

Approved for tabling in the House.




BAT
SNA
15/2/2022

REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT – SIXTH SESSION – 2022
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON

THE CONSIDERATION OF H.E. THE PRESIDENT'S MEMORANDUM ON
THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL (NATIONAL
ASSEMBLY BILL NO. 43 OF 2020)

 THE NATIONAL ASSEMBLY PARLIAMENT BUILDINGS NAIROBI	
DATE: 16 FEB 2022	DAY: <i>week</i>
TABLED BY:	<i>Hon. Mwalika M. MP Member of the Committee</i>
CLERK-AT THE-TABLE:	<i>Kaloma</i>

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

FEBRUARY 2022

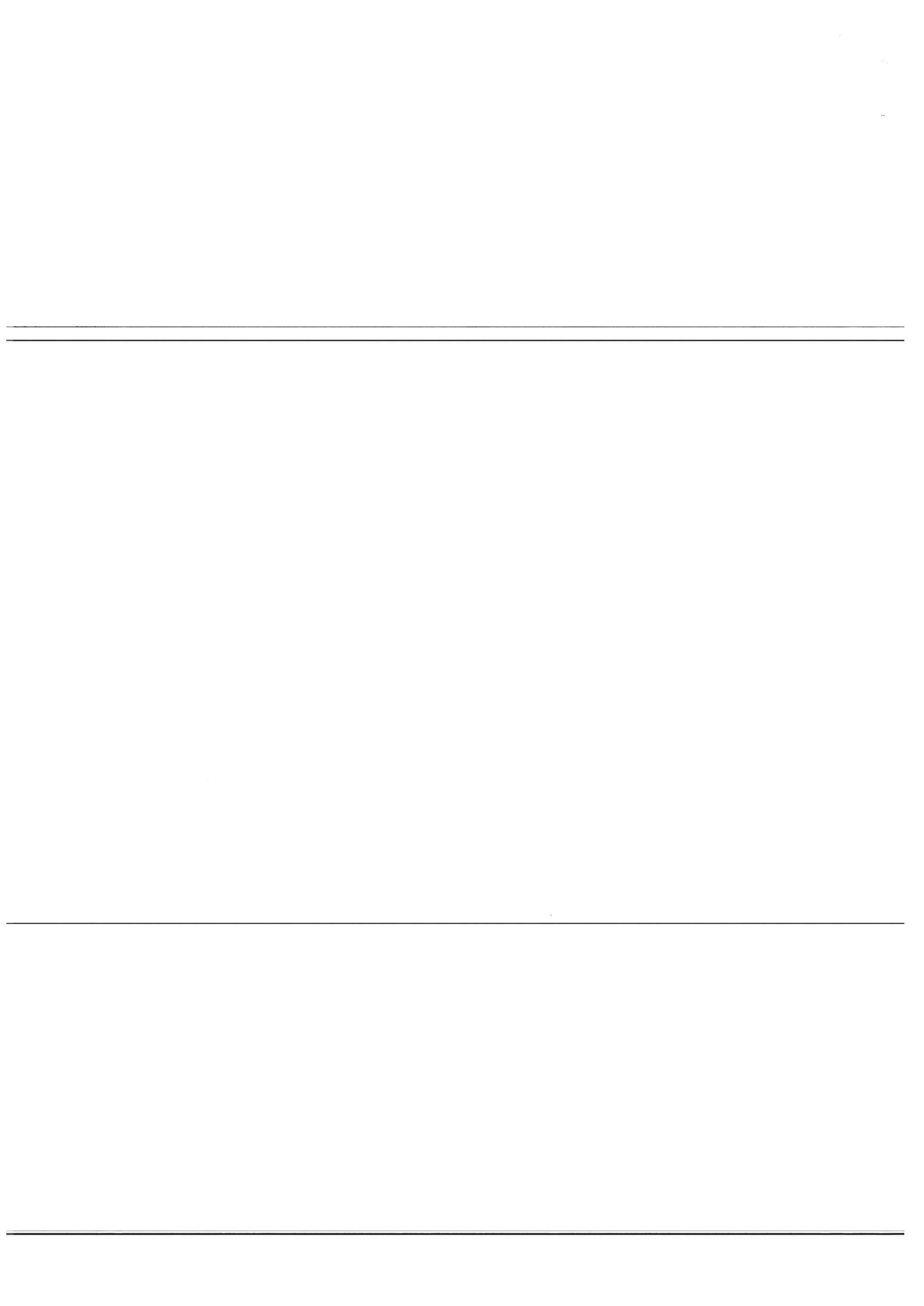


TABLE OF CONTENTS

LIST OF ANNEXURES 3

CHAIRPERSON’S FOREWORD 4

CHAPTER ONE 5

1 PREFACE 5

1.1 Establishment of the Committee..... 5

1.2 Mandate of the Committee 5

1.3 Committee Membership..... 6

1.4 Committee Secretariat 7

CHAPTER TWO..... 8

2 PRESIDENT’S MEMORANDUM ON THE KENYA DEPOSIT INSURANCE
(AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 43 OF 2020)..... 8

2.1 H.E. the President’s Reservations 8

2.2 Consideration of the Memorandum..... 9

CHAPTER THREE..... 10

3 COMMITTEE RECOMMENDATION..... 10

LIST OF ANNEXURES

1. Adoption Schedule
 2. Minutes of the 7th Sitting
 3. Speaker's Communication on the Message from H.E. the President (Message from the President No. 001 of 2022)
 4. Memorandum on the referral by H.E. the President of the Kenya Deposit Insurance (Amendment) Bill, 2021
-
-

CHAIRPERSON'S FOREWORD

The Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020) was passed by the National Assembly on **Thursday, 25th November 2021**. The Bill seeks to amend 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 (KDIC). The Bill further seeks to delete the provision limiting the maximum a person is to be paid by the Corporation despite having different accounts. In line with the powers conferred by Article 115 of the Constitution, H.E. the President expressed his reservation to assent to the Kenya Deposit Insurance (Amendment) Bill, 2020 vide a Memorandum "*Refusal to Assent to the Kenya Deposit Insurance (Amendment) Bill, 2020*" hereinafter referred to as "*the Memorandum*". Consequently, the Memorandum was sent to the National Assembly detailing the reasons for the said reservations. Thereafter, the Speaker vide a Communication dated Thursday, **3rd February 2022** conveyed the Memorandum and referred it to the Departmental Committee on Finance and National Planning for consideration.

