Finance
	Mainah W.

CLERKS CHAMBERS  
DIRECTORATE OF DEPARTMENTAL COMMITTEES  
PARLIAMENT BUILDINGS  
NAIROBI

AUGUST 2021

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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 Tax Appeals Tribunal (Amendment) Bill (*National Assembly Bill No. 19 of 2021*) which was published on 5<sup>th</sup> May 2021. The Bill went through the First Reading on 8<sup>th</sup> June 2021 and was thereafter committed to the Departmental Committee on Finance and National Planning for review and report to the House pursuant to standing order 127.

The Bill has eighteen (18) clauses and seeks to amend Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal to facilitate the expedition of tax disputes in the country.

The Tax Appeals Tribunal is among the thirty four (34) tribunals that were to be regularized in compliance with the High Court judgement delivered on 11<sup>th</sup> March 2021 in *Petition No. 197 of 2018 – Okiya Omtata vs JSC, The Attorney General and Parliament & Katiba Insitute (interested party)* challenging the constitution, composition and operations of local tribunals in Kenya. The Petitioner had sought the declaration that local tribunals established pursuant to Article 169(1) (d) of the Constitution of Kenya, 2010 are not part of the Executive, nor are they independent adjudicatory bodies, but are subordinate courts which are an integral part of the Judiciary. As such the Judicial Service Commission is exclusively responsible for appointing and removing member of the tribunals. The orders had also sought for declaration that the budget for tribunals should be a line budget in the Judiciary and not Executive as is most of the tribunals established by various Acts of Parliament.

The High Court rendered its Decision by declaring that local tribunals created under Article 169(1) (d) of the Constitution are subordinate Courts. As such, the appointment and removal of members of the local tribunals by the Executive violates the principle of separation of powers, contravenes the right to fair hearing under Article 50 of the Constitution and infringes on the independence of the Judiciary. The Court also directed that such local tribunals be transited to the Judiciary with the Attorney General and the Parliament being required to take proactive steps within the respective dockets towards developing the Tribunals Bill with a view of transiting the local tribunals to the Judiciary.

Following placement of advertisement in the print media on 11<sup>th</sup> June 2021 seeking public and stakeholder comments on the Bill in line with Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee received two (2) written memoranda from stakeholders. The Committee also discussed the Bill with stakeholders on Thursday, 29<sup>th</sup> July 2021 at Hilton Garden Inn Hotel, Machakos County. Five (5) stakeholders attended the meeting.

The stakeholders welcomed the amendments proposed in the Bill with majority of them opposing the recruitment of staff of the Tribunal by the Public Service Commission and the setting of salaries for the chairperson and members of the Tribunal by the Cabinet Secretary. A proposal was made by some stakeholders to stagger appointment of members of the Tribunal so as to ensure that the Tribunal does not have a vacant positions at any given time. The proposal to have the Tribunal's funds appropriated by Parliament and to receive funding through grants, donations and bequeaths was also opposed by some stakeholders. The stakeholders' comments on the Bill are contained in Part III of the Report. All the stakeholders' comments were considered by the Committee while making determination on amendments.

While considering the Bill, the Committee observed that whereas the Bill seeks to comply with the decision of the High Court, there were still some areas that may not have entirely complied. For instance, the Bill proposes that Secretary and staff of the Tribunal be competitively recruited by the

Public Service Commission (PSC). The Committee was of the view that the role of appointment of the Secretary and the Staff of the Tribunal should be done by the Judicial Service Commission (JSC) to ensure that they operate independently. Local tribunals being under the JSC, management of staff service in them must be done by the JSC. As currently framed, it would be difficult for JSC to discipline staff appointed by the PSC. In view of that, the Committee has proposed amendment to address the anomaly.

The Committee further observed that the determination of remuneration and payment of expenses for the Chairperson and members of the Tribunal is to be undertaken by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission. The Committee was of the view that this would amount to interference of the judiciary by the executive which was against the intention of the Court ruling.

To this end, the Committee made amendments to the Bill to remedy/address the anomalies raised above. Details of the Committee's proposed amendments are contained in Part VI of the Report.

Enactment of the Bill will increase efficiency of the Tribunal because the chairperson and members will be competitively recruited on full time basis by the Judicial Service Commission as opposed to the past tribunals which were not recruited competitively and operated on part time basis. This will help clear the current backlog of five hundred (500) unheard appeals. With the proposed membership of between fifteen to twenty (15-20) members, the tribunal is able to constitute as many panels to dispense off the appeals. This will in turn assist in the unlocking revenue that is stuck at the Tribunal level and hence free the resources necessary for provision of services by Government. It will also help to improved confidence by taxpayers as the perceived conflict of interest will be eliminated.

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 Tax Appeals Tribunal (Amendment) Bill (*National Assembly Bill No. 19 of 2021*).

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to ~~thank all the stakeholders who participated in the consideration of the Bill. Finally, I wish to express~~ my appreciation to the Honorable 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 Tax Appeals Tribunal (Amendment) Bill (*National Assembly Bill No. 19 of 2021*) and have the honour to report back to the National Assembly with the recommendation that the Bill be approved with amendments.

**Hon. Gladys Wanga, CBS, MP**

**Chairperson, Departmental Committee on Finance and National Planning**



## PART 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'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:
  - i. National Treasury and Planning
  - ii. State Department for Devolution
  - iii. Commission on Revenue Allocation
  - iv. Office of the Controller of Budget
  - v. Salaries and Remuneration Commission

### 1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning was 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, MP  
Roysambu Constituency  
**Jubilee Party**

**Members**

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

Hon. Joshua Kandie, MP  
Baringo Central Constituency  
**MCC Party**

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

Hon. Stanley Muthama, MP  
Lamu West Constituency  
**MCC Party**

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

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

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

Hon. Catherine Waruguru, MP  
Laikipia County  
**Jubilee Party**

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

Hon. James Gichuhi Mwangi, MP  
Tetu Constituency  
**Jubilee Party**

Hon. Andrew Okuome, MP  
Karachuonyo Constituency  
**ODM Party**

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

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

Hon. Peter Lochakapong, MP  
Sigor Constituency  
**Jubilee Party**

Hon. Francis K. Kimani, MP  
Molo Constituency  
**Jubilee Party**

Hon. Qalicha Gufu Wario, MP  
Moyale Constituency  
**Jubilee Party**

Hon. Joseph Oyula, MP  
Butula Constituency  
**ODM Party**



#### **1.4 COMMITTEE SECRETARIAT**

5. The Committee is facilitated by the following Secretariat:

Ms. Leah W. Mwaura  
**Senior Clerk Assistant/Head of Secretariat**

Ms. Jennifer Ndeto  
**Principal Legal Counsel 1**

Ms. Laureen O. Wesonga  
**Clerk Assistant II**

Mr. Josephat Motonu  
**Senior Fiscal Analyst**

Mr. Chelang'a Maiyo  
**Research Officer II**

Mr. John Njoro  
**Serjeant-At-Arms**

Ms. Christine Maeri  
**Audio Officer**

Ms. Hannah Mwangi  
**Intern**

## PART TWO

### 2 OVERVIEW OF THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 19 OF 2021)

#### 2.1 INTRODUCTION

6. The principle object of the Tax Appeals Tribunal (Amendment) Bill (*National Assembly Bill No. 19 of 2021*) is to amend the Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal (TAT) to facilitate the expedition of tax disputes in the country.
7. The current TAT is hosted by the Kenya Revenue Authority (KRA) and the Authority is responsible for facilitating operations of the TAT by providing budgetary allocation, office space and general infrastructural requirements. The Secretariat of the TAT is deployed from KRA as the Act is not explicit on the manner of recruitment of the staff of the TAT. This has created a perception of conflict of interest since TAT reviews decisions made by the Commissioner. The appointment of members of the TAT by the Cabinet Secretary for National Treasury has not been competitive and this has posed legal, operational and administrative challenges that have hindered effectiveness and efficiency in discharge of mandate

#### 2.2 ANALYSIS OF THE BILL

The Bill has eighteen (18) clauses and proposes the following amendments:

8. **Clauses 1** of the Bill sets out the short title of the proposed Act.
9. **Clause 2** of the Bill seeks to repeal section 4 of Act and substitute therefore a new section 4 to provide for the composition of members of the Tribunal, appointed by the Judicial Service Commission Clause further seeks to amend the Act by introducing new sections 4A and 4B providing for the qualifications of the members of the Tribunal and appointment procedures respectively.
10. **Clause 3** of the Bill seeks to amend section 5 of the Act to provide that service by the Chairperson and members of the Tribunal shall be on fulltime basis.
11. **Clause 4** of the Bill contains the proposal to amend the Act by repealing the current section 7 and replacing it with a new section 7. The new section 7 provides for the staff of the Tribunal, including the Secretary to the Tribunal appointed by the Public Service Commission.
12. **Clause 5** of the Bill seeks to amend the Act by introducing section 7A. The new section provides for the functions of the Secretary to the Tribunal that include: (a) the day-to-day management of the affairs of the Tribunal; (b) keeping proper records of tax appeals filed, judgment delivered and the tax appeals settled out of the tribunal; and (c) under the guidance of the Chairperson, providing policy and strategic leadership of the Tribunal and the Secretariat.
13. **Clause 6** of the Bill provides for the remuneration of Members of the Tribunal and payment of expenses of the Tribunal.
14. **Clause 7** of the Bill seeks to amend the Act by inserting a new section 8A after immediately after section 8 that provides for the funding of the Tribunal.



