

Approved for tabling in the House.

BAI
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8/6/2022

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT- SIXTH SESSION

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

REPORT ON THE KENYA CITIZENSHIP & IMMIGRATION
(AMENDMENT) BILL (SENATE BILL NO. 33 OF 2021)

THE NATIONAL ASSEMBLY	
DATE:	08 JUN 2022 Wednesday
TABLED BY:	Chair Person, DC - Admin & N.S.
CLERK AT THE TABLE:	Mairah W. MMV

DIRECTORATE OF DEPARTMENTAL COMMITTEES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

JUNE, 2022

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Annex 1- Signed list of Members who attended the sitting that considered and adopted the report

Annex 2- Minutes of the Committee sittings on consideration of the Bill

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CHAIRPERSON'S FOREWORD

The Kenya Citizenship and Immigration (Amendment) Bill, 2021 (*Senate Bill No. 33 of 2021*) was read a First time on Wednesday, 2nd February 2022 and immediately committed to the Departmental Committee on Administration and National Security for reporting to the House pursuant to the provisions of Standing Order 127.

The main objective of the Bill is to put in place mechanisms for the protection of the interests of Kenyans living abroad and to ensure their active participation in the socio-economic development of the country.

The collective community of Kenyans living abroad play an important role in the development agenda of the country. For instance, foreign remittances account for a substantial percentage of the Gross Domestic Product. The Bill seeks to enhance these contributions while simultaneously tapping into the skills and expertise of Kenyans living abroad.

In compliance with the provisions of Article 118 of the Constitution and National Assembly Standing Orders 127(3), the Committee, through local daily newspapers of Wednesday, 2nd March, 2022 published advertisements inviting the public to submit memoranda on the Bill. However the Committee did not receive any comments from the public.

The report contains the signed list of Members who attended the sitting which considered and adopted the report on Thursday, 28th April 2022 and a copy of the newspaper advertisements of Wednesday, 2nd March, 2022.

May I take this opportunity to thank and commend Committee Members for their devotion and commitment to duty, the Speaker, and the Clerk of the National Assembly for providing leadership and direction, and finally the Committee Secretariat for exemplary performance in the provision of technical and logistical support. The Committee also appreciates the role played by the media following its coverage of the proceedings, thus enhancing accountability and transparency.

On behalf of the Departmental Committee on Administration and National Security and under the provisions of Standing Order 127(4) and 199 (6), it is my pleasant privilege and duty to present to the House the Report of the Committee on its consideration of the Kenya Citizenship and Immigration (Amendment) Bill.


HON. PETER MWATHI, CBS, MP
(CHAIRPERSON)

**DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL
SECURITY**

1.0 PREFACE

The Departmental Committee on Administration and National Security was constituted on 14th December 2017 pursuant to the provisions of Standing Orders 216(1).

1. The Committee executes its mandate in accordance with the provisions of Standing Order 216 (5), from which it draws its mandate to, *inter alia*:
 - a) *investigate, inquire into and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments; and*
 - b) *study and review all legislation referred to it;*
 - c) *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204.*
2. In executing its mandate, the Committee oversees the functioning of the following Ministries and Departments:
 - i) Ministry of Interior and Coordination of National Government
 - a) State Department of Interior
 - b) State Department of Border Control, Immigration and Registration of Persons.
 - c) State Department of Correctional Services
 - ii) The National Police Service Commission
 - iii) The Independent Policing Oversight Authority
 - iv) The Public Service Commission
3. According to Schedule II of the Standing Orders, the subjects under the purview of the Constitution as follows:
 - i) National Security;
 - ii) Police Services;
 - iii) Home Affairs;
 - iv) Public Administration;
 - v) Public Service,
 - vi) Prisons;
 - vii) Immigration