Specifically, H.E. the President expressed reservations on Clause 2 of the Bill which seeks to amend section 28 of the Kenya Deposit Insurance Act, by deleting sub-section 2 and introducing a new provision to prescribe six months as the waiting period for payment of compensation to a customer in respect of a protected deposit. H.E. the President observed that the proposed sub-section is inconsistent with section 33(6) of the Act and is in conflict with paragraph 15 of the International Association of Deposit Insurance's core principles for effective deposit insurance systems.

Further, H.E. the President expressed reservations to the introduction of a new sub-section (3) of Clause 2 which imposes a fine not exceeding one million shillings, or imprisonment for a term not exceeding three years, or both, for contravention of the impugned provision. The President noted that the provision failed to provide for offences committed by a corporate person.

In line with the Speaker's Communication, the Committee proceeded to consider the Memorandum in a meeting held on Tuesday, 8th February 2022. The Committee observed that the comments by the reservations expressed by H.E. the President's were valid and would go a long way in improving the intended objective of the Bill. The deliberations formed the basis on which the Committee made its decision.

The Committee thanks the Offices of the Speaker and Clerk of the National Assembly for the technical support extended to it in considering the Memorandum. In addition, I thank Members of the Committee and the Secretariat for their sacrifice and commitment in considering H.E. the President's reservations to the Bill.

The Committee having considered the President's Memorandum and recommendations therein **AGREES** with the President's reservations to the Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020).

Pursuant to Standing Order 216(5) (f), it is my pleasure and duty to present to the House, the Report of the Committee on the consideration of the Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020).

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

CHAPTER ONE

1 PREFACE

1.1 Establishment of the Committee

1. The Departmental Committee on Finance and 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 Mandate of the Committee

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 reconstituted 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. Christopher Omulele, CBS, MP
Luanda Constituency

ODM Party

Hon. Shakeel Shabbir Ahmed, CBS, MP
Kisumu East Constituency

Independent Member

Hon. Daniel Nanok, MP
Turkana West Constituency

Jubilee Party

Hon. (Dr.) Christine Ombaka, MP
Siaya County

ODM Party

Hon. Andrew Okuome, MP
Karachuonyo Constituency

ODM Party

Hon. David Mboni, MP
Kitui Rural Constituency

CCU Party

Hon. Francis K. Kimani, MP
Molo Constituency

Jubilee Party

Hon. Joseph Oyula, MP
Butula Constituency

ODM Party

Hon. Joshua Kandie, MP
Baringo Central Constituency

MCC Party

Hon. Stanley Muthama, MP
Lamu West Constituency

MCC Party

Hon. Edith 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 Muhamed, 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 Secretariat:

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

Ms. Jennifer Ndeto
Principal Legal Counsel I

Ms. Lauren O. Wesonga
Clerk Assistant II

Mr. Josephat Motonu
Senior Fiscal Analyst

Mr. Chelang'a Maiyo
Research Officer II

Mr. Luka Mutua
Serjeant-At-Arms

Ms. Christine Maeri
Audio Officer

CHAPTER TWO

2 PRESIDENT'S MEMORANDUM ON THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 43 OF 2020)

2.1 H.E. the President's Reservations

In his Memorandum —

6. H.E. the President expressed reservations to Clause 2 of the Bill which seeks to amend section 28 of the Kenya Deposit Insurance Act by deleting sub-section 2 and introducing a new provision to prescribe six months as the waiting period for payment of compensation to a customer in respect of a protected deposit.
7. H.E. the President noted that the proposed new sub-section is inconsistent with section 33(6) of the Act which provides that:
"(6) Where the Corporation is obliged to commence payment under sub-section (1) in respect of any insured deposits, the Corporation shall, unless there are extraneous circumstances hindering the Corporation, within thirty days after being appointed liquidator make payment based on the records of the institution and the opinion of the Corporation as regards entitlement of the amount claimed."
8. H.E. the President also objected to the proposal on grounds that the provision was in conflict with Paragraph 15 of the International Association of Deposit Insurance's core principles for effective deposit insurance systems which provides that:
"The deposit insurance system should reimburse depositor's insured funds promptly, in order to contribute to financial stability. There should be a clear and unequivocal trigger for insured depositor reimbursement".
9. H.E. the President therefore recommended that the proposed amendment be deleted.
10. H.E. the President also expressed reservations to the introduction of a new sub-section (3) of Clause 2 which imposes a fine not exceeding one million shillings or imprisonment for a term not exceeding three years, or both, for contravention of the impugned provision.
11. The President also noted that the new provision fails to provide for offences committed by corporate persons. H.E. the President therefore recommended that the proposed sub-section be deleted and replaced with the following new sub-section:
"(3) Any person who contravenes this section shall be liable on conviction:
 - (a) in the case of a natural person, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both; or*
 - (b) in any other case, to a fine not exceeding one million shillings."*

2.2 Consideration of the Memorandum

12. The Committee on **Tuesday, 8th February 2022** deliberated on the President's reservations to the Kenya Deposit Insurance (Amendment) Bill, 2020. In considering the reservations, the Committee was guided by the provisions of Article 115 of the Constitution of Kenya 2010 which stipulates that:

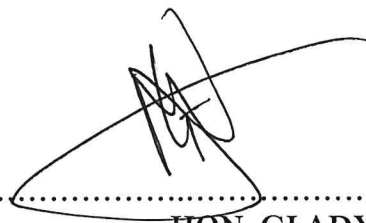
Presidential assent and referral

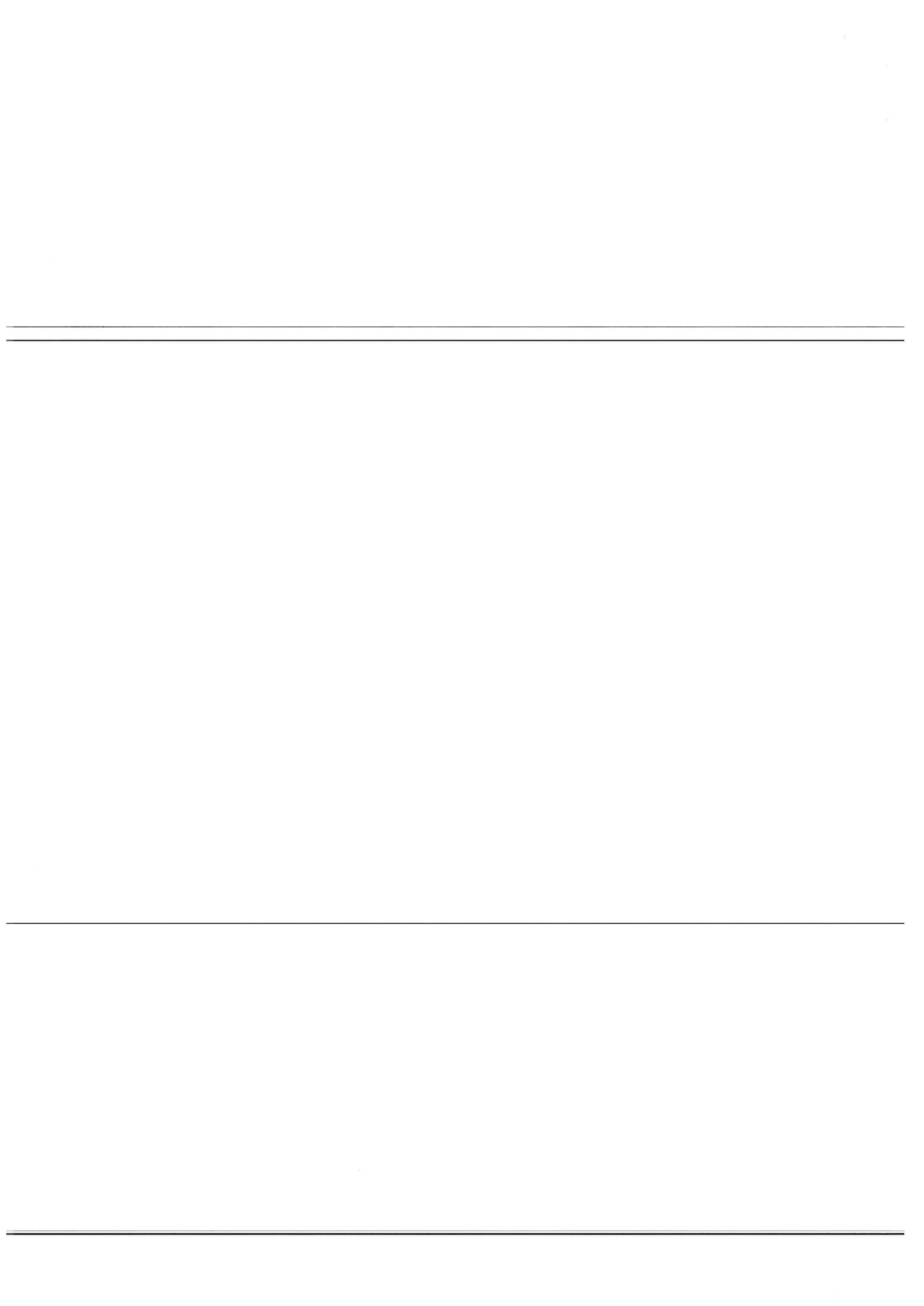
-
1. *Within fourteen days after receipt of a Bill, the President shall—*
 - a) *assent to the Bill; or*
 - b) *refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.*
 2. *If the President refers a Bill back for reconsideration, Parliament may, following the appropriate procedures under this Part—*
 - a) *amend the Bill in light of the President's reservations; or*
 - b) *pass the Bill a second time without amendment.*
 3. *If Parliament amends the Bill fully accommodating the President's reservations, the appropriate Speaker shall re-submit it to the President for assent.*
 4. *Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—*
 - a) *by two-thirds of members of the National Assembly; and*
 - b) *two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate.*
 5. *If Parliament has passed a Bill under clause (4)—*
 - a) *the appropriate Speaker shall within seven days re-submit it to the President; and*
 - b) *the President shall within seven days assent to the Bill.*
 6. *If the President does not assent to a Bill or refer it back within the period prescribed in clause (1), or assent to it under clause (5)(b), the Bill shall be taken to have been assented to on the expiry of that period.*
13. The Committee noted that the recommendation to vary the timelines within which payments should be made, from sixty days (as passed by the House) to thirty days (as recommended by H.E the President) was valid and in line with the International Association of Deposit Insurance's core principles. This will ensure there are no unreasonable delays in processing payment to depositors where there are no extraneous circumstances. In addition, it was necessary to provide for the specific offences committed by corporate persons. Given the above, the Committee agreed with the reservations as recommended by H.E the President.

CHAPTER THREE

3 COMMITTEE RECOMMENDATION

14. The Committee having considered the President's Memorandum and pursuant to Article 115 of the Constitution, agrees with President's reservations to the Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2019) and recommends **that the House fully accommodates H.E. the President's reservations.**

SIGNED.......... DATE..... 15th Feb 2022.....
HON. GLADYS WANGA, CBS, MP
CHAIRPERSON
DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING



REPUBLIC OF KENYA



**NATIONAL ASSEMBLY
DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING
ADOPTION SCHEDULE**

***ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE PRESIDENT'S
MEMORANDUM ON THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL, 2021***

DATE: 8TH FEBRUARY 2022

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	
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	
16. HON. JAMES GICHUHI MWANGI, MP	
17. HON. PROF. MOHAMUD SHEIKH MOHAMED, MP	
18. HON. PETER LOCHAKAPONG, MP	
19. HON. QALICHA GUFU WARIO, MP	



