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**REPUBLIC OF KENYA**

**THIRTEENTH PARLIAMENT - (SECOND SESSION)**

**THE NATIONAL ASSEMBLY**

**COMMUNICATION FROM THE CHAIR**

\_\_\_\_\_ (No. 039 of 2023) \_\_\_\_\_

**ON CONSIDERATION OF THE PRIVATISATION BILL (NATIONAL  
ASSEMBLY BILL NO. 22 OF 2023)**

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**Honourable Members,**

1. You will recall that during the afternoon sitting of Tuesday, 13<sup>th</sup> June, 2023 the Minority Whip, the Hon. Junet Mohammed, CBS, MP rose on a Point of Order and sought the indulgence of the Chair on the manner in which the Privatisation Bill (National Assembly Bill No. 22 of 2023), should be considered by the Committees of the House. The Honourable Minority Whip was of the view that the public participation to be conducted on the Bill, which I referred to the Departmental Committee on Finance and National Planning, ought to be done jointly with the Public Debt and Privatisation Committee. I did undertake to provide a considered ruling on the matter.
2. **Honourable Members,** the Privatisation Bill (National Assembly Bill No. 22 of 2023) was published on 24<sup>th</sup> May 2023 and is sponsored by the Leader of the Majority Party, the Hon. Kimani Ichung'wah, MGH, MP. The principal objective of the Bill is to provide a revised regulatory framework for privatisation of public entities to improve the efficiency and competitiveness of Kenya's productive resources. The Bill further seeks to provide for the coordination and oversight of privatisation matters.

3. Standing Order 216 establishes the Departmental Committees of the House and assigns them specific functions. Paragraph 5(c) of the Standing Order expressly provides that a Departmental Committee “***shall study and review all legislation referred to it.***”
4. Additionally, **Honourable Members**, Standing Order 127(1) provides that a Bill, having been read a First Time, shall stand committed to the **relevant Departmental Committee**. As such, Standing Order 127 as read together with Standing Order 216(5) requires the committal of a Bill for scrutiny and conduct of public participation **to a Departmental Committee by default**. This is, primarily, informed by the sector-specific and subject matter mandate assigned to each Departmental Committee by Standing Order 216(5)(c) and the Second Schedule to the Standing Orders.
5. Nevertheless, **Honourable Members**, the House has established exceptions to this Rule through precedent and practice. the Speaker has referred Bills to select committees of the House for scrutiny in specific instances. A case in point is the practice of the House of referring any proposal to amend the National Government Constituencies Development Fund (NGCDF) to the select committee on NGCDF. The decision is informed by the specialized mandate and functions assigned to the select committee and the unique background and content of the proposals in the Bill.
6. Indeed, **Honourable Members** will recall that at the beginning of this Thirteenth Parliament, I did refer the Statutory Instruments (Amendment) Bill, 2022; the Parliamentary Powers and Privileges (Amendment) Bill, 2022; the Petitions to Parliament (Procedure) (Amendment) Bill, 2022, and



the Public Finance Management (Amendment) Bill, 2022, which are sponsored by the Deputy Speaker, the Honourable Gladys Boss, MGH, MP to the Procedure and House Rules Committee owing to their unique background. The four (4) Bills all sought to implement various recommendations made during the review of the Standing Orders at the tail end of the 12<sup>th</sup> Parliament.

7. Similarly, **Honourable Members**, I recently referred the Public Finance Management (Amendment) Bill (National Assembly Bill No. 16 of 2023) sponsored by the Leader of the Majority Party to the Public Debt and Privatization Committee. Ordinarily, any amendment to the Public Finance Management Act falls squarely within the mandate of the Departmental Committee on Finance and National Planning.
8. In that case, the referral to the Public Debt committee was informed by the contents of the Bill which seek to operationalize the framework for monitoring the level of public debt. You will agree with me that the House would greatly benefit from a scrutiny of the Bill by a Committee that specifically deals with the issue of debt.
9. **Honourable Members**, The Second Schedule to the Standing Order outlines the subject matter mandates of Departmental Committees. The Schedule outlines the subjects falling under the mandate of the Departmental Committee on Finance and National Planning, Committee as *Public finance, public audit policies, monetary policies, financial institutions (excluding those in securities exchange), economy, investment policies, competition, banking, insurance, national statistics, population, revenue policies including taxation, national planning and development, digital finance, including digital currency.*

The mandate of the Committee is sector-wide and allows it to exhaustively consider finance-related matters, including legislation.

- 10.** On the other hand, Standing Order 207A establishes and outlines the functions of the Public Debt and Privatization Committee. Paragraph (2)(f) mandates the Committee to ***oversight the privatization of national assets***. The mandate of the Public Debt Committee with regard to privatization is narrower when compared to the mandate of the Departmental Committee. Whereas the Departmental Committee is mandated to consider all aspects relating to public investments, the Public Debt Committee is only mandated to oversee any proposed plan to privatize national assets.
- 11.** Pursuant to the provisions of Standing Order 127(1) as read together with Standing Order 216(5)(c), I am of the view that **consideration of the Privatisation Bill (National Assembly Bill No. 22 of 2023) and facilitation of public participation on the Bill falls squarely and exclusively within the mandate of the Departmental Committee on Finance and National Planning.**
- 12.** Standing Order 127(3) allows a committee to which a Bill is referred to consult experts on technical subjects while facilitating public participation. I urge the Departmental Committee on Finance and National Planning to invoke this provision, extend an invitation to their counterparts, and consider their technical input as part of the public participation exercise on the Bill.
- 13.** In conclusion, I guide as follows—
  - (1) THAT,** Standing Order 127 as read together with Standing Order 216(5) requires the committal of a Bill for scrutiny and conduct of public participation to a Departmental Committee **by default**.



**(2) THAT,** As an exception to the Rule in (1) above, the House has referred certain Bills to select Committees **on account of the specialized mandate and functions assigned to the select committee and the unique background and content of the proposals in the Bill.**


This informed the recent referral of the Public Finance Management (Amendment) Bill (National Assembly Bills No. 16 of 2023) to the Public Debt and Privatization Committee.

**(3) THAT,** Pursuant to the provisions of Standing Order 127(1) as read together with Standing Order 216(5)(c) consideration of the **Privatisation Bill(National Assembly Bill No. 22 of 2023)** and facilitation of public participation on the Bill falls squarely and exclusively within the mandate of the Departmental Committee on Finance and National Planning.

**(4) THAT,** in its consideration of the **Privatisation Bill (National Assembly Bill No. 22 of 2023)**, the Departmental Committee on Finance and National Planning is at liberty to invoke the provisions of Standing Order 127(3) and invite the Public Debt and Privatization Committee to share any technical input it may have on the Bill as part of the public participation exercise on the Bill.

The House is accordingly guided.

**I Thank You!**

  
**THE RT. HON. (DR.) MOSES F. M. WETANG'ULA, EGH, MP**  
**SPEAKER OF THE NATIONAL ASSEMBLY**

*Tuesday, 20<sup>th</sup> June 2023*