15. **Clause 8** of the Bill cleans up an error in section 11 of the Act.
16. **Clause 9, 10, 12 and 13** of the Bill seeks to amend sections 13,16, 27 and 29 to provide for electronic means as an alternative way of communication under the Act.
17. **Clause 14** of the Bill proposes to amend the Act by inserting a new section immediately after section 29 to allow for a person who is aggrieved by a decree or an order from which no appeal has been preferred by Tribunal to apply for review of the said decree or the order within seven days from the date the decree or order was made to the Tribunal provided that such person has not appealed to the High Court in respect of the decree or the order which is applying for review.
18. **Clause 15** of the Bill seeks to amend section 32 of the Act to require a party that has appealed against the decision of the Tribunal under the section to, within two days of lodging a notice of appeal, serve a copy of the notice on the other party.
19. **Clause 16** of the Bill deletes section 35 of the Act and substitutes it with a clause providing that no member or secretariat of the Tribunal shall be prosecuted in respect of any act done or omitted in good faith when discharging their mandate.
20. **Clause 17** of the Bill cleans up section 36 of the Act.
21. **Clause 18** of the Bill seeks to amend section 44 of the Act by saving the unexpired term of the current members of the Tribunal and staff for continuity.

## PART THREE

### 3 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

22. Following the call for memoranda from the public through placement of adverts in the print media on 11<sup>th</sup> June 2021 and vide a letter REF: NA/DDC/F&NP/2021/35 dated 21<sup>st</sup> July 2021 inviting stakeholders for a meeting. The Committee received oral and written submissions from the following stakeholders:

- i. Institute of Certified Public Accountants of Kenya (ICPAK)
- ii. Kenya Association of Manufacturers (KAM)
- iii. Coulibaly Associates
- iv. The Law Society of Kenya (LSK)
- v. The National Treasury and Planning/Kenya Revenue Authority (KRA)
- vi. The Judiciary
- vii. The Institute of Certified Secretaries

23. The stakeholders' submissions on the Bill are summarized as follows:

#### 3.1 INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)

FCPA George Mokuu, Chairman, Institute of Certified Public Accountants of Kenya appeared before the Committee on Thursday, 29<sup>th</sup> July 2021 and submitted that the amendments proposed in the Bill, will address the challenges affecting the performance of the Tax Appeals Tribunal and facilitate expeditious disposition of tax disputes in the country. The Institute proposed the following, **THAT—**

24. Clause 2(4) be amended to read as follows: "*The Tribunal shall consist of a Chairperson and not less than thirty but not more than forty members who shall subject to this Act, be appointed by the Judicial Service Commission upon such terms and conditions of service as the Judicial Service Commission may determine continuity of the Tribunal*". This is because the Tax Appeals Tribunal currently has a backlog of over 500 unheard cases and as such, this delays the process of administration of justice to members of the public.

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#### Committee's Observation

The proposal by ICPAK to expand the membership of the Tax Appeals Tribunal was rejected by the Committee. This is because, given that the members of the Tribunal will be on a full time basis, increasing the numbers to not less than thirty and not more than forty members will increase the wage bill burden as each of these members will require to be facilitated by the exchequer. The Committee noted that backlog of cases may not persist for so long and hence it is preferable to have a lean team. Besides, the Tribunal will be on full time basis hence it will clear as many cases as possible.

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25. Sub-clause 2(4) be amended by inserting the following new provisions: "*the Judicial Service Commission shall plan the appointments of the members so as to ensure that at least one third of the members of the Tribunal remain in office after each expiry of the members' terms. The Judicial Service Commission shall further ensure that the appointment process commences at least three months before lapse of the term of incumbent members*".



#### **Committee's Observation**

The Committee observed that this proposal will ensure that there is no vacuum in the Tribunal and that at any given time, the Tribunal is able to function optimally. The Committee therefore adopted their proposal.

26. Sub-clause 4B be amended by inserting the following new paragraph: "*the Judicial Service Commission shall invite applications from qualified persons for the vacancy in at least two daily newspapers of national circulation, the official website of the Judicial Service Commission and verified social media account of the Judicial Service Commission*".

#### **Committee's Observations**

- i. Members observed that publishing the advertisement on JSC's website will increase its reachability to Kenyans and therefore adopted the proposal.
  - ii. The Committee however rejected the proposal to publish the advertisement on JSC's verified social media account because social media is not an official mode of communication.
27. Sub-clause 4B be amended by inserting the following new paragraph: "*In making the invitations for the applications under sub-section (2), the Judicial Service Commission shall ensure that the information is in such a format that can be accessed by all members of the public, including people living with disability*". To align with Article 27 of the Constitution which guarantees all persons freedom from discrimination either directly or indirectly on any grounds including disability.

#### **Committee's Observation**

The Committee rejected the proposal as this would amount to restating a right already guaranteed by the Constitution on access to information. This may be provided in Regulations.

28. Sub-clause 4C(5) be amended by deleting the word "*from*" appearing immediately after the words "*shortlisted seven days*" and replacing with the word "*after*" since the use of the word "*from*" creates confusion regarding the timelines.

#### **Committee's Observation**

The Committee agreed to the proposal.

29. Sub-clause 6 (8)(1) be amended by deleting the words "*Cabinet Secretary*" and substituting with the word "*Judicial Service Commission*". The appointing authority being JSC should determine the remuneration of the Chairperson and members of the Tribunal.

#### **Committee's Observation**

The Committee carried the proposal to have the remuneration and payment of expenses relating to the chairperson and members of the Tribunal be determined by the Judicial Service Commission and not the Cabinet Secretary to safeguard their independence.

30. Sub-clause 8A (1) (e) be amended by deleting the words “*Cabinet Secretary*” and substituting with the words “*Judicial Service Commission*”. JSC is the appointing and administrative oversight authority and should therefore oversee the Tribunal’s funding.

#### **Committee’s Observation**

The Committee agreed to the proposal to delete the sub-clause 8A (1) (e) because the funding of the Tribunal will be done under the vote of Judiciary and therefore the Tribunal will not require funds appropriated by Parliament. As proposed in the Bill, it is assumed that the Tribunal will be a body corporate whereas the intention is to bring it under the judiciary.

31. The Bill be amended by deleting clause 11 because tax agents are not agents of the high Court in Kenya and indeed, most are not advocates. Taxpayers should be permitted the liberty to select their representation at the Tribunal and such representation should include tax agents and Advocates.

#### **Committee’s Observation**

The Committee observed that the proposal in the Bill was for clarity purposes and also to comply with the Advocates Act. Their proposal was therefore rejected.

32. Sub-clause 29A (3) be amended by inserting the words “*within fourteen days after the receipt of the application*” immediately after the words “*the Tribunal may*”. This will ensure that errors are rectified in a timely and efficient manner for the benefit of all parties to the dispute.

#### **Committee’s Observation**

ICPAK’s proposal was providing timelines within which the Tribunal will make a decision on a decree once submitted. The proposal was adopted because it will increase efficiency.

### **3.2 KENYA ASSOCIATION OF MANUFACTURERS (KAM)**

Mr. Karanja Kamotho appeared before the Committee on behalf of KAM on Thursday, 29<sup>th</sup> July 2021 and submitted as follows, **THAT—**

33. Clause 2 be amended by inserting “*The Tribunal shall consist of the following members, appointed by the Judicial Service Commission: (a) a Chairperson; and (aa) a Vice Chairperson*”. This is so as the person can deputize the chairperson in cases where the Chairperson is indisposed. This is intended to ensure that there will smooth running of the affairs of Tribunal.

#### **Committee’s Observation**

The Committee observed that the proposal by KAM was seeking to provide for the position of the Vice Chairperson in the Tribunal. The Vice-Chairperson position is to be filled by members electing from amongst the membership of the tribunal. Their proposal was therefore rejected.



34. Clause 4 be amended by deleting the phrase “*the Public Service Commission*” and substituting with the words “*the Judicial Service Commission*”. The Tax Appeals Tribunal is part of the judiciary, it’s therefore expected that the Judicial Service Commission will appoint the Secretary to the Tribunal.