MINUTES OF THE 7TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD IN THE BOARDROOM ON GROUND FLOOR, RED CROSS HOUSE, PARLIAMENT BUILDINGS AND VIRTUALLY ON TUESDAY, 8TH FEBRUARY 2022 AT 10:00 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. Daniel E. Nanok, MP
6. Hon. (Dr.) Christine Ombaka, MP
7. Hon. David M. Mboni, MP
8. Hon. Francis K. Kimani, MP
9. Hon. Joseph M. Oyula, MP
10. Hon. Joshua C. Kandie, MP
11. Hon. Edith Nyenze, MP
12. Hon. Catherine Waruguru, MP
13. Hon. (Prof.) Mohamud Sheikh Mohamed, MP

ABSENT WITH APOLOGY

1. Hon. Shakeel Shabbir Ahmed, CBS, MP
2. Hon. Andrew A. Okuome, MP
3. Hon. Stanley M. Muthama, MP
4. Hon. James Gichuhi Mwangi, MP
5. Hon. Peter Lochakapong, MP
6. Hon. Qalicha Gufu Wario, MP

IN ATTENDANCE

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. Thomas Ogwel - Fiscal Analyst I
5. Mr. Luka Mutua - Serjeant-At-Arms
6. Ms. Terry Ondiko - Fiscal Analyst III
7. Mr. George Ndenjeshe - Fiscal Analyst III
8. Ms. Caroline Wanjiru - Hansard Officer III
9. Ms. Christine Maeri - Audio Officer

AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes from the previous sitting(s) and Matters Arising
4. Meeting to:
 - i. adopt the Report on the Recruitment of the National Assembly Nominee to the Equalization Fund Advisory Board;
 - ii. consider H.E. the President's Memorandum on the Kenya Deposit Insurance (Amendment) Bill, 2021; and
 - iii. be briefed on the Supplementary Estimates No. 1 for FY 2021/22
10. Any Other Business
11. Adjournment/Date of Next Meeting

MIN.NO.NA/F&NP/2022/32: COMMUNICATION FROM THE CHAIRPERSON

The meeting was called to order at 10.29 a.m. and a prayer was said. The chairperson called for introduction of those present before inviting the meeting to deliberate on the day's agenda.

MIN.NO.NA/F&NP/2022/33: CONFIRMATION OF MINUTES

Agenda deferred.

MIN.NO.NA/F&NP/2022/34: ADOPTION OF THE REPORT ON THE RECRUITMENT OF THE NATIONAL ASSEMBLY NOMINEE TO THE EQUALIZATION FUND ADVISORY BOARD

The Chairperson invited the Committee Clerk to take the Committee through the draft report. After lengthy deliberations, the Committee recommended Mr. Abdullahi Adan Khalif for nomination as the National Assembly nominee to the Equalization Fund Advisory Board.

The report was adopted having been proposed by Hon. Francis Kimani, MP and seconded by Hon. Edith Nyenze, MP.

MIN.NO.NA/F&NP/2022/35: CONSIDERATION OF H.E. THE PRESIDENT'S MEMORANDUM ON THE KENYA DEPOSIT INSURANCE (AMENDMENT) BILL, 2021

The Chairperson invited the Legal Counsel to take the Committee through H.E. the President's Memorandum on the Kenya Deposit Insurance (Amendment) Bill, 2021. The Committee observed that the issues raised in the Memorandum were valid. Members therefore agreed with H.E. the President's recommendations.

The Report on the Consideration of H.E. the President's Memorandum on the Kenya Deposit Insurance (Amendment) Bill, 2021 was adopted having been proposed by Hon. Daniel Nanok, MP and seconded by Hon. Joshua Kandie, MP.

MIN.NO.NA/F&NP/2022/36: BRIEFING ON THE SUPPLEMENTARY ESTIMATES NO. 1 FOR FY 2021/22

The Chairperson welcomed officers from the Parliamentary Budget Office to brief the Committee on the Supplementary Estimates No. 1 for FY 2021/22. Mr. Thomas Ogwel submitted THAT:

The Supplementary Budget proposes an overall budget increase of KSh. 108.5 billion (3.3% increase) with an increase of KSh. 126.3 billion in Ministerial Expenditure and however, a decrease of KSh. 17.7 billion in the Consolidated Fund Services.

Highlights of the Proposed changes in Expenditure Estimates for the Votes under the Committee's Purview

The gross approved allocation for the state departments under the purview of the Committee was KSh. 208.8 billion where KSh. 64.6 billion for recurrent and KSh. 144.2 billion for development. The allocation is proposed to be increased by KSh. 14.3 billion to KSh. 223.1 billion.

The National Treasury

The National Treasury's approved allocation for FY 2021/22 was KSh. 157.7 billion. The allocation is proposed to have a net increase of KSh. 12.5 billion, an equivalent of 7.9% with an

increase in capital expenditure of KSh. 9.2 billion and recurrent expenditure of KSh. 3.3 billion. The proposed increases are due to increases in the allocation to the Public Financial Management Programme which is proposed to be increased by KSh. 26.6 billion (KSh. 20 billion which is capital injection to Kenya Airways and the Economic and Financial Policy Formulation and Management Programme which is proposed to increase by KSh. 675.6 million.

State Department for Planning

The State Department's approved allocation for FY 2021/22 was KSh. 45.99 billion. The allocation is proposed to increase by KSh. 740.9 million, an equivalent of 1.6% with an increase in development of KSh. 364.5 million and recurrent expenditure of KSh. 376.3 million.

State Department for Devolution

The overall budget for the Ministry of Devolution has increased by KSh. 1.2 billion. This brings the total allocation for the sector to KSh. 4.4 billion in FY 2021/22 comprising of KSh. 2.96 billion for recurrent and KSh. 1.43 billion for development.

Commission on Revenue Allocation (CRA)

The allocation for the Commission for FY 2021/22 was KSh. 485.6 million. The Supplementary Estimates propose a reduction of KSh. 20 million.

Salaries and Remuneration Commission

The allocation for SRC in FY 2021/22 was KSh. 621.4 million. The Supplementary Estimates have not altered the Commission's budget.

Office of the Controller of Budget

The allocation for the vote in FY 2021/22 was KSh. 689.1 million. The Supplementary Estimates have proposed a reduction of KSh. 33 million leading to a gross allocation of KSh. 465.6 million.

ISSUES OF CONCERN RAISED BY MEMBERS

- I. The NG- CDF has not been allocated the outstanding balance estimated at KSh. 4.9 billion. Can the National Treasury apprise the Committee on how to have this settled so as to prevent accumulation of pending bills?