2.0 COMMITTEE MEMBERS

Chairperson

Hon. Peter Mwathi, CBS, M.P.
Limuru Constituency
Jubilee Party

Vice-Chairperson

Hon. Fatuma Gedi, CBS, MP
Wajir County
Jubilee Party

Hon. Jeremiah Lomurukai, MP
Loima Constituency
ODM Party

Hon. (Dr.) Tecla Tum, MP
Nandi County
Jubilee Party

Hon. Kaluma Peter, MP
Homa Bay Town Constituency
ODM Party

Hon. Wambugu Munene, MP
Kirinyaga Central Constituency
Jubilee Party

Hon. (Dr.) Makali Mulu, MP
Kitui East Constituency
Jubilee Party

Hon. Nimrod Mbai, MP
Kitui East Constituency
Jubilee Party

Hon. Ngunjiri Wambugu, MP
Nyeri Town Constituency
Jubilee Party

Hon. Peter Masara, MP
Suna West Constituency
Independent Party

Hon. Abdi Shurie, MP
Balambala Constituency
Jubilee Party

Hon. Aduma Owour, MP
Nyakach Constituency
ODM Party

Hon. Halima Mucheke, MP
Nominated Member
Jubilee Party

Hon. Col. (Rtd) Geoffrey King'ang'i, MP
Mbeere South Constituency
Jubilee Party

Hon. Oku Kaunya, MP
Teso North Constituency
ANC Party

Hon. Dr. Mishra Swarup, MP
Kesses Constituency
Jubilee Party

Hon. Marselimo Arbelle, MP
Laisamis Constituency
Jubilee Party

Hon. Rozaah Buyu, MP
Kisumu County
ODM Party

COMMITTEE SECRETARIAT

Mr. Adan Sora Gindicha
Senior Clerk Assistant
Head of Secretariat

Mr. Joshua Ondari
Clerk Assistant

Ms. Brigitta Mati
Legal Counsel

Mr. Edison Odhiambo
Fiscal Analyst

Mr. Joseph Okongo
Media Officer

Delvin Onyancha
Research/Policy Analyst

Mr. Josphat Bundotich
Serjeant-at-Arms

Ms. Eva Kaare
Serjeant-at-Arms

Rodgers Kilungya
Audio Recording Office

2.0 OVERVIEW OF THE KENYA CITIZENSHIP AND IMMIGRATION (AMENDMENT) BILL, 2021

4. The main objective of the Bill is to put in place mechanisms for the protection of the interests of Kenyans living abroad and to ensure their active participation in the socio-economic development of the country.
5. The collective community of Kenyans living abroad plays an important role in the development agenda of the country. For instance, foreign remittances account for a substantial percentage of the Gross Domestic Product. The Bill seeks to enhance these contributions while simultaneously tapping into the skills and expertise of Kenyans living abroad.
6. The Bill has three clauses-
 - a) Clause 2 of the Bill seeks to amend section 2 of the KCIA by introducing new definitions which include “Kenyans living abroad “and “returnee”.
 - b) Clause 3 seeks to introduce a new part to provide for the management of the affairs of Kenyans living abroad. The main objective of the Part is for the development and implementation of strategies that will enable Kenyans living abroad participate in economic development, governance and other democratic processes in Kenya.
7. It is important to note that the Foreign Service Act (No. 12 of 2001) in section 5 (h), provides for the functions of the Foreign Service which includes “to serve and promote the legitimate interests of Kenyans living abroad.

3.0 PUBLIC PARTICIPATION

8. In compliance with the provisions of Article 118 of the Constitution and National Assembly Standing Orders 127(3), the Committee, through local daily newspapers of Wednesday, 2nd March, 2022 published advertisements inviting the public to submit memoranda on the Bill. However the Committee did not receive any comments from the public.

4.0 COMMITTEE OBSERVATIONS

9. In considering the Kenya Citizenship and Immigration (Amendment) Bill, 2021 the Committee came with the following observations:
- a) That there is a duplication of roles that are already granted to the Foreign Service by the Foreign Service Act (No. 12 of 2001) and those granted by virtue of this proposed law to a department within the Ministry.
 - b) That the functions will be undertaken by two entities under two different Acts of Parliament. This is a duplication of roles, efforts and resources to one main function. The Bill is therefore unnecessary as it what it seeks to cure is already provided for in law;
 - c) That the Fourth Schedule, Part 1, paragraph 1, foreign affairs, foreign policy and international trade is a function given by the Constitution to the National Government;
 - d) That the proposer should amend the Foreign Service Act and require the responsible Cabinet Secretary to propose regulations with regard to Kenyans living abroad.