**Committee’s Observation**

**The Committee carried the proposal by KAM so as to ensure that the Secretary of the Tribunal is done by the Judicial Service Commission and not as proposed by the Bill.**

35. Section 5 of the tax Appeals Tribunal Act, 2013 be amended by inserting the following new sub-section immediately after sub-section (6) “*Notwithstanding the provisions of this section, the Tribunal shall have not less than nine active members at any given time.*” This will ensure that the offices do not become vacant at the same time and thus paralyzing or delaying performance of the functions of the Tribunal.

**Committee’s Observation**

**The Committee adopted ICPAK’s proposal to stagger appointment of members of the Tribunal. This will ensure that there is no vacancy at the Tribunal.**

36. Section 21 of the principal Act be amended by: (i) inserting the words “*being the Commissioner or a taxpayer*”; (ii) Inserting the following new sub-section immediately after sub-section (d) “(e) Willfully disobeys any judgement, decree, direction or order of the Tribunal”; (iii) deleting the word “*one*” appearing in the last sentence of the section and substituting therefore the word “*five*”.

**Committee’s Observation**

**The proposal was rejected as the Act is already clear.**

### **3.3 COULIBALY ASSOCIATES**

Mr. Francis Njoroge, Head of Public Policy, Coulibaly Associates appeared before the Committee on Thursday, 29<sup>th</sup> July 2021 and submitted as follows, **THAT—**

37. The number of members of the Tribunal provided in the Bill is similar to that in the current Act. An analysis should be done to determine whether this number will enable the Tribunal to function optimally. Clarity should be made on whether members of the Tribunal are full time or part time.

**Committee’s Observation**

**The Committee agreed to retain the membership of the Tribunal as it provided in the Bill. This is because the Chairpersons and members of the Tribunal will serve on fulltime basis and as such there will clear the current backlog. The Committee was cognizant of wage bill implication should the number be revised upwards. The Bill in Clause 3(a) provides that the Chairpersons and members of the Tribunal will be expected to serve on fulltime basis.**

38. The requirement that a member should have ten years’ experience in is discriminatory to young experts and members of the profession who may have specialized in certain disciplines.

#### **Committee's Observation**

**The Committee rejected the proposal to lower the threshold of experience required since the position requires extensive knowledge and experience in the specified disciplines.**

39. The requirement that one who has not met their tax obligations cannot be appointed as a member of the Tribunal should be deleted as it may not be necessary. Further, there is need to qualify the provision for clarity.

#### **Committee's Observation**

**The Committee observed that the requirement for tax compliance is an important qualification criteria in any appointive position. A person can therefore not be expected to adjudicate on matters he or she is not compliant with.**

40. The provision relating to the hiring of the Tribunal's staff by the PSC and setting of remuneration of the Chairperson and members of the Tribunal offends the spirit and letter of the Constitution on the principle of separation of powers and independence of the Judiciary.

#### **Committee's Observation**

**The Committee agreed with the proposal.**

41. The requirement that the Tribunal should determine matters within ninety days should be deleted since the Tribunal does not have the capacity to actualize this. The Tribunal should be allowed to set their performance targets within known ability and challenges.

#### **Committee's Observation**

**The Committee rejected the proposal as it is important to provide timelines within which the Tribunal should make determination on tax matters.**

42. The proposal to reduce the time to lodge and serve a notice of appeal will curtail the right to appeal. A party to the decision requires enough time to consider its options before filing a notice of appeal. The need for speedy trial should be balanced with the rights of parties.

#### **Committee's Observation**

**The Committee agreed with the proposal.**

43. The transitional clause in the Bill is unconstitutional because the Court has declared the current composition of the Tribunal unconstitutional. Such illegality cannot be cured by an Act of Parliament.

#### **Committee's Observation**

**The Committee observed that the Court through its decision on *Petition No. 197 of 2018 – Okiya Omtata vs JSC, The Attorney General and Parliament & Katiba Insitute (interested party)* pronounced itself on the transition of the current tribunal and other of similar nature.**



The Court directed that any new appointment or removal of a member of any of the Tribunals under Article 169(1) (d) of the Constitution must be undertaken by the Judicial Service Commission. This implies that the current tribunal will still serve until its term ends.

### 3.4 THE LAW SOCIETY OF KENYA

Ms. Janet Lavuna appeared before the Committee on behalf of LSK on Thursday, 29<sup>th</sup> July 2021 and submitted the following, **THAT—**

44. Sub-clause 24A(iv) should be amended by deleting the words “*tax agent*” because it will lead to professional discrimination and limit expertise in tax matters on the Tribunal panel.

#### **Committee’s Observation**

Tax agent as defined in the Tax Appeals Tribunal Act, 2013 to mean a person acting on behalf of another person on matters relating to tax and is registered as such by the Commissioner. The Committee observed that having a tax agent on the Tribunal will amount to conflict of interest. Their proposal was therefore rejected.

45. Sub-clause 7(1) be amended by deleting the words “*Public Service Commission*” and replacing it with the words “*Judicial Service Commission*”. This is because judicial officers are hired by the Judicial Service Commission hence involving the PSC would generate unnecessary bureaucracy and delays.

#### **Committee’s Observation**

The Committee agreed with the proposal as it would safeguard the independence of the Judiciary.

### 3.5 THE NATIONAL TREASURY AND PLANNING AND KENYA REVENUE AUTHORITY

Mr. Nelson Gaichuhie, Chief Administrative Secretary, National Treasury and Planning appeared before the Committee on behalf of National Treasury and KRA on Thursday, 29<sup>th</sup> July 2021 and submitted **THAT—**

46. The Bill will solve some of the problems that the Tribunal has been facing resulting to a backlog of appeals. For instance, the Tribunal is currently hosted by KRA who facilitate their budgetary allocations, office space and general infrastructural requirements creating a perception of conflict of interest since disputes under the Tribunal are on decisions made by the Commissioner. The Bill provides for recruitment of members of the Tribunal by the Judicial Service Commission. It also provides for funding of the Tribunal hence giving it some sense of independence.
47. Previously, appointment of members of the Tribunal was not competitive. The Bill addresses this by providing that the Chairperson and members of the Tribunal shall be competitively recruited by the Judicial Service Commission
48. The current Tribunal has been sitting to hear cases just like any board of a public entity (the board of a public entities are expected to sit at least four times a year). This arrangement may have contributed to backlog of cases waiting to be heard and concluded as tax appeal cases, due to their complexity in nature, require more sitting for hearing and also for writing judgement. There is



therefore need to make the Tribunal sit on full time basis to address these backlog as well as new cases which are more frequent.

49. The Bill provides for use of electronic means as an alternative to writing, as a means of communication to taxpayers informing them the date of hearing appeals, lodging of appeals and submission of documents relating to the appeals to the Tribunal.
50. The Bill provides for saving provisions for the current Tribunal members up to the end of their term and also protection of the Tribunal members and staff of the Tribunal from any prosecution relating to performance of their duties and especially if the performance was done in good faith.

### 3.6 THE JUDICIARY

The Chief Registrar of the Judiciary, Ms. Anne A. Amadi, CBS submitted a memorandum vide letter Ref. CRJ/23 dated 2<sup>nd</sup> August, 2021. The memorandum highlighted **THAT**—

51. The National Treasury has begun to progressively transfer the operational budgets of twenty (20) local tribunals to the Judiciary since FY 2014/15. However, this transfer was done without any legislative framework, resulting in a number of legal and operational challenges. For instance in 2020/21 FY, the allocations for three (3) out of the twenty (20) tribunals were reverted back to the line ministries.
52. The proposal to amend the Tax Appeals Tribunal Act was welcome as it would bring the Tribunal under the jurisdictional mandate of the Judiciary. She urged that similar changes be done to other tribunals to ensure that there is uniformity and synergy in the governance and administration of all local tribunals in Kenya. She proposed the following amendments to the Bill:
53. Deletion of the proposed Section 4A and 4B in clause 2. This is because Section 2 of the Judicial Service Act, 2011 defines judicial officers to include the presiding officers of any other court or local tribunal. This definition includes the chairpersons and members of tribunals such as the TAT. The procedure to be followed by the JSC in the selection and appointment of judicial officers is already provided for in Section 32 and the Third Schedule to the Judicial Service Act, 2011. As such, there is no need to provide for such procedure in the Tax Appeals Tribunal Act as it would amount to duplication. The Bill should be further amended after the deletion of the proposed Section 4A and 4B, by inserting the words “in the manner prescribed under section 32 and the Third Schedule of the Judicial Service Act” immediately after the words “Judicial Service Commission”. This is to specify the appointment process.
54. The principal Act be amended by deleting Sections 5(3) and 5(6). This is because the procedure to be followed by the JSC in discipline and removal of judicial officers is already provided for in Section 32 and the Third Schedule to the Judicial Service Act, 2011. The aforementioned sections should be deleted as they amount to duplication. In view of this deletion, they proposed a introduction of a new subsection to provide for tenure of office for chairpersons and members of tribunals.