- II. **The project of water reticulation works at National Treasury, Bima and Herufi Houses:** a project whose total cost was estimated at KSh. 1.45 billion and was planned to be undertaken from January 2016 and be completed in June 2024 has been a subject of bidding for funds by the National Treasury within the Committee. In this Supplementary I, it proposed to have an additional allocation of KSh. 200 Million. As at June 2021, the sector report reveals that it was at a 40% completion level.
 - i. Can the National Treasury provide the up-to-date implementation status on the project?
 - ii. What is the justification for supplementary estimates for the project since it is not clear what necessitates its funding under supplementary budget as per the provisions of Article 223 of the Constitution. (How does the project become an emergency or unforeseen expenditure?)

III. **The replacement of lifts at Treasury Building Project:** The sector reports reveal the project was estimated to cost KSh. 120 Million with implementation timelines from January 2021 to June 2026. As at 30th June 2021, the report reveals a 0% (zero percent) completion level despite the 2021/22 approved allocations at KSh. 50.8 Million and a proposal to increase the allocations by KSh. 44.2 Million to KSh. 95 Million.

-
- i. ~~Can the National Treasury provide the up-to-date implementation status of the project, how many lifts have so far been replaced? And in total, how many lifts are targeted to be replaced? What is the estimated cost of replacing one lift?~~
- ii. What is the justification for supplementary estimates for the project since it is not clear what necessitates its funding under supplementary budget as per the provisions of Article 223 of the Constitution?

IV. **New Project:** an assessment of the approved budget vis-à-vis the proposed supplementary estimates indicate that there is a new project that was not allocated funds in the initial current budget but is proposed to get allocations in the Supplementary as:

Financial Sector Support Project (FSSP): proposed to get a supplementary budget amounting to KSh. 1.82 billion (GoK funded). Can the Committee be informed in details what the project entails? What is the prudence in having this in the Supplementary Estimates? How realistic is it that the huge proposed amount shall be absorbed within the four (4) months remaining to the end of the Financial Year 2021/2022?

V. **Insurance costs for civil servants:** An allocation amounting to **KSh. 3.88 billion** has been proposed to cater for insurance costs for civil servants, a provision that was not in the approved estimates for FY 2021/22. What plan has been put in place to have this immediately rolled out and what necessitates the timing of the allocation? Why can't it wait till the next financial year which is only four months away?

VI. **The program of Marine Transport is proposed to have a reduction of KSh. 15 Billion** on account of rationalization of slow moving donor funded projects as indicated by the National Treasury. What are the reasons that make it slow moving and are there feasible remedial actions that can be used to accelerate its implementation? (Is the slow pace based on expending or on the disbursement of the funds?)

VII. The expenditure head of Infrastructure Finance and Public Private Partnership Project (IF PPP) is proposed to have an increase of KSh. 300 million (GoK funded), which represents a substantial increase of 87%. What does the project entail and what is the justification to incorporate it in supplementary estimates?

VIII. **The proposal to reduce allocation of Commission on Revenue Allocation (CRA) by KSh 20 Million:** Given that the nature of the mandate of CRA makes its entire allocation recurrent and the reduction is largely on non-discretionary expenditure items such as Basic salaries (Permanent and temporary employees and personal allowances). Have there been retrenchments within CRA to warrant reductions on such? Was there

consultation between the National Treasury and CRA before these were proposed? To what extent would this impair the achievement of the mandate of CRA?

IX. **The proposal to reduce the allocation of the Office of the Controller of Budget (OCoB) by KSh. 33 Million:** The proposed reductions are as a result of decreases in the following heads: Administrative support services that are to be reduced by KSh. 14.9 million, KSh. 3.25 million reduction in Research and Planning, KSh. 6.24 million reduction in Budget Review and Analysis and KSh. 8.6 million reduction in the County Services. Was there consultation between the National Treasury and CRA before these reductions were proposed? To what extent would this impair the achievement of the mandate of OCoB given that CoB has often times attributed the delay in publication of the constitutionally prescribed quarterly reports on budget implementation to budgetary constraints. Could there be a misunderstanding on budget issues between the National Treasury and the Office of the Controller of Budget?

X. **0713000 The Special Initiatives Programme in Devolution:** The programme was allocated a total of KSh. 138 million, of which recurrent was KSh. 33 million and development was KSh. 105 million in the approved estimates of FY 2021/22. The supplementary estimates I for FY 2021/22 has provided an addition total allocation of KSh. 1.2 billion which is proposed to be given under Article 223. A concern has been raised that the approval of disbursements under Article 223 is not authorized by the Controller of Budget. Can the National Treasury inform the Committee on the up-to-date disbursements so far made under the Article?

XI. **1071103000 The Construction of Data Recovery Centre project in the National Treasury:** The project had an allocation of KSh. 43.39 Million. What is the implementation status of this project?