5.0 COMMITTEE RECOMMENDATIONS

Arising from the aforementioned observations, the Committee recommends that the House **rejects** the Bill.


Hon Peter M. Mwangi, CBS, MP.
06/06/2021

THE NATIONAL ASSEMBLY	
DATE: 08 JUN 2022	
TABLED BY:	
CLERK-IN-CHARGE:	



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (SIXTH SESSION)

DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY

**On 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 Kenya Citizenship and Immigration (Amendment) Bill (Senate Bill No. 33 of 2021)**

PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

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

The Kenya Citizenship and Immigration (Amendment) Bill (Senate Bill No.33) sponsored by the Hon. Sen., MP. Irungu Angata, was read a First Time on Wednesday, 2nd February 2022 and thereafter committed to the Departmental Committee on Administration and National Security for consideration and reporting to the House.

The Bill seeks to put in place mechanisms for the protection of the interests of Kenyans living abroad and to ensure their active participation in the social economic development of the country.

Now therefore, in compliance with Article 118 (1) (b) of the Constitution and National Assembly Standing Order 127(3), the Committee hereby invites the general public and stakeholders to submit memoranda on the Bill. Copies of the Bill are available at the National Assembly Table Office or on www.parliament.go.ke/the-national-assembly/house-business/bills.

Memoranda may be submitted to the Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk of the National Assembly, Main Parliament Buildings, Nairobi; or emailed to ark@parliament.go.ke; to be received on or before Tuesday, 15th March, 2022.

**MICHAEL R. SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY**

2nd March, 2022

"For the Welfare of Society and the just Government of the People"

MINUTES OF THE 15TH SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON MONDAY , 25TH APRIL, 2022 AT 9.30 A.M. AT WHITE SANDS HOTEL, MOMBASA

PRESENT

1. Hon. Peter Mwathi, CBS, MP – Chairperson
2. Hon. Dr. Makali Mulu, MP
3. Hon. Aduma Owour, MP
4. Hon. Peter Kaluma, MP
5. Hon. Marselino Arbelle, MP
6. Hon. Dr. Tecla Tum, MP
7. Hon. Halima Mucheke, MP
8. Hon. Peter Masara, MP
9. Hon. Rozaah Buyu, MP
10. Hon. William Chepkut, MP
11. Hon. Wambugu Munene, MP
12. Hon. Oku Kaunya, MP
13. Hon. Abdi Shurie, MP

ABSENT WITH APOLOGIES.

1. Hon. Fatuma Gedi, CBS, MP – Vice-Chairperson
2. Hon. Jeremiah Lomurukai, MP
3. Hon. Nimrod Mbithuka Mbai, MP
4. Hon.Col(Rtd) Geoffrey Kingangi, MP
5. Hon. Ngunjiri Wambugu, CBS, MP
6. Hon. Dr. Swarup Mishra, MP

IN ATTENDANCE-

COMMITTEE SECRETARIAT

1. Mr. Adan Gindicha - Senior Clerk Assistant
2. Mr. Joshua Ondari - Clerk Assistant
3. Ms. Brigitta Mati - Legal Counsel
4. Ms. Delvin Onyancha - Research Assistant Officer
5. Ms. Eva Kaare - Serjeant-At-Arms

MIN No. 38/2022:-

PRELIMINARIES AND COMMUNICATION FROM THE CHAIRPERSON

The Chairperson called the meeting to order at 9.23am with a word of prayer.

The agenda was adopted after being proposed by Hon. William Chepkut, MP and seconded by Hon. Oku Kaunya, MP.