#### **Committee’s Observation**

**The Committee agreed with the comments by the judiciary as it is already provided for by the JSC Act.**

55. Amend clause 4 by providing that the secretary and staff of the Tribunal shall be appointed by the Judicial Service Commission. This is to secure independence of the Tribunal and to ensure that the Tribunal is independent and impartial.

**Committee's Observation**

**The Committee agreed with the proposal by the judiciary as it was in line with the principle of separation of powers.**

56. Amend clause 5 by providing that the Tax Appeals Tribunal's budgetary estimates will be submitted to the National Assembly as part of the Judiciary's budget by the Chief Registrar and not by the Tribunal's secretary. This is because the Chief Registrar of the Judiciary has the constitutional and statutory mandate to prepare and submit to the National Assembly annual budgetary estimates for the entire judiciary which includes local tribunals.

**Committee's Observation**

**The Committee agreed with the proposal to ensure that the funding of the Tribunal is done under the judiciary's budget allocation and preparation and submission of the budget estimates will be done by the Chief Registrar of the Judiciary.**

57. Clause 6 should be amended by providing that the Judicial Service Commission shall set the remuneration of the chairperson, members and staff of the Tribunal. The proposal that the Cabinet Secretary should set remuneration for the above officers offends the Constitution.

**Committee's Observation**

**The Committee agreed with the proposal.**

58. Sub-clauses 8A (1) (a) and 8A(1)(e) should be amended to provide that the funds of the Tribunal shall be appropriated by Parliament through the Judiciary vote head.

**Committee's Observation**

**The Committee agreed with the proposal.**

59. Delete clause 8 because the Judicial Service Commission has powers to appoint staff to serve in tribunals and the day-to-day supervision of these staff vests in the tribunal secretary who can designate them to serve as clerks to panels of the Tribunal. Alternatively, if the section is not deleted, it should be amended to provide that clerks of the panels will be designated by the secretary to the Tribunal from among judicial staff appointed by the Judicial Service Commission.

**Committee's Observation**

**The Committee agreed with the proposal.**

60. Section 13(1) of the principal Act should be amended as follows: "(13) *Procedure for appeal: (1) A notice of appeal to the Tribunal shall: (a) be in writing; (b) be submitted to the Tribunal, in hard copy or by electronic means, within thirty days upon receipt of the decision of the Commissioner*". Alternatively, the following new section should be inserted under Part III (Section 32A); "*Any notice, application, decision or other document that is to be made in writing under this Part may be submitted or delivered in hard copy or by electronic means*".

**Committee's Observation**

**The Committee agreed with the proposal.**



61. Amend clause 9(c) by providing clarity on whether the extension of time is to be granted by resolution of more than half of the panel handling the specific matter or by more than half of all members of the Tribunal.

**Committee's Observation**

62. The proviso under sub-section 29A(1) should be deleted because it amounts to duplication.

**Committee's Observation**

**The Committee agreed with the proposal.**

63. Amend sub-section 44(5) by deleting the words "*Public Service Commission*" and substituting with the words "*Judicial Service Commission*". The Bill already provides that the current secretary and staff shall continue to hold office until Public Service Commission appoints the staff. The appointment of this staff should be done by Judicial Service Commission as it has the jurisdiction to appoint staff of local tribunals. This will ensure that the independence of the judiciary is safeguarded.

**Committee's Observation**

64. Sub-section 9(3) of the principal Act should be amended by providing that the annual report of the Tribunal shall be submitted to the Chief Justice and not the Cabinet Secretary.

**Committee's Observation**

**The Committee agreed with the proposal.**

### **3.7 THE INSITUTE OF CERTIFIED SECRETARIES**

The Institute of Certified Secretaries submitted a written memorandum dated 5<sup>th</sup> August, 2021. They submitted **THAT** —

65. The Secretary of the Tribunal must be a certified public secretary of good professional standing. ~~This is in line with the international best practice where the secretary should be professionally trained and experienced on governance and compliance matters.~~ In view of this, the Institute proposed that the Bill be amended to include the requirement for one to be certified public secretary of good professional standing.

**Committee's Observation**

**The proposal was rejected as the qualifications provided for in the Bill are sufficient. In addition, the Secretary to the Tribunal is not an equivalent to the Chief Executive Officer who is the Chief Registrar of the Judiciary.**



## PART FOUR

### 4 COMMITTEE OBSERVATION

Upon considering the Bill, the Committee observed the following:

66. The Tribunal's appointing authority was being transferred from the Cabinet Secretary for National Treasury to the Judicial Service Commission in compliance with a High Court ruling on 11<sup>th</sup> March 2020 in a case filed by Activist Mr. Okiya Omtata challenging the constitution, composition and operation of the local tribunals.
67. The Bill also proposes that the Secretary and the Staff of the Tribunal will be recruited competitively by the Public Service Commission.
68. The Bill further proposes to have the Tribunal's funds appropriated by Parliament meaning that the Tribunal will have its own budgetary allocation as opposed to the norm where Tribunals are funded under their administrative authority. Further, the Tribunal can also be funded through grants, donations or bequeaths.
69. Clause 6 of the Bill proposes that the Remuneration and payments of expense relating to the chairperson and members of the Tribunal will be set by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.
70. The approval of the budget estimates will be submitted to the National Treasury by the Secretary of the Tribunal.
71. The Bill provides for electronic means for submission of Tribunal's decision. Currently, the law provides for written submission of decrees.

## PART FIVE

### 5 COMMITTEE RECOMMENDATION

72. The Committee having considered the Tax Appeals Tribunal (Amendment) Bill (*National Assembly Bill No. 19 of 2021*) recommends that the House passes the Bill with amendments as proposed by the Committee.

SIGNED.....

DATE.....

HON. GLADYS WANGA, CBS, MP  
CHAIRPERSON

11<sup>th</sup> August 2021

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

## **ANNEXTURES**

1. ADOPTION SCHEDULE
2. MINUTES OF THE 58<sup>TH</sup> , 61<sup>ST</sup> ,64<sup>TH</sup> AND 66<sup>TH</sup> SITTINGS
3. NEWSPAPER ADVERTISEMENT – SUBMISSION FOR  
MEMORANDA FOR PUBLIC PARTICIPATION





REPUBLIC OF KENYA






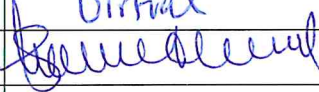

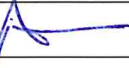
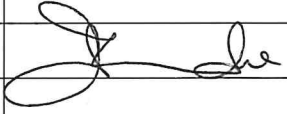
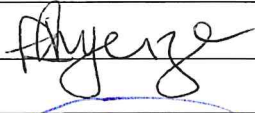


THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING

ADOPTION SCHEDULE

**REPORT ON THE CONSIDERATION OF THE TAX APPEALS TRIBUNAL  
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 19 OF 2021**

DATE:

NAME	SIGNATURE
1. HON. GLADYS WANGA, CBS, MP - CHAIRPERSON	
2. HON. ISAAC W. NDIRANGU, MP – VICE-CHAIRPERSON	
3. HON. JIMMY N. O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, MP	Virtual
5. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
6. HON. DANIEL EPUYO NANOK, MP	
7. HON. DR. CHRISTINE OMBAKA, MP	Virtual
8. HON. DAVID MWALIKA MBONI, MP	
9. HON. FRANCIS KURIA KIMANI, MP	Virtual
10. HON. ANDREW ADIPO OKUOME, M.P	
11. HON. STANLEY MUIRURI MUTHAMA, MP	
12. HON. JOSHUA KANDIE, MP	
13. HON. JOSEPH M. OYULA, MP	
14. HON. EDITH NYENZE, MP	
15. HON. CATHERINE WARUGURU, MP	
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 66<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
FINANCE AND NATIONAL PLANNING HELD VIRTUALLY ON TUESDAY, 10<sup>TH</sup>  
AUGUST, 2021 AT 10:00 A.M.**

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**PRESENT**

- |   |   |                         |
|---|---|-------------------------|
| 1. Hon. Gladys Wanga, CBS, MP               | - | <b>Chairperson</b>      |
| 2. Hon. Isaac W. Ndirangu, MP               | - | <b>Vice Chairperson</b> |
| 3. Hon. Jimmy O. Angwenyi, MGH, MP          |   |                         |
| 4. Hon. Christopher Omulele, CBS, MP        |   |                         |
| 5. Hon. Shakeel Shabbir Ahmed, CBS, MP      |   |                         |
| 6. Hon. (Dr.) Christine Ombaka, MP          |   |                         |
| 7. Hon. Andrew A. Okuome, MP                |   |                         |
| 8. Hon. David M. Mboni, MP                  |   |                         |
| 9. Hon. Joshua C. Kandie, MP                |   |                         |
| 10. Hon. Francis K. Kimani, MP              |   |                         |
| 11. Hon. Edith Nyenze, MP                   |   |                         |
| 12. Hon. James Gichuhi Mwangi, MP           |   |                         |
| 13. Hon. (Prof.) Mohamud Sheikh Mohamed, MP |   |                         |
| 14. Hon. Qalicha Gufu Wario, MP             |   |                         |