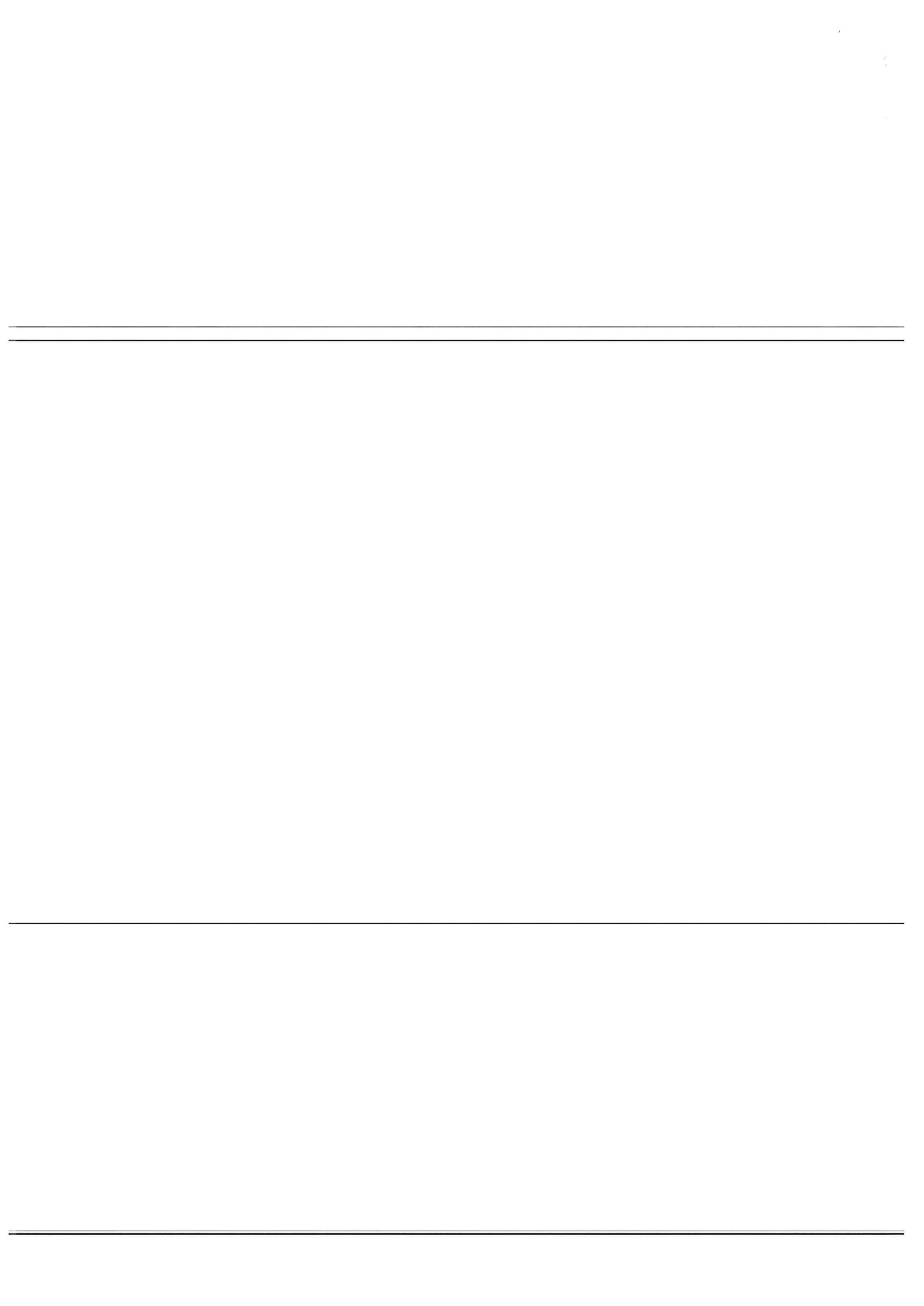
MIN.NO.NA/F&NP/2022/37: ADJOURNMENT/DATE OF NEXT MEETING

There being no other business to deliberate on, the meeting was adjourned at 12.41 p.m. The next meeting will be held on Thursday, 10th February 2022 at 9.00 a.m.

For.

HON. GLADYS WANGA, CBS, MP
(CHAIRPERSON)

SIGNED..........DATE.....*9th Feb 2022*.....





REPUBLIC OF KENYA

**TWELFTH PARLIAMENT (SIXTH SESSION)
THE NATIONAL ASSEMBLY
MESSAGES**

MESSAGE FROM THE PRESIDENT

____ (No. 001 of 2022) ____

**REFERRAL BY H.E. THE PRESIDENT OF THE KENYA DEPOSIT
INSURANCE (AMENDMENT) BILL, 2021**

Honourable Members,

You may recall that, towards the end of the last Session, the National Assembly passed the **Kenya Deposit Insurance (Amendment) Bill (National Assembly Bill No. 43 of 2020)**. The Bill was sponsored by the Member for North Imenti Constituency, the Hon. Abdul Rahim Dawood, MP. Following its passage, I did present the Bill for Assent to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, in exercise of the powers conferred under Article 115(1)(b) of the Constitution, H.E. the President, by way of a Memorandum, has referred the Bill back to the National Assembly for reconsideration.

Honourable Members, in his Memorandum, H.E. the President has expressed reservations to **Clause 2 of the Bill**, which seeks to amend Section 28 of the Kenya Deposit Insurance Act, by deleting subsection (2) and introducing a new provision to prescribe six months as the waiting period for payment of compensation to a customer in respect of a protected deposit.

Honourable Members, H.E. the President notes that the proposed new subsection is inconsistent with section 33(6) of the Act, which provides as follows –

"(6) Where the Corporation is obliged to commence payment under subsection (1) in respect of any insured deposits, the Corporation shall, unless there are extraneous circumstances hindering the Corporation, within thirty days after being appointed liquidator make payment based on the records of the institution and the opinion of the Corporation as regards entitlement of the amount claimed."

Honourable Members, H.E The President also objects to the proposal on grounds that the provision is in conflict with paragraph 15 of the International Association of Deposit Insurance's *core principles* for effective deposit insurance systems which provides as follows –

"The deposit insurance system should reimburse depositor's insured funds promptly, in order to contribute to financial stability. There should be a clear and unequivocal trigger for insured depositor reimbursement."

Honourable Members, H.E The President has therefore recommended that the proposed amendment **be deleted.**

Honourable Members, H.E. The President has also expressed reservations to the **introduction of a new subsection (3) of Clause 2 which imposes a fine not exceeding one million shillings, or imprisonment for a term not exceeding three years, or both, for contravention of the impugned provision.**

In his Memorandum, H.E. the President notes that this new provision fails to provide for offences committed by corporate persons. H.E. The President therefore recommends that the proposed subsection be amended to include sanctions for offences committed by a body corporate. His recommended text is contained in the Memorandum to the House.

