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SNA
22/6/23

THIRTEENTH PARLIAMENT – SECOND SESSION

DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ON:-

CONSIDERATION OF THE PUBLIC SERVICE INTERNSHIP BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 63)

Published by: -

The Directorate of Departmental Committees
Clerk's Chambers
Parliament Buildings
NAIROBI

June, 2023

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CHAIRPERSON'S FOREWORD

The Public Service Internship Bill, 2022 sponsored by Hon. Naisula Lesuuda, MP is a Bill for an Act of Parliament to make provision for internship of college and university graduates in the public sector; to provide hands-on training and acquisition of skills by graduates.

The Bill was published on 16th December, 2022 and Read a first time in the House on 8th March, 2023. Pursuant to Standing Order 127 (1), the Bill was committed to the Departmental Committee on Labour for consideration and facilitation of public participation pursuant to Standing Order 127.

The Committee placed advertisements in the print media on 18th March 2023 seeking public views on the Bill as required by Article 118 of the Constitution of Kenya and National Assembly Standing Order.....
The Committee received written memoranda from three (3) stakeholders.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during the consideration of the Bill. I wish to express appreciation to the Honorable Members of the Committee and the Committee Secretariat for their resilience and commitment to duty, which made the consideration of the Bill successful. May I also on behalf of the Committee thank and appreciate members of the public and stakeholders who submitted memoranda on the Bill. Indeed, their views informed the consideration of the Bill.

On behalf of the Committee and pursuant to provisions of Standing Order 137 (1) and 199 (6), it is my pleasant privilege and honour to present to this House the report of the Committee on its consideration of the Public Service Internship Bill, 2022 (National Assembly Bill No. 63)

HON. ERIC MUCHANGI KAREMBA, M.P.
CHAIRPERSON, THE DEPARTMENTAL COMMITTEE ON LABOUR

PART I

1.0 PREFACE

1.1 Mandate of the Committee

The Departmental Committee on Labour of the 13th Parliament was constituted on 27th October, 2022 and is established under provisions of S.O 216. Standing Order No. 216(5) grants, the Committee amongst other functions to:

- 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;*
- b) *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
- (ba) *on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- c) *study and review all legislation referred to it;*
- d) *study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- e) *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- f) *vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
- (fa) *examine treaties, agreements and conventions;*
- g) *make reports and recommendations to the House as often as possible, including recommendation of propose legislation;*
- h) *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- i) *examine any questions raised by Members on a matter within its mandate.*

Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to labour, human capital and remuneration, trade union relations and public service.

1.2 Oversight

In line with the assigned subject matter, and in executing this mandate, the Committee oversees the following Ministries, Departments and Agencies (MDAs):

- 1) The State Department for Public Service and its Autonomous and Semi-Autonomous Government Agencies which include;
 - a) Kenya School of Government; and
 - b) Institute of Human Resource Management
- 2) The State Department for Labour and Skills Development and its Autonomous and Semi-Autonomous Government Agencies which include;
 - a) National Industrial Training Authority (NITA);
 - b) National Productivity and Competitiveness Centre (NPCC);
 - c) Kenya National Labour Board and the Wages Council;
 - d) National Employment Authority (NEA);

- e) Migrant Workers Welfare Fund
- f) Department of Labour Migration Management;
- 3) Public Service Commission;
- 4) Salaries and Remuneration Commission;

1.2 Committee Composition

The Departmental Committee on Labour was constituted by the House on 27th October 2022 and comprises the following Members:

Chairperson

Hon. Eric Muchangi Karemba, MP
Runyenjes Constituency

UDA Party

Vice-Chairperson

Hon. Fabian Kyule Muli, MP
Kangundo Constituency

GDDP

Members

Hon. James Onyango K'Oyoo, MP
Muhoroni Constituency

ODM Party

Hon. Richard Kiti Chonga, MP
Kilifi South Constituency

ODM Party

Hon. George Aladwa Omwera, MP
Makadara Constituency

ODM Party

Hon. Amina Dika Abdullahi, MP
Tana River Constituency

KANU

Hon. Patrick Simiyu Barasa, MP
Cherangany Constituency

DAP-K Party

Hon. Peter Irungu Kihungi, MP
Kangema Constituency

UDA Party

Hon. Lilian Chebet Siyoi, MP
Trans Nzoia County

UDA Party

Hon. Ernest Ogesi Kivai Kagesi, MP
Vihiga Constituency

ANC Party

Hon. Joseph Samal Lomwa, MP
Isiolo North Constituency

Jubilee Party

Hon. Catherine Wambiliaga, MP
Bungoma County

FORD-K

Hon. Dorice Aburi Donya, MP
Kisii County

WDM-K

Hon. Mangale Munga Chiforomodo, MP
Lunga Lunga Constituency

UDM Party

Hon. Leah Sopiato Sankaire, MP
Kajiado County

UDA Party

1.4 Committee Secretariat

The Committee has the following technical staff, representing the Office of the Clerk:

Ms. Rose M. Wanjohi
Senior Clerk Assistant /Head of Secretariat

Mr. Samuel Wanjiru
Clerk Assistant III

Ms. Christine Odhiambo
Senior Legal Counsel

Mr. Fredrick Muthengi
Chief Fiscal Analyst

Ms. Wambui Nyachae
Research Officer III

Mr. Timothy C. Tsungulah
Research Officer III

Ms. Zainab Wario
Serjeant-At-Arms

Ms. Rehema Koech
Audio Officer

Ms. Rinha Sainey
Media Relations Officer

Mr. Allan Gituko
Serjeant-At-Arms

PART II

2.0 CONSIDERATION OF THE PUBLIC SERVICE INTERNSHIP BILL NO. 63 OF THE NATIONAL ASSEMBLY, 2022

2.1 Background Information

1. The principal objective of the Public Service Internship Bill, 2022 is to establish a legal framework for the regulation of internship programmes within the public service. Article 55 of the constitution provides that the State shall take measures including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment.
2. The Bill seeks to ensure the provision of a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the internship programme. The provision of stipend to interns is necessary as the interns contribute to the manpower of the organization by offering their professional skills as apprentices.

2.2 Analysis of the Bill

3. Part II of the Bill provides for the recruitment of interns. This Part mandates a person in charge of a public service institution to identify and advertise all internship opportunities available within the institution.
4. It sets out the eligibility criteria for interns as any person who has completed their certificate, diploma or degree qualification from an institution recognized in Kenya; or a person who has not been exposed to work experience related to the person's area of study. It however excludes retirees and persons who have been removed or resigned from office.
5. In addition, it sets out the roles and responsibilities of public service institutions to plan and budget for internship programmes as well as to provide the necessary facilities to enable interns to acquire the required skills and knowledge.
6. It provides for the roles and responsibilities of interns to demonstrate commitment and willingness to participate in the learning experiences of the internship programme, and to observe confidentiality of information and security of equipment during the course of the internship programme.
7. Further it outlines the entitlements of interns during the internship programme, and these are—
 - (a) monthly stipend to be prescribed by the Cabinet Secretary;
 - (b) personal accident insurance cover;
 - (c) sick leave, maternity or paternity leave; and
 - (d) subsistence allowance as shall be determined by the Cabinet Secretary.
8. It provides that the maximum internship period shall be twelve months.
9. It further provides for grounds for termination of internship, which are—
 - a) absence from the public service institution without permission or reasonable cause for a period exceeding twenty four hours;
 - b) gross or disorderly conduct;
 - c) unsatisfactory performance;
 - d) failure to obey any lawful instructions; or
 - e) commission of a criminal offence.
10. It allows for the termination of the internship programme by submission by the intern of a thirty days' notice in writing to the person in charge of the public service institution.
11. Part III of the Bill provides for the provisions on delegated powers, and gives the Cabinet Secretary the power to make regulations for the better carrying out of the provisions of the Act.