MIN No. 39/2022:-

ADOPTION OF THE REPORT ON THE NATIONAL FLAG, EMBLEMS & NAMES (AMENDMENT) BILL (SENATE BILL NO. 36 OF 2020)

The Committee considered the report and made the following observations and recommendation-

Observations

- a) Copyright exists to give the owner of a work the exclusive right to control how their work is used, communicated and distributed in any medium. In copyright law, protection of a creative work lasts for the lifetime of the author and an extra fifty to seventy years after death. After this period the work goes into a commonly shared space called the Public Domain, where anyone can freely use the work in any manner (including commercially) without having to ask for any permissions. With regards to Government works, this varies jurisdictionally.
- b) In Kenya, per the present Copyright Act, 2001 (Section 25) the copyright for a Government commissioned musical work lasts for fifty years from the date of first publication.
- c) The national anthem is protected under the Constitution (Chapter 2, Article 9) as one of the national symbols of the Republic of Kenya. Although, the Kenyan national anthem is in the public domain, the different arrangement in a new work which incorporates it is entitled to copyright protection as a derivative work.

Recommendation-

The Committee recommends that the House approves the National Flags and Emblems (Amendment Bill) Senate Bill No. 36 of 2020.

The report was unanimously adopted after having been proposed and seconded by Hon. Peter Masara, MP and Hon. Oku Kaunya, MP respectively.

MIN No. 40/2022:-

ADOPTION OF THE REPORT ON THE KENYA CITIZENSHIP & IMMIGRATION (AMENDMENT) BILL (SENATE BILL NO. 33 OF 2021)

In considering the Kenya Citizenship and Immigration (Amendment) Bill, 2021 the Committee came with the following observations and recommendation:

Observations

- a) There is a duplication of roles that are already granted to the Foreign Service by the Foreign Service Act (No. 12 of 2001) and those granted by virtue of this proposed law to a department within the Ministry.
- b) The functions will be undertaken by two entities under two different Acts of Parliament. This is a duplication of roles, efforts and resources to one main function.

The Bill is therefore unnecessary as it what it seeks to cure is already provided for in law;

- c) That the Fourth Schedule, Part 1, paragraph 1, foreign affairs, foreign policy and international trade is a function given by the Constitution to the National Government;
- d) That the proposer should amend the Foreign Service Act and require the responsible Cabinet Secretary to propose regulations with regard to Kenyans living abroad.

Recommendation-

Arising from the aforementioned observations, the Committee recommends that the House rejects the Bill.

The report was unanimously adopted after having been proposed and seconded by Hon. Abdi Shurie, MP and Hon. Oku Kaunya, MP respectively.

MIN No. 41/2022:-

ADOPTION OF THE REPORT ON THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO. 38 OF 2021)

In considering the County Governments (Amendment) Bill, 2021 the Committee made the following observations and recommendations:

- a) That the Bill seeks to amend section 12 of the County Governments Act in order to provide clarity on instances when the office of the Speaker is vacant;
- b) That the Bill intends to safeguard the position of the chairperson of the Board where he or she is absent from a meeting;
- c) That the Bill also seeks to include the senate in the consideration of annual performance reports of the county executive committee and public service board;
- d) That the Bill seeks to establish a county leaders forum which is to among others, consider the views of the county government on the Budget Policy Statement before its adopted, the formula for revenue allocation before it is adopted, the annual division Bills and county Allocation of Revenue Bills before adoption and appropriations from the equalization fund before adoption;
- e) The proposal for the county leader's forum and the proposed functions seeks to bring confusion in the consideration of the BPS, formula for revenue allocation, annual division of revenue bill and county allocation of revenue bills and appropriations from the equalization fund because there is already a structure provided for in law in consideration of the above;
- f) It is not line with the Public Finance Management Act and the Constitution to subject the BPS to the County leaders Forum. The BPS deals with proposed expenditure of national government

Recommendation-

Arising from the aforementioned observations, the Committee recommends that the House to approves the following clauses—

- a) Clause 1;
- b) Clause 2; and
- c) Clause 3;

And that further, the House rejects—

Clause 4 of the Bill.