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

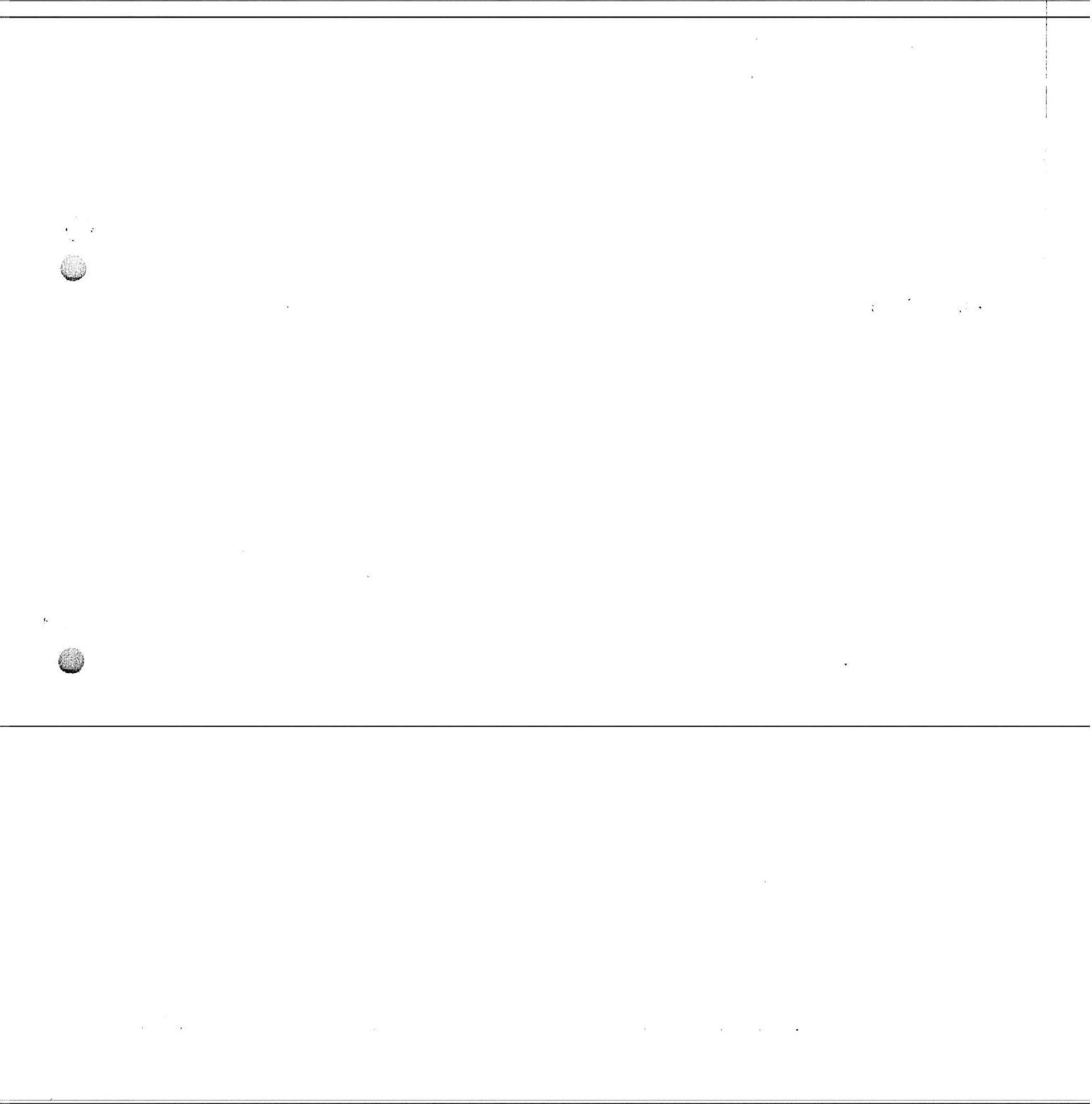
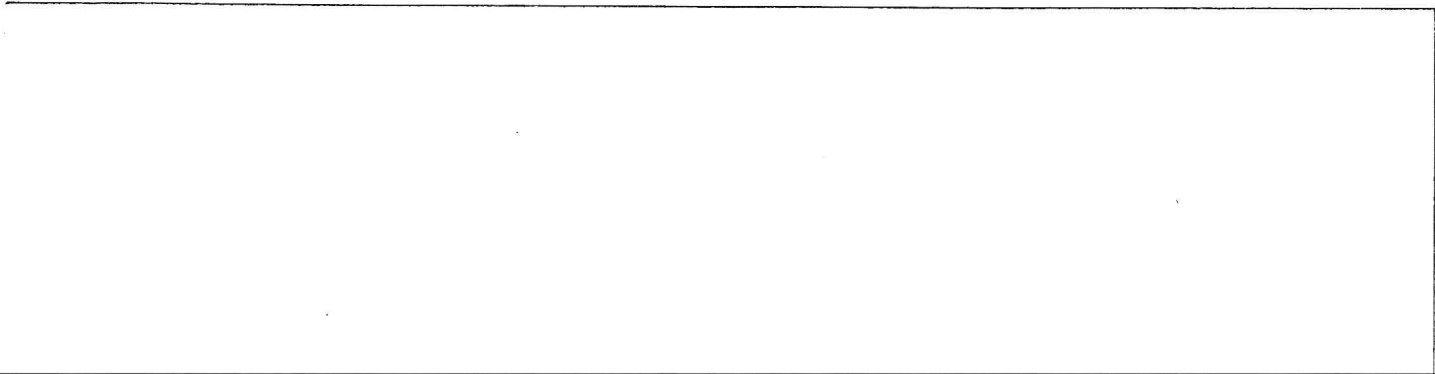
Honourable Members, the consideration of the President's Reservations will be done in accordance with the provisions of Article 115 of the Constitution as well as the *Speaker's Communication* of July 28, 2015 relating to the *Consideration of the President's Reservations to a Bill and amendments thereto*.

I now direct the Clerk to circulate the Memorandum of H.E. the President on the said Bill to all Members so that they familiarize themselves with its contents.

I thank you!


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

Thursday, 3rd February, 2021



Free ~~Handwritten signature~~

THE CONSTITUTION OF KENYA
REFUSAL TO ASSENT TO THE KENYA DEPOSIT INSURANCE
(AMENDMENT) BILL, 2021

MEMORANDUM

By His Excellency the Honourable Uhuru Kenyatta, President
and Commander-in-Chief of the Kenya Defence Forces

Submitted to the Speaker of the National Assembly.