2.3 Public Participation in the Review of the Bill

12. Article 118 (1) (b) of the Constitution provides as follows: -

“Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees”

Standing Order 127(3) provides as follows-

“The Departmental Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the Committee makes its recommendations to the House”

13. In line with the Constitution and Standing Orders, the National Assembly in the local daily newspapers of 18th March, 2023 invited the public to make representations on the proposed Bill as per annexure 2 of the report. The Committee received three (3) written submissions on the Public Service Internship Bill (National Assembly Bill) No. 63, 2022.

14. In addition to the request for memoranda from the public, the following Stakeholders were requested to submit their views to the Committee:

- i. Office of Attorney-General and Department of Justice
- ii. State Department for Public Service
- iii. Public Service Commission
- iv. Law Society of Kenya
- v. Kenya Law Reform Commission

15. The following stakeholders submitted their memoranda to the Committee: -

- i. Hon. Naisula Lesuuda, M.P. - Sponsor of the Bill
- ii. State Department for Public Service
- iii. Public Service Commission
- iv. Law Society of Kenya

PART III

3.0 SUBMISSIONS FROM STAKEHOLDERS

3.1 Submissions by Hon Naisula Lesuuda M.P., Sponsor of the Bill

Hon. Naisula Lesuuda, M.P. - Sponsor of the Bill, appeared before the Committee and made the following submissions;

16. On the Bill being a replica of the Public Service Commission Internship Policy, the member agreed and submitted that the Public Service Internship Bill flows from the Public Service Commission Internship Policy for the public service.
17. On the Bill incorrectly placing the management of the internship programme under the Cabinet Secretary responsible for matters related to labour, the member agreed with submission and the proposed amendment to provide that the responsible Cabinet Secretary shall be the Cabinet Secretary responsible for Public Service.
18. On the role of the Public Service Commission being not provided for in the Bill, the member informed the Committee that the Bill seeks to serve as an overall legal framework for the incorporation of interns in all offices within the public service, both in the national and county governments. The Bill therefore seeks to guard against the enactment of several legislations to provide for internship within the public service, and seeks to harmonize the salient principles to be observed by all offices in the public service in the recruitment of interns.
19. On its memoranda, the Public Service Commission had submitted that Clause 6 of the Bill decentralizes the management of the internship programme to MDAs with a provision for delegation of the function to a body, officer or authority. This reverses the gains of a centralized system introduced by the Commission. The Commission further submitted that, decentralization would give each MDA the power to individually advertise for internship opportunities, and this is not cost effective, and may affect funding of the internship programme. The member informed the committee that the Bill seeks to provide an overall legal framework to guide internship programmes in public institutions at both levels of government.
20. The Public Service Commission further submitted that Article 232(1) (g), (h) and (i) of the Constitution provides for competition and merit, representation of Kenya's diverse communities and equal opportunities to all. It would be impossible to comply with this constitutional provision in a decentralized internship programme. However, the member informed the committee that Article 232 of the Constitution provides that the values and principles of public service shall apply to all State organs in both levels of government; and to all State corporations. These values include fair competition, merit and representation of Kenya's diverse communities, and these must be observed by all offices within the public service.

3.2 Public Service Commission

Amb. Anthony Muchiri, Chairperson, Public Service Commission submitted THAT;

21. The Bill is a replica of the Public Service Commission Internship Policy. The Bill also incorrectly places the management of the internship programme under the Cabinet Secretary responsible for matters related to labour.
22. The role of the Public Service Commission is not provided in the Bill. Section 2 of the Employment Act defines an employee to include an apprentice and indentured learner, therefore interns are presumed to be employees within the public service. The Public Service Commission has the sole constitutional mandate of management of human resource in the public service, therefore the internship programme would have to fall within the mandate of the Commission.
23. Clause 6 of the Bill decentralizes the management of the internship programme to MDAs with a provision for delegation of the function to a body, officer or authority. This reverses the gains of a

centralized system introduced by the Commission. Decentralization gives each MDA the power to individually advertise for internship opportunities, and this is not cost effective, and may affect funding of the internship programme;

24. Article 232(1)(g), (h) and (i) of the Constitution provides for competition and merit, representation of Kenya's diverse communities and equal opportunities to all. It would be impossible to comply with this constitutional provision in a decentralized internship programme.
25. The Committee should consider amendments to the Public Service Commission Act to incorporate the Public Service Internship Programme as currently managed by the Commission.
26. The Bill should be rejected.