The report was unanimously adopted after having been proposed and seconded by Hon. Aduma Owour, MP and Hon. Abdi Shurie, MP respectively.

MIN No. 42/2022:-

ADOPTION OF THE REPORT ON THE OFFICE OF THE COUNTY PRINTER BILL (SENATE BILL NO. 13 OF 2021)

In considering the Office of County Printer Bill, 2021 the Committee made the following observations and recommendation:

Observations-

- a) Article 199(1) provides that County legislation does not take effect unless published in the Gazette, further, Section 25 (2) of the County Government Act also provides that *“Subject to subsection (3), the county assembly legislation shall come into force on the fourteenth day after its publication in the Kenya Gazette unless the legislation stipulates a different date on, or time at which, it shall come into force;*
- b) The Bill is not comprehensive as it does not spell out the steps in the publication process after passage of a Bill at county level and the procedure at the Government printer;
- c) There is need to anchor the operations of the office of the Government Printer so that decentralization of services is feasible in order to better serve counties; and
- d) The Bill has not taken into consideration publication of county legislation under Article 199 of the Constitution.

Recommendation-

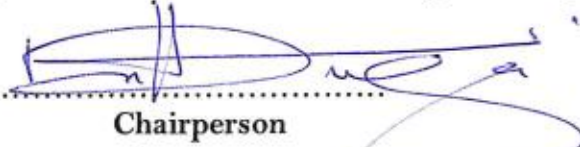
The Committee recommends the House rejects the Office of the County Printer Bill (Senate Bill No. 13 of 2021) because the Bill is not comprehensive as it does not spell out the steps in the publication process after passage of a Bill at county level and the procedure at the Government printer.

The report was unanimously adopted after having been proposed and seconded by Hon. Aduma Owour, MP and Hon. Abdi Shurie, MP respectively.

MIN No. 43/2022:-

ADJOURNMENT

There being no other business to transact, the Chairperson adjourned the meeting at ten minutes past one o'clock. The next meeting will be by notice.

Signed.....
Chairperson

Date.....01/06/2024

REPUBLIC OF KENYA



NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON ADMINISTRATION & NATIONAL SECURITY

ATTENDANCE SCHEDULE - ADOPTION OF REPORTS ON BILLS

DATE: 25/04/2022

TIME: 9.30 AM





VENUE: WHITE ISLANDS, HOTEL

AGENDA: ADOPTION OF BILLS

① NATIONAL FLAGS, EMBLEMS AND NAMES (AMENDMENT) BILL SENATE BILL NO. 036

SENATE BILLS, NO. 36 OF 2020; 33 OF 2021,

NO.	NAME	SIGNATURE
1.	Hon. Peter Mwathi, CBS, MP - Chairperson	
2.	Hon. Fatuma Gedi, CBS, MP - Vice Chairperson	—
3.	Hon. George Peter Kaluma, MP	
4.	Hon. Dr. Makali Mulu, MP	
5.	Hon. Aduma Owuor, MP	
6.	Hon. Dr. Tecla Chebet Tum, MP	
7.	Hon. Halima Mucheke, MP	Zoom
8.	Hon. Marselino Malimo Arbelle, MP	—
9.	Hon. Nimrod Mbithuka Mbai, MP	—
10.	Hon. Ngunjiri Wambugu, CBS, MP	—

11.	Hon. Abdi Omar Shurie, MP	
12.	Hon. Col (Rtd) Geoffrey Kingangi, MP	
13.	Hon. Peter Masara, MP	
14.	Hon. Oku Kaunya, MP	
15.	Hon. Rozaah Buyu, MP	—
16.	Hon. Jeremiah Lomurukai, MP	—
17.	Hon. William Chepkut, MP	
18.	Hon. Swarup Mishra, MP	—
19.	Hon. Wambugu Munene, MP	Zoom

Signed.....Date.....

Adan Gindicha,
Senior Clerk Assistant,
Departmental Committee on Administration and National Security.

Signed.....Date.....

Peter Chemweno,
Director, Directorate of Departmental Committee Services