WHEREAS a Bill entitled “An Act of Parliament to amend the Kenya Deposit Insurance Act and for connected purposes” the short title of which is “The Kenya Deposit Protection (Amendment) Bill, 2021” was passed by the National Assembly on the 25th November, 2021;

AND WHEREAS the Kenya Deposit Insurance (Amendment) Bill, 2021, was presented to me for assent in accordance with the provisions of the Constitution, on the 30th December, 2021;

NOW THEREFORE, in exercise of the powers conferred on me by Article 115 (1) (b) of the Constitution, I refuse to assent to the Kenya Deposit Insurance (Amendment) Bill, 2021 for the reasons set out hereunder:

CLAUSE 2

The Bill proposes to amend Section 28 of the Act –

- (a) by deleting subsection (2) and introducing a provision to prescribe six months as the waiting period for the payment of compensation to a customer in respect of a protected deposit.



The proposed new subsection is inconsistent with section 33(6) of the Act, which provides as follows –

(6) Where the Corporation is obliged to commence payment under subsection (1) in respect of any insured deposits, the Corporation shall, unless there are extraneous circumstances hindering the Corporation, within thirty days after being appointed liquidator make payment based on the records of the institution and the opinion of the Corporation as regards entitlement of the amount claimed.

The proposed provision is also in conflict with Principle 15 of the International Association of Deposit Insurance Core Principles of Effective Deposit Insurance Systems which provides as follows:

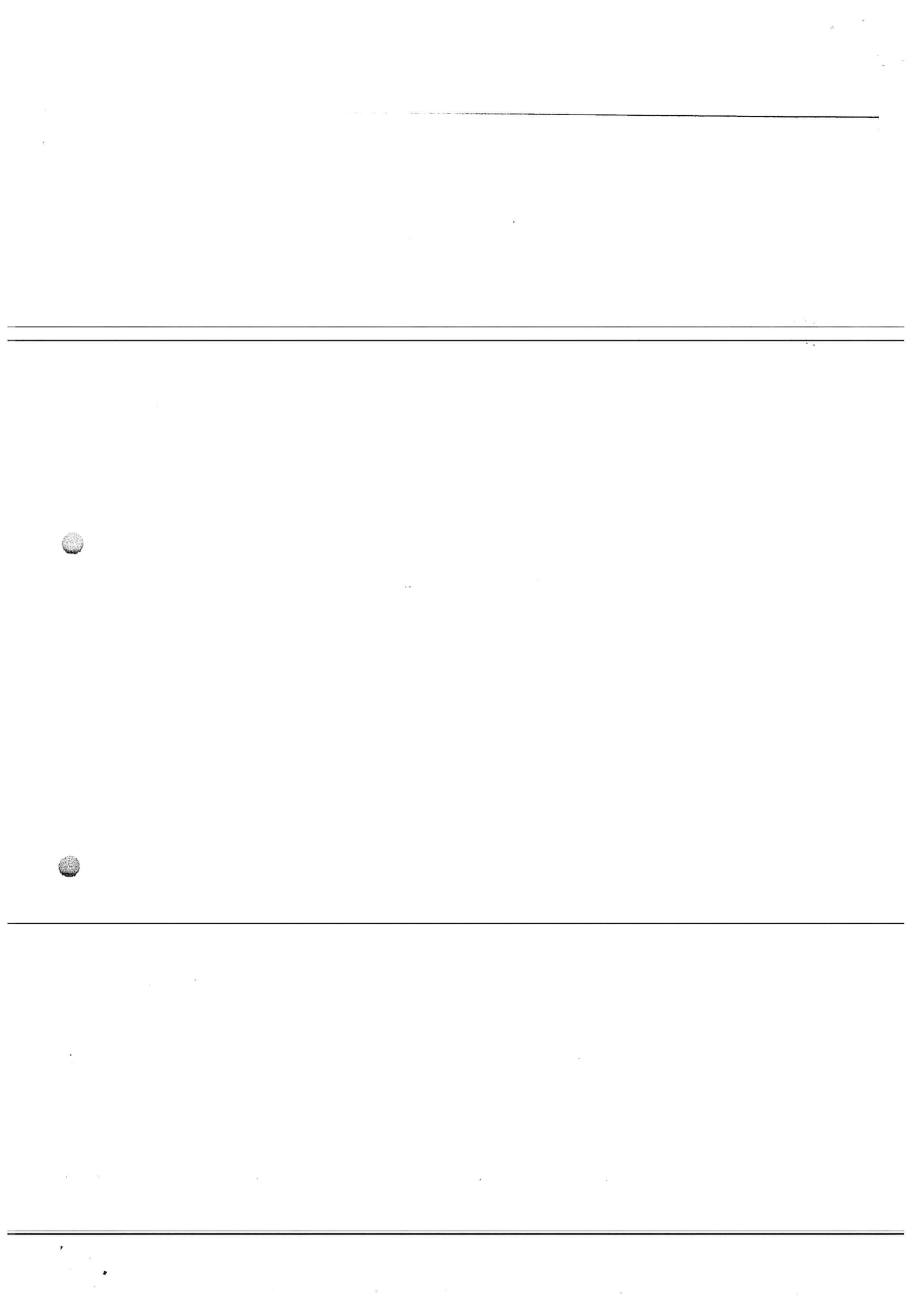
The deposit insurance system should reimburse depositors' insured funds promptly, in order to contribute to financial stability. There should be a clear and unequivocal trigger for insured depositor reimbursement.

In addition to the foregoing, the effect of the amendment would be to delay the payment of compensation, and is therefore not in the interest of the depositors.

RECOMMENDATION:

In view of the foregoing, I recommend that the proposed amendment be deleted.

(b) by introducing a new subsection imposing a fine not exceeding one million shillings, or imprisonment for term



not exceeding three years, or both, for contravention of the section.

This provision is not comprehensive, in that it does not provide for offences by corporate persons, which is pertinent since the Bill also deals with corporate persons.

RECOMMENDATION:

In light of the foregoing, I recommend that the proposed subsection (3) be deleted and replaced with the following new subsection –

(3) Any person who contravenes this section shall be liable on conviction –

(a) in the case of a natural person, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both; or

(b) in any other case, to a fine not exceeding one million shillings.

Dated.....12th January.....2022



**UHURU KENYATTA
PRESIDENT**