3.3 The State Department for Public Service

Hon. Aisha Jumwa, Cabinet Secretary, Ministry of Public Service, Gender and Affirmative Action accompanied by Mr. Amos Gathecha, Principal Secretary, State Department for Public Service submitted as follows;

27. There is a need to consider the private sector in the Bill for internship. Currently, interns are deployed to private organizations such as hospitals, law firms, banks, non-governmental organizations (NGO's) as well as in the public sector.
28. The Bill should define the following terms in Clause 1 of the Bill;
 - i. 'graduate' which is used in the citation and in the body but has not been defined.
 - ii. 'Cabinet Secretary' should mean Cabinet Secretary for the time being responsible for matters relating to Public Service.

The justification is that Executive Order No. 1 of 2023 mandates the Ministry of Public Service Gender and Affirmative Action to provide internship and volunteer policy for the Public Service.

- iii. 'certificate' e.g., certificate means post-secondary school certificate for a duration of not less than six (6) months.

The justification is that there is a need to provide for a standard minimum qualification and duration of training.

- iv. 'County Executive Committee Member' should be the County Executive Committee Member in each county responsible for matters relating to public service.
- v. "Intern"- 3 months may not be adequate for acquisition of relevant experience and skills and inculcation of public service values and ethos (No justification or proposal given)
- vi. "Intern"- 'experience for registration with respective professional bodies and /orto increase chances of employability.
- vii. "Internship"- 'to enhance future employability and/or fulfil the legal requirement for professional registration'.

The justification is that internship is not only aimed at professional registration but also to acquire necessary skills and experience to enhance employability.

29. That Clause 5(1) of the Bill be amended to provide that this Act shall apply to every public office as defined in Article 260 of the Constitution.

The justification is to specify the definition of 'public office' as per Article 260 of the Constitution.

30. That Clause 11(1) on provision of personal accident insurance cover, there may arise administrative challenge in the management of the insurance cover given the duration of internship. Due to the huge numbers, it may not be affordable and sustainable.

31. That Clause 12(1)(a) be amended to provide that any period of sick leave beyond thirty days shall not be considered for the payment of stipend.

The justification is to encourage the intern to complete the period of internship as provided after lapse of sick leave.

32. That Clause 12(1)(b) be amended to provide that interns will be eligible for maternity leave and the internship programme will be deferred until such time they resume duty. Stipend will not be payable during the period of deferment.

The justification is to encourage the intern to complete the period of internship as provided after lapse of maternity leave.

33. That Clause 12(1)(c) should consider clarifying since it is not clear the purpose for payment of subsistence allowance and duration for the same.

The justification is that the subsistence allowance is payable when one is working outside the duty station.

34. That Clause 13 on internship period that shall not exceed twelve months.

The justification is that any period below six months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos.

3.4 The Law Society of Kenya

35. The Law Society submitted as follows-

36. Clause 5(2) on application of the Act, does not recognize undergraduate students in institutions of higher learning.

The justification is that internship is usually a part of the courses in the institutions of higher learning.

37. Clause 7(1) - eligibility for internship should include persons with documentation that proves their admission into an institution of higher learning confirming that the internship is part of the course programme.

38. Clause 12(1) of the Bill should provide 15 days annual leave as an additional entitlement for interns and 12(1)(c) should provide that the Cabinet Secretary shall determine the subsistence allowance in consultation with the Salaries and Remuneration Commission.

The justification is to provide annual leave for interns serving for 3 months and above.