**ABSENT WITH APOLOGY**

1. Hon. Daniel E. Nanok, MP
2. Hon. Joseph M. Oyula, MP
3. Hon. Stanley M. Muthama, MP
4. Hon. Catherine Waruguru, MP
5. Hon. Peter Lochakapong, MP

**INATTENDANCE**

**SECRETARIAT**

- |                        |   |  |
|------------------------|---|--|
| 1. Mr. Robert Nyaga    | - | Deputy Director PBO                        |
| 2. Ms. Leah Mwaura     | - | Senior Clerk Assistant/Head of Secretariat |
| 3. Ms. Jennifer Ndeto  | - | Principal Legal Counsel I                  |
| 4. Mr. Chelang'a Maiyo | - | Research Officer II                        |
| 5. Ms. Christine Maeri | - | Audio Officer                              |
| 6. 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. **Bills:**
  - i. The Tax Appeals Tribunal (Amendment) Bill, 2021 (*National Assembly Bill No. 19 of 2021*) by Leader of Majority Party – **Re-committal of Clause 4, 5,6,7&18; consideration of comments by the Judiciary and adoption of report**
  - ii. The Public Debt Management Authority Bill, 2020 (*National Assembly Bill No. 36 of 2020*) by Hon. John Sakwa Bunyasi, MP- **Clause by Clause Consideration and adoption of report**
  - iii. The Poverty Eradication Authority Bill, (*National Assembly Bill No. 13 of 2020*) by Hon. John Waluke Koyi, MP - **adoption of report**

5. Any Other Business
6. Adjournment/Date of Next Meeting

**MIN.NO.NA/F&NP/2021/302: COMMUNICATION FROM THE CHAIRPERSON**

The meeting was called to order at 10:10 a.m and a prayer was said. She read out the agenda which was unanimously adopted

**MIN.NO.NA/F&NP/2021/303: CONFIRMATION OF MINUTES**  
Agenda deferred

**MIN.NO.NA/F&NP/2021/304: ADOPTION OF REPORT ON THE POVERTY ERADICATION AUTHORITY BILL, (NATIONAL ASSEMBLY BILL NO. 13 OF 2020)**

The Committee was informed that clause by clause by consideration of the above-mentioned report had been conclude and that the Committee had recommended to the House that the Bill be deleted in its entirety. In view of this, the Committee adopted the report as follows:

Proposed by- Hon. David M. Mboni, MP

Seconded by - Hon. (Prof.) Mohamud Sheikh Mohamed, MP

**MIN.NO.NA/F&NP/2021/305: THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL, 2021 (NATIONAL ASSEMBLY BILL NO. 19 OF 2021)**

The Committee was taken through the Comments submitted by the Chief Registrar of the Judiciary.

*(Details Specific comments are contained in the report of the Committee)*

**Resolution:**

Having considered the Comments by the Judiciary re-committal of clause 4, 5, 6, 7&18 was concluded by Members unanimously agreeing to support the proposed amendment as proposed by the Judiciary.

---

The Report of the Committee on its consideration of the Tax Appeals Tribunal (Amendment) Bill, 2021 (*National Assembly Bill No. 19 of 2021*) was adopted as follows:

Proposed by- Hon. Jimmy Angwenyi, MGH, M.P

Seconded by – Hon. Waihenya Ndirangu, M.P

**MIN.NO.NA/F&NP/2021/305: CLAUSE BY CLAUSE CONSIDERATION OF THE THE PUBLIC DEBT MANAGEMENT AUTHORITY BILL, 2020 (NATIONAL ASSEMBLY BILL NO. 36 OF 2020)**

The Committee was taken through the Comments submitted by the Central Bank of Kenya (CBK) on the above-mentioned Bill. *(Details Specific comments are contained in the report of the Committee)*

The Committee noted the concerns raised specifically on Clause 5 of the Bill on the functions of the proposed Public Debt Management Authority. Members observed some of the function were a domain of CBK.

It was generally also observed that creation of an independent Public Debt Management Authority may not address the rising debt levels as the current debt situation was a creation of lack of proper fiscal consolidation plan/ framework. The high debt level was attributable to revenue underperformance and high expenditure which necessitates financing of the budget through borrowing at both the domestic and foreign markets.

Having observed that, the meeting agreed to step down consideration of the Bill pending consultations.

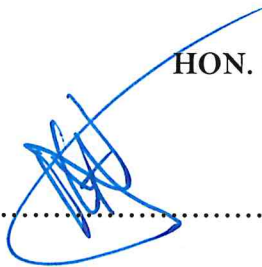
The Secretariat was directed to liaise with CBK with a view to identifying the contentious clauses. Consideration of the Bill will be done in the next sitting of the Committee.

**MIN.NO.NA/F&NP/2021/306:                      ADJOURNMENT/DATE                      OF                      NEXT  
MEETING**

There being no other business to deliberate on, the meeting was adjourned at 11:53 a.m. The next meeting will be held on notice.

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

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



11<sup>th</sup> August 2021





**MINUTES OF THE 64<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
FINANCE AND NATIONAL PLANNING HELD IN PAVILLION CONFERENCE  
ROOM, HILTON GARDEN INN HOTEL ON FRIDAY, 30<sup>TH</sup> JULY 2021 AT 2:30 P.M.**

---

**PRESENT**

- |   |   |                         |
|---|---|-------------------------|
| 1. Hon. Gladys Wanga, CBS, MP               | - | <b>Chairperson</b>      |
| 2. Hon. Isaac W. Ndirangu, MP               | - | <b>Vice Chairperson</b> |
| 3. Hon. Jimmy O. Angwenyi, MGH, MP          |   |                         |
| 4. Hon. Christopher Omulele, CBS, MP        |   |                         |
| 5. Hon. Andrew A. Okuome, MP                |   |                         |
| 6. Hon. David M. Mboni, MP                  |   |                         |
| 7. Hon. Joshua C. Kandie, MP                |   |                         |
| 8. Hon. Edith Nyenze, MP                    |   |                         |
| 9. Hon. James Gichuhi Mwangi, MP            |   |                         |
| 10. Hon. (Prof.) Mohamud Sheikh Mohamed, MP |   |                         |
| 11. Hon. Qalicha Gufu Wario, MP             |   |                         |

**ABSENT WITH APOLOGY**

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Daniel E. Nanok, MP
3. Hon. (Dr.) Christine Ombaka, MP
4. Hon. Francis K. Kimani, MP
5. Hon. Joseph M. Oyula, MP
6. Hon. Stanley M. Muthama, MP
7. Hon. Catherine Waruguru, MP
8. Hon. Peter Lochakapong, MP

**INATTENDANCE**

**SECRETARIAT**

- |                        |   |  |
|------------------------|---|--|
| 1. Ms. Leah Mwaura     | - | Senior Clerk Assistant/Head of Secretariat |
| 2. Ms. Jennifer Ndeto  | - | Principal Legal Counsel I                  |
| 3. Ms. Laureen Wesonga | - | Clerk Assistant II                         |
| 4. Mr. Chelang'a Maiyo | - | Research Officer II                        |
| 5. Mr. John Njoro      | - | Serjeant-At-Arms                           |
| 6. Mr. Collins Mahamba | - | Audio Officer                              |
| 7. Mr. Vitalis Augo    | - | Office Assistant                           |
| 8. Ms. Hannah Mwangi   | - | Intern                                     |

**AGENDA**

1. Prayers
2. Communication from the Chairperson
3. **Clause by clause consideration of the Tax Appeals Tribunal (Amendment) Bill, 2021**
4. Any Other Business
5. Adjournment/Date of Next Meeting

**MIN.NO.NA/F&NP/2021/294:**

**COMMUNICATION  
CHAIRPERSON**

**FROM THE**

The meeting was called to order at 2.37 p.m. and a prayer was said. The Chairperson then welcomed the Legal Counsel to take the Committee through clause by clause consideration of the Bill.

MIN.NO.NA/F&NP/2021/295:  
Agenda deferred

## CONFIRMATION OF MINUTES

MIN.NO.NA/F&NP/2021/296:

## CLAUSE BY CLAUSE CONSIDERATION OF THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL, 2021

The Committee deliberated and agreed as follows on the Bill:

### Clause 2

4. Insert ICPAK's proposal on staggering of appointment of members of the Tribunal

4A. Agreed to

4B. Amend the clause by inserting ICPAK's proposal to advertise on Judicial Service Commission's website.

4C. Insert ICPAK's proposal

Clause 3: Agreed to

### Clause 4

7(1): Revisit

7(2)(a): Delete "*or any other relevant institution recognized in Kenya*".

7(2)(e): Amend as follows; "*worked for at least ten years but held a senior management position for at least five years*".

Clause 5: Revisit

Clause 6: Revisit

### Clause 7

8A. Delete and insert a new amendment

8B. Delete

Clause 8: Agreed to

Clause 9: Agreed to

Clause 10: Agreed to

Clause 11: Agreed to

Clause 12: Agreed to

Clause 13: Agreed to

### Clause 14

29A (3): Amend as per ICPAK's proposal

Clause 15: Agreed to

Clause 16: Agreed to

Clause 17: Agreed to



Clause 18: Agreed to

MIN.NO.NA/F&NP/2021/297:                      ADJOURNMENT/DATE                      OF                      NEXT  
MEETING

There being no other business to deliberate on, the meeting was adjourned at 5.42 p.m. The next meeting will be held on notice.

HON. GLADYS WANGA, CBS, MP  
(CHAIRPERSON)

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

11<sup>th</sup> August 2021



**MINUTES OF THE 61<sup>ST</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN PAVILLION CONFERENCE ROOM, HILTON GARDEN INN HOTEL ON THURSDAY, 29<sup>TH</sup> JULY 2021 AT 9:30 A.M.**

---

**PRESENT**

- |  |   |                         |
|--|---|-------------------------|
| 1. Hon. Isaac W. Ndirangu, MP              | - | <b>Vice Chairperson</b> |
| 2. Hon. Jimmy O. Angwenyi, MGH, MP         |   |                         |
| 3. Hon. Christopher Omulele, CBS, MP       |   |                         |
| 4. Hon. Andrew A. Okuome, MP               |   |                         |
| 5. Hon. David M. Mboni, MP                 |   |                         |
| 6. Hon. Joshua C. Kandie, MP               |   |                         |
| 7. Hon. Edith Nyenze, MP                   |   |                         |
| 8. Hon. (Prof.) Mohamud Sheikh Mohamed, MP |   |                         |
| 9. Hon. Qalicha Gufu Wario, MP             |   |                         |

**ABSENT WITH APOLOGY**

- |  |   |                    |
|--|---|--------------------|
| 1. Hon. Gladys Wanga, CBS, MP          | - | <b>Chairperson</b> |
| 2. Hon. Shakeel Shabbir Ahmed, CBS, MP |   |                    |
| 3. Hon. Daniel E. Nanok, MP            |   |                    |
| 4. Hon. (Dr.) Christine Ombaka, MP     |   |                    |
| 5. Hon. Francis K. Kimani, MP          |   |                    |
| 6. Hon. Joseph M. Oyula, MP            |   |                    |
| 7. Hon. Stanley M. Muthama, MP         |   |                    |
| 8. Hon. Catherine Waruguru, MP         |   |                    |
| 9. Hon. James Gichuhi Mwangi, MP       |   |                    |
| 10. Hon. Peter Lochakapong, MP         |   |                    |

**INATTENDANCE**

**SECRETARIAT**

- |                        |   |  |
|------------------------|---|--|
| 1. Ms. Leah Mwaura     | - | Senior Clerk Assistant/Head of Secretariat |
| 2. Ms. Jennifer Ndeto  | - | Principal Legal Counsel I                  |
| 3. Ms. Laureen Wesonga | - | Clerk Assistant II                         |
| 4. Mr. Chelang'a Maiyo | - | Research Officer II                        |
| 5. Mr. John Njoro      | - | Serjeant-At-Arms                           |
| 6. Mr. Collins Mahamba | - | Audio Officer                              |
| 7. Mr. Vitalis Augo    | - | Office Assistant                           |
| 8. Ms. Hannah Mwangi   | - | Intern                                     |

**INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)**

1. FCPA George Mokua
2. FCPA Robert Waruiru
3. Mr. Hillary Onami
4. Ms. Winnie G. Nkatha
5. Mr. Nelson Ogallo
6. Mr. Karaya Mokaya

**KENYA ASSOCIATION OF MANUFACTURERS (KAM)**

1. Mr. Rajan Malde
2. Ms. Ruth Lemlem
3. Mr. Karanja Kamotho



## **COULIBALY**

Mr. Francis Njoroge

## **LAW SOCIETY OF KENYA (LSK)**

1. Ms. Janet Lavuna
2. Ms. Angelica Mecha
3. Mr. Paul Waga

## **NATIONAL TREASURY/KENYA REVENUE AUTHORITY**

1. Hon. Nelson Gaichuhie
2. Mr. Maurice Oray
3. Mr. Joseph Ngugi
4. Mr. Cromwel Pkomu
5. Ms. Catherine Kalachia
6. Mr. Josiah Nyangweso
7. Ms. Sharon Kirai

## **AGENDA**

1. Prayers
2. Communication from the Chairperson
3. **Stakeholder engagement on the Tax Appeals Tribunal (Amendment) Bill, 2021**
4. Any Other Business
5. Adjournment/Date of Next Meeting

**MIN.NO.NA/F&NP/2021/282:**

### **COMMUNICATION CHAIRPERSON**

**FROM THE**

The meeting was called to order at 9.46 a.m. and a prayer was said. The Chairperson then called for introduction of those present before welcoming stakeholders to make submissions on the Tax Appeals Tribunal (Amendment) Bill, 2021.

**MIN.NO.NA/F&NP/2021/283:**

### **CONFIRMATION OF MINUTES**

Agenda deferred

**MIN.NO.NA/F&NP/2021/284:**

### **STAKEHOLDER ENGAGEMENT ON THE TAX APPEALS TRIBUNAL (AMENDMENT) BILL, 2021**

The stakeholders submitted as follows on the Bill:

#### **1. INSTITUTE OF CERTIFIED PUBLIC ACCOUNTANTS OF KENYA (ICPAK)**

The Institute observed that the amendments proposed in the Tax Appeals Tribunal (Amendment) Bill, 2021 will address the challenges affecting the performance of the Tax Appeals Tribunal and facilitate expeditious disposition of tax disputes in the country.

## **MEMBERS' DELIBERATIONS**

- i. With regards to the efficiency of the current Tribunal, the meeting was informed that the Tribunal is quite efficient given that there were 800 cases before it in January 2021 but the cases have so far been reduced to 600.
- ii. On why the Institute wanted the membership of the Tribunal to be increased, the meeting was informed that increasing the number of panels and members will make it possible for the cases to be expedited. The Tribunal can be given powers to appoint members on need basis. The expanded membership should

not be seen as a waste of money but a way to unlock money locked in the cases that are before the Tribunal.

**2. KENYA ASSOCIATION OF MANUFACTURERS (KAM)**

The Association submitted that the position of vice-chairperson of the Tribunal should be provided for in the Bill. They also proposed that the secretariat should be competitively recruited by the Judicial Service Commission and not the Public Service Commission as proposed in the Bill. Additionally, the Bill should provide for staggered exit from office for members of the Tribunal so that there is no vacancy in the Tribunal at any given time.

**3. COULIBALY**

Coulibaly noted that the number of members of the Tribunal provided in the Bill is the same as that in the Act. An analysis should be done to find out if the numbers are sufficient to clear the backlog of cases at the Tribunal. They also noted that setting of remuneration for members of the Tribunal and secretariat by the Cabinet Secretary offends the principal of separation of powers.

**4. LAW SOCIETY OF KENYA (LSK)**

LSK observed that excluding tax agents from the list of those qualified to be appointed as members of the Tribunal will amount to professional discrimination and deny the Tribunal a range of expertise on tax matters. They were opposed to the provision that the Tribunal can be funded through grants, donations or bequeaths not that it might create bias in favour of the donors and may be used as a tool to buy justice. Further, they submitted that the tribunal should be devolved in order to cater for taxpayers outside Nairobi.

**5. NATIONAL TREASURY/KENYA REVENUE AUTHORITY (KRA)**

They submitted that the Bill will solve some of the problems that the Tribunal has been facing resulting to a backlog of appeals. For instance, the Tribunal is currently hosted by KRA who facilitate their budgetary allocations, office space and general infrastructural requirements creating a perception of conflict of interest since disputes under the Tribunal are on decisions made by the Commissioner. The Bill provides for recruitment of members of the Tribunal by the Judicial Service Commission. It also provides for funding of the Tribunal hence giving it some sense of independence.

**MEMBERS' DELIBERATIONS**

- i. On why recruitment of the Tribunal's secretariat should be done by PSC and not JSC, the meeting was informed that staff of the Tribunal are public servants and should therefore be competitively recruited by PSC.
- ii. On why the Tribunal will be given its own budgetary allocation, the meeting was informed that this is to give them independence to cater for their own expenses as opposed to depending on either JSC, National Treasury or KRA.
- iii. On the expanded membership of the Tribunal, Hon. Gaichuhie submitted that this was not necessary because the cases may reduce leading to a waste of taxpayers' money. He noted that more members can be brought on board whenever the need arises.

*(Details of the stakeholders' comments are in Part III of the report on the consideration of the Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021))*

MIN.NO.NA/F&NP/2021/285:

ADJOURNMENT/DATE  
MEETING

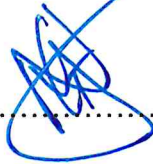
OF

NEXT

There being no other business to deliberate on, the meeting was adjourned at 12.49 p.m. The next meeting will be held at 2.30 p.m.