39. Clause 13 should provide that the minimum period of internship should be 3 months

The justification is that leaving the period to the discretion of the persons in charge exposes the interns to a danger of not having proper mentorship if the internship period is too short.

PART IV

4.0 COMMITTEE OBSERVATIONS

The Committee while considering the Bill made the following observations-

1. The Bill flows from the Public Service Commission Policy for the Public Service. Further the Ministry has revised the Policy to the current policy "*Internship and Volunteer Policy and Guidelines for the Public Service*" January 2023.
2. The term 'certificate' has been used in two different contexts. One to mean the standard minimum qualification for internship and the second as a certificate issued upon completion of the internship period.
3. Executive Order No. 1 of 2023 mandates the Ministry of Public Service Gender and Affirmative Action to provide internship and volunteer policy for the Public Service.
4. The County Executive Committee Member' should be the County Executive Committee Member in each county responsible for matters relating to Public Service.
5. There is need to amend clause 5(1) to provide that the Act shall apply to every public office as defined in Article 260 of the Constitution.
6. Internship is not only aimed at professional registration but also to acquire necessary skills and experience to enhance employability.
7. The need to provide annual leave as an additional entitlement for interns.
8. Any internship period below six months may not be adequate for the acquisition of relevant experience and skills and the inculcation of public service values and ethos.
9. Clause 15 of the Bill provides for the provisions on delegated powers and gives the Cabinet Secretary the power to make regulations for the better carrying out of the provisions of the Act.
10. That the current Bill has no provision of the involvement of the private sector. Compelling the private sector to take on interns and perhaps employing them permanently would create a financial burden to companies trying to stay afloat, as the numbers may be unsustainable. However, perhaps with incentive from the government, the companies may take onboard the interns.
11. Further, the Committee observed the Bill had undergone advertisement and request for memoranda from the public as a "public service" internship Bill. Consequently, there were no memoranda received from whose persons or agencies identified as private sector. Therefore, inclusion of the private sector may require additional public participation which in its current form is not realistic. Secondly, it will also offend provisions of S.O 133(5) as it proposes to unreasonably or unduly expand the subject of the Bill.
12. The Bill can cure the mischief of exploitation of professionals like teachers, doctors, and lawyers who currently are taken on as unpaid interns in the private sector to gain experience yet are struggling to repay the loans taken on during their schooling.

PART V

5.0 COMMITTEE RECOMMENDATIONS

The Committee, having considered the Bill and the stakeholder submissions, makes the following recommendations

1. **THAT**, clause 2 of the Bill be amended

- (a) in the definition of “Cabinet Secretary” by deleting the word “labour” and substituting therefor the words “public service”;
- (b) by deleting the definition of “certificate”;
- (c) in the definition of “County Executive Committee member” by deleting the word “labour” and substituting therefor the words “public service”;
- (d) by deleting the definition of “intern”;
- (e) in the definition of “internship” by deleting the word “and” and substituting therefor the word “or”;
- (f) by inserting the following new definitions in their proper alphabetic sequence

“graduate” means a person who has successfully completed a course of study or training and has been awarded a degree, diploma or certificate;

“intern” means an unemployed person with relevant qualifications who has entered into a contract with a government organization for a period of between six and twelve months with the intent of acquiring relevant work experience for registration with respective professional bodies or to increase chances of employability;”

“service commission” means a constitutional Commission or independent office provided for in Chapter Fifteen of the Constitution, and includes—

- (a) a County Public Service Board; and
- (b) a County Assembly Service Board.”