HON. GLADYS WANGA, CBS, MP  
(CHAIRPERSON)

SIGNED.....



DATE.....

11<sup>th</sup> August 2021



**MINUTES OF THE 58<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON  
FINANCE AND NATIONAL PLANNING HELD IN VIRTUALLY ON THURSDAY,  
22<sup>ND</sup> JULY 2021 AT 2:30 P.M.**

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**PRESENT**

- |                                    |   |                         |
|------------------------------------|---|-------------------------|
| 1. Hon. Gladys Wanga, CBS, MP      | - | <b>Chairperson</b>      |
| 2. Hon. Isaac W. Ndirangu, MP      | - | <b>Vice Chairperson</b> |
| 3. Hon. Jimmy O. Angwenyi, MGH, MP |   |                         |
| 4. Hon. Andrew A. Okuome, MP       |   |                         |
| 5. Hon. David M. Mboni, MP         |   |                         |
| 6. Hon. Joseph M. Oyula, MP        |   |                         |
| 7. Hon. Joshua C. Kandie, MP       |   |                         |
| 8. Hon. Edith Nyenze, MP           |   |                         |
| 9. Hon. James Gichuhi Mwangi, MP   |   |                         |
| 10. Hon. Peter Lochakapong, 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. Francis K. Kimani, MP
6. Hon. Stanley M. Muthama, MP
7. Hon. Catherine Waruguru, MP
8. Hon. (Prof.) Mohamud Sheikh Mohamed, MP
9. Hon. Qalicha Gufu Wario, MP

**INATTENDANCE**

**SECRETARIAT**

- |                        |   |  |
|------------------------|---|--|
| 1. Ms. Leah Mwaura     | - | Senior Clerk Assistant/Head of Secretariat |
| 2. Ms. Jennifer Ndeto  | - | Principal Legal Counsel I                  |
| 3. Ms. Laureen Wesonga | - | Clerk Assistant II                         |
| 4. Ms. Christine Maeri | - | Audio Officer                              |

**AGENDA**

1. Prayers
2. Communication from the Chairperson
3. **Briefing on the Tax Appeals Tribunal (Amendment) Bill, 2021**
4. Any Other Business
5. Adjournment/Date of Next Meeting

**MIN.NO.NA/F&NP/2021/268:                      COMMUNICATION                      FROM                      THE  
CHAIRPERSON**

The meeting was called to order at 2.44 p.m. and a prayer was said. The Chairperson then welcomed the Legal Counsel to take the meeting through the day's agenda.

**MIN.NO.NA/F&NP/2021/269:                      CONFIRMATION OF MINUTES**  
Agenda deferred

**MIN.NO.NA/F&NP/2021/270:**

**BRIEFING ON THE TAX APPEALS  
TRIBUNAL (AMENDMENT) BILL, 2021**

The Legal Counsel, Ms. Jennifer Ndeto informed the Committee that the Bill was seeking to change the appointing authority of the Tax Appeals Tribunal from the Cabinet Secretary in charge of Finance to the Judicial Service Commission. The Bill also sets out the procedure for appointment of the chairperson and members of the Tribunal.

Further, it provides for recruitment of staff of the Tribunal, provides for electronic submission of documents and also provides for the review of decrees and orders of the Tribunal.

**MEMBERS DELIBERATIONS**

Members noted the following issues that will be addressed during stakeholder engagement and clause by clause consideration of the Bill:

1. Staff of the Tribunal ought to be recruited by the Judicial Service Commission and not the Public Service Commission;
2. Remuneration of members of the tribunal and staff ought to be set by the Judicial Service Commission and not the CS; and
3. The Tribunal should be funded by JSC and it shouldn't have its own funds as proposed in the Bill.

**MIN.NO.NA/F&NP/2021/271:**

**ANY OTHER BUSINESS**

The Chairperson informed the meeting that the Committee will proceed for a retreat from Tuesday, 27<sup>th</sup> July to Saturday, 31<sup>st</sup> July 2020 to carry out stakeholder engagement and clause by clause consideration of the following Bills:

1. The Poverty Eradication Authority Bill, 2020 by Hon. John Waluke Koyi, MP;
2. The Public Debt Management Authority Bill, 2020 by Hon. John Sakwa Bunyasi, MP; and
3. The Tax Appeals Tribunal (Amendment) Bill, 2021 by Leader of the Majority Party.

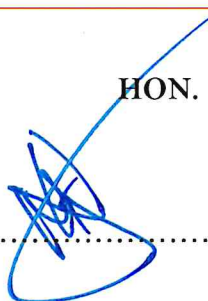
**MIN.NO.NA/F&NP/2021/272:**

**ADJOURNMENT/DATE OF NEXT  
MEETING**

There being no other business to deliberate on, the meeting was adjourned at 3.10 p.m. The next meeting will be held on Wednesday, 28<sup>th</sup> July 2021 at 9.00 a.m.

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

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

 11<sup>th</sup> August 2021





REPUBLIC OF KENYA  
**THE NATIONAL ASSEMBLY**  
 TWELFTH PARLIAMENT- FIFTH SESSION

In the Matter of Article 118(1) (b) of the Constitution  
 And  
 In the Matter of Consideration by the National Assembly of:

1. The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020);
2. The Pharmacy and Poisons (Amendment) Bill (National Assembly Bill No. 1 of 2021);
3. The Health (Amendment) Bill (National Assembly Bill No. 14 of 2021);
4. The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021);
5. The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021);
6. The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021);
7. The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021);
8. The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)
9. The Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);
10. The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020);
11. The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020);
12. The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020);
13. The Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021);
14. The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021).

**SUBMISSION OF MEMORANDA**

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the aforementioned Bills, whose objects are as follows:

**The Higher Education Loans Board (Amendment) Bill, 2020 (National Assembly Bill No. 37 of 2020)** sponsored by Hon. Paul Mwirigi, MP, Igembe South Constituency, seeks to amend the Higher Education Loans Board Act in order to provide that a loanee shall commence the repayment of his or her loan once he or she secures employment. The amendment is meant to cushion unemployed graduates from being charged interest on the loan before they have secured employment.

**The Pharmacy and Poisons (Amendment) Bill, 2021 (National Assembly No 1 of 2021)** sponsored by Hon. Alfred Keter, MP, Nandi Hills Constituency, seeks to amend the Pharmacy and Poisons Act to prohibit the sale or dispensing of medicine without written prescription from a registered medical practitioner.

**The Health (Amendment) Bill, 2021 (National Assembly No 14 of 2021)** sponsored by Hon. Moses Mwambu Wekesa Mabonga, MP, Bumula Constituency, seeks to amend the Health Act No 21 of 2017 to provide that the National government and county governments shall, in consultation through the existing inter-governmental relations mechanism establish regional cancer centers; to make it an offence for a person in-charge of a Public Health facility to demand or permit payments of advance medical fees as pre-condition for the provision of medical services; to make it an offence for person in-charge of a Public Health facility to detain a body of deceased person as means of enforcing settlement of outstanding medical bills and to provide for regulation on levying of charges for the practice of conventional medical practice.

**The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021)** seeks to provide for the establishment and operationalization of the National Electronic Single Window System in order to facilitate trade, the establishment of the Kenya Trade Network Agency, to provide for electronic transactions, and for connected purposes.

**The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)** seeks to provide for development, regulation and promotion of the coffee industry, provide for establishment, powers and functions of the Coffee Board of Kenya.

**The Community Groups Registration Bill, 2021 (National Assembly Bill No.20 of 2021)** seeks to provide a regulatory framework for the registration and regulation of community groups and connected purposes.

**The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)** sponsored by Hon. David Pkosing, MP, Pokot South Constituency, seeks to amend the Kenya Roads Act (No. 2 of 2007) to align the Act with the provisions of the Constitution with regard to the auditing functions of the Office of the Auditor-General. The Act currently refers to the defunct office of the Controller of Budget and the Auditor-General. The Bill further seeks to amend the term of office of and the qualification for the Director-General of the Kenya Roads Board appointed under the Act.

**The Computer Misuse and Cybercrimes (Amendment) Bill, 2021 (National Assembly Bill No. 11 of 2021)** sponsored by Hon. Aden Bare Duale, MP, Garissa Township Constituency, seeks to amend The Computer Misuse and Cybercrimes Act, 2018 to provide for the prohibition against the sharing of pornography through the internet and prohibit use of electronic mediums to promote terrorism, extreme religious and cult activities.

**Kenya Industrial Research and Development Institute Bill, 2021 (National Assembly Bill No. 44 of 2021)** seeks to establish the Kenya Industrial Research and Development Institute, and for connected purposes. It further provides for the promotion of research, development, technology and innovation in industrial and allied technologies, and for initiation and support of industrial development.

**The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020)** sponsored by Hon. David Gikaria, MP, Nakuru Town East Constituency, seeks to amend the National Construction Authority Act, No. 41 of 2011 to ensure women, youth and persons living with disabilities with start-up businesses who apply to be registered as contractors under category six, seven and eight are exempted from paying the prescribed fee. The amendment seeks to recognize women, youth and persons living with disabilities as marginalized groups and to cushion them from the burden of paying registration fees.

**The Kenya Deposit Insurance (Amendment) Bill, 2020 (National Assembly Bill No. 43 of 2020)** sponsored by Hon. Abdul Rahim Dawood, MP, Imenti North Constituency, seeks to amend section 28 of the Kenya Deposit Insurance Act, 2012 in order to increase the maximum amount a person with an account with an institution under liquidation is to be paid by the Kenya Deposit Insurance Corporation. It further seeks to delete the provision limiting the maximum amount a person is to be paid by the Corporation despite having different accounts.

**The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill, 2020 (National Assembly Bill No. 49 of 2020)** sponsored by Hon. Benjamin Gathiru Mwangi, MP, Embakasi Central Constituency, seeks to amend the Public Procurement and Asset Disposal Act, 2015 to enhance the amount for tenders where Kenya citizens are given

exclusive preference from the sum of five hundred million shillings to twenty billion shillings. This is to protect the Kenyan traders from foreign competitors.

**The Irrigation (Amendment) Bill, 2021 (National Assembly Bill No. 12 of 2021)** seeks to amend the Act by expanding the administration of irrigation matters to include management and regulation of irrigation matters. The Bill further seeks to amend the Act to harmonize the provision of the Irrigation Act, Water Act and Water Resources Management Rules, 2007.

**The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)** seeks to amend the Tax Appeals Tribunal Act, 2013 to address the challenges affecting the performance of the Tax Appeals Tribunal to facilitate the expedition of tax disputes in the country.

Pursuant to Standing Order 127(1) of the National Assembly Standing Orders, the Bills proposing amendments to the various Acts of Parliament are committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

SCHEDULE		
No.	BILL	COMMITTEE
1.	The Higher Education Loans Board (Amendment) Bill 2020 (National Assembly Bill No. 37)	Education and Research
2.	The Pharmacy and Poisons (Amendment) Bill (National Assembly No 1 of 2021)	Health
3.	The Health (Amendment) Bill (National Assembly No 14 of 2021)	Health
4.	The Computer Misuse and Cybercrimes (Amendment) Bill (National Assembly Bill No. 11 of 2021)	Communication, Information and Innovation
5.	The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)	Agriculture and Livestock
6.	The Community Groups Registration Bill (National Assembly Bill No.20 of 2021)	Labour and Social Welfare
7.	Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021)	Trade, Industry and Cooperatives
8.	The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)	Transport, Public Works and Housing
9.	The National Construction Authority (Amendment) Bill, 2020 (National Assembly Bill No. 45 of 2020)	Transport, Public Works and Housing
10.	The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020)	Finance and National Planning
11.	The Public Procurement and Asset Disposal (Amendment) (No. 3) Bill (National Assembly Bill No. 49 of 2020)	Finance and National Planning
12.	The National Electronic Single Window System Bill, 2021 (National Assembly Bill No. 15 of 2021)	Finance and National Planning
13.	The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)	Finance and National Planning
14.	Irrigation (Amendment) Bill (National Assembly Bill No. 12 of 2021)	Environment and Natural Resources

The Bills were read a First Time pursuant to Standing Order 127(3) on 8<sup>th</sup> and 9<sup>th</sup> June 2021. Copies of the Bills are available at the National Assembly Table Office, or on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

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](mailto:clerk@parliament.go.ke); to be received on or before Friday 18<sup>th</sup> June, 2021, at 5.00 pm.

MICHAEL SIALAU, CBS  
 CLERK OF THE NATIONAL ASSEMBLY

11<sup>th</sup> June 2021



REPUBLIC OF KENYA



**TWELFTH PARLIAMENT (FIFTH SESSION)  
THE NATIONAL ASSEMBLY**

**INVITATION FOR PUBLIC PARTICIPATION & SUBMISSION OF  
MEMORANDA**

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

In the matters of consideration by the National Assembly:-

1. The Public Procurement and Asset Disposal (Amendment) (No. 2) Bill (National Assembly Bill No. 34 of 2020)
2. The Public Debt Management Authority Bill (National Assembly Bill No. 36 of 2020)

**SUBMISSION OF MEMORANDA**

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

The Public Procurement and Asset Disposal (Amendment) (No. 2) Bill (National Assembly Bill No. 34 of 2020) introduced by Hon. Richard Tongi, MP, seeks to amend the Public Procurement and Asset Disposal Act (No. 33 of 2015) to provide that all foreign tenderers participating in international tenders shall source all their locally available supplies from citizen contractors. The purpose of the amendment is to promote the growth of local industries and contractors.

The Public Debt Management Authority Bill (National Assembly Bill No. 36 of 2020) introduced by Hon. Sakwa Bunyasi, MP, seeks to establish the Public Debt Management Authority as an independent body to manage the public debt in the country at both levels of government. The country's debt is rising at an alarming level and there is need to manage the same to protect the current and future generations. The Office shall succeed the Public Debt Management Office.

The Bills have undergone First Reading pursuant to Standing Order 127(3) and stand committed to the Departmental Committee on Finance and National Planning for consideration and thereafter report to the House.

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3), the Committee invites interested members of the public to submit any representations that they may have on the said Bills. The Bills can be accessed from the parliamentary website at [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

The representations or written submissions may be forwarded 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](mailto:clerk@parliament.go.ke) to be received on or before Wednesday, 17<sup>th</sup> February, 2021 at 5:00 pm.

MICHAEL R. SIALAI, CBS  
CLERK OF THE NATIONAL ASSEMBLY

19/2/2021



**REPUBLIC OF KENYA  
THE NATIONAL ASSEMBLY  
TWELFTH PARLIAMENT – FIFTH SESSION**

In the Matter of Article 118(1) (b) of the Constitution  
And

In the Matter of Consideration by the National Assembly of:

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5.	The Coffee Bill, 2021 (National Assembly Bill No. 17 of 2021)	Agriculture and Livestock
6.	The Community Groups Registration Bill (National Assembly Bill No. 20 of 2021)	Labour and Social Welfare
7.	Kenya Industrial Research and Development Institute Bill (National Assembly Bill No. 44 of 2021);	Trade, Industry and Cooperatives
8.	The Kenya Roads (Amendment) Bill, 2021 (National Assembly Bill No. 13 of 2021)	Transport, Public Works and Housing
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13.	The Tax Appeals Tribunal (Amendment) Bill (National Assembly Bill No. 19 of 2021)	Finance and National Planning
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The Bills were read a First Time pursuant to Standing Order 127(3) on 8<sup>th</sup> and 9<sup>th</sup> June 2021. Copies of the Bills are available at the National Assembly Table Office, or on [www.parliament.go.ke/the-national-assembly/house-business/bills](http://www.parliament.go.ke/the-national-assembly/house-business/bills).

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](mailto:clerk@parliament.go.ke); to be received on or before Friday 18<sup>th</sup> June, 2021, at 5.00 pm.

MICHAEL SIALAI, CBS  
CLERK OF THE NATIONAL ASSEMBLY  
11<sup>th</sup> June 2021





Fransis Atwill, Cow boss  
"There will be no elections  
without BBL. 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."

term of office. Nearly half of the current crop are accordingly on their way out in the next 12 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 (Mwangi). For these ageing leaders and national political party leaders the period 2021-2024.

Stopping the electoral process is like the present Parliament is expected to take Kenya to go before the Supreme Court for the last word.

Meanwhile it is difficult to legally predetermine 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 EBC strategic plan for the period 2021-2024.

Article 102 (2) reads, "When extension is provided for the term of the House, 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."

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

Atwoli's projection of extending the tenure of the 12<sup>th</sup> Parliament seems to be an impossible mission. The House still is the idea of a two-year extension, for now, does the Constitution provide for that?

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.

**OCTOBER 2021 INTAKE**

**THE TECHNICAL UNIVERSITY OF KENYA**  
*Education and Training for the Real World*



The Technical University of Kenya is inviting applications from qualified students to join its Degree and Diploma programmes starting October 2021. To access the full menu of the programmes and other details visit the university website: [www.tukenya.ac.ke](http://www.tukenya.ac.ke)

The Technical University of Kenya  
P.O. Box 552428 - 00200, City Square, NAIROBI.  
E-mail: registrar.academic@tukukenya.ac.ke



## INVIATION FOR PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

- 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 (Partners) Successions (Amendment) Bill (National Assembly Bill No. 23 of 2021);
2. Deputies and Accumulations (Amendment) Bill (National Assembly Bill No. 24 of 2021); and
3. Certified Managers Bill (National Assembly Bill No. 26 of 2021)

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

[illegible]