Justification

The amendments to clause 2 are necessary

- (a) to ensure that the Cabinet Secretary responsible in regards to matters relating to the recruitment of interns is the Cabinet Secretary responsible for matters relating to public service;
- (b) there is a need for deletion of the definition of “certificate” as the term is used in two different contexts in the Bill. The term is used in clause 7(1) to refer to a person with a certificate qualification as a person eligible for internship, while clause 8(1) provides that a public institution shall issue certificates of internship to interns upon successful completion of the internship programme;
- (c) to ensure that the County Executive Committee member responsible in regards to matters relating to the recruitment of interns is the County Executive Committee member responsible for matters relating to public service;
- (d) to redefine the term “intern” to provide for the period of internship to be between six and twelve months, and to ensure that internship is undertaken either for purposes of registration with professional bodies or to increase chances of employability;
- (e) to introduce the definition of the term “graduate” since the term is used in clause 5(2) of the Bill, therefore it is necessary to expressly provide that the graduates referred to in the Bill means a person who holds a degree, diploma or certificate qualification; and
- (f) to introduce the definition of “service Commission” which is necessary in regards to the differentiation of the intern recruitment process. Whereas the Public Service Commission shall be responsible for the recruitment of interns on behalf of ministries, departments and agencies, the Constitutional Commissions and county governments shall be responsible for the recruitment of interns within their respective public offices.

2. **THAT**, clause 5 of the Bill be amended in sub clause (1) by deleting the words “established under” and substituting therefor the words “as defined in Article 260 of”

Justification

The amendment seeks to provide clarity that the application of the Bill shall extend to the collectivity of all public offices as established by and defined in the Constitution.

3. **THAT**, clause 6 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4)–
- “(5) In this section, “a person in charge of a public service institution” means–
- (a) the Public Service Commission, on behalf of the ministries, departments and agencies; and
 - (b) all other persons responsible for service Commissions.”

Justification

The introduction of the new sub-clause is necessary for differentiation of the intern recruitment process. Whereas the Public Service Commission shall be responsible for the recruitment of interns on behalf of Ministries, Departments and Agencies, the Constitutional Commissions and County Governments shall be responsible for the recruitment of interns within their respective public offices.

4. **THAT**, clause 7 of the Bill be amended in sub clause (3) by deleting the word “been” appearing in paragraph (b)

Justification

The amendment seeks to correct a grammatical error.

5. **THAT**, clause 12 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)
- “(ba) leave days on a pro rata basis as shall be determined by the Cabinet Secretary”

Justification

The amendment seeks to ensure that an intern shall be entitled to such leave days as shall be determined by the Cabinet Secretary, having regard to the period of internship.

6. **THAT**, clause 13 of the Bill be amended by deleting the words “not exceed twelve months” and substituting therefor the words “be for a period of between six and twelve months”.

Justification

The amendment seeks to expressly provide that an internship period under the Bill shall be for a period between six and twelve months, to ensure that an intern is afforded sufficient time to gain the requisite skills and experience.

7. **THAT**, the Bill be amended by deleting clause 15 and substituting therefor the following new clause
- 1) Regulations. 15. The Cabinet Secretary may, in consultation with the relevant state organs, make regulations for the better carrying out of the provisions of this Act.
 - 2) For the purposes of Article 94(6) of the Constitution—
 - a) the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act;
 - b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and to fulfill the objectives specified under this section; and

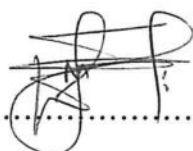
- c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.'

Justification

The amendment seeks to provide that the regulations shall be made by the Cabinet Secretary in consultation with the state organs as defined in the Constitution, and also to provide for the extent and limits of the powers delegated to the Cabinet Secretary as provided in the Constitution.

Having considered the submissions from the stakeholders, the Committee **unanimously** adopted the Report on the Public Service Internship Bill, No. 63 Of 2022, having been proposed by The Hon. K'Oyoo James Onyango, M.P. and seconded by The Hon. Sankaire Leah Sopiato, M.P.

SIGNED.....



DATE.....

21.06.2023

HON. ERIC MUCHANGI KAREMBA, M.P.

CHAIRPERSON, THE DEPARTMENTAL COMMITTEE ON LABOUR

Annexure 1: Report Adoption List



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON LABOUR

REPORT ADOPTION LIST

We, the members of the Departmental Committee on Labour, have pursuant to Standing Orders 127 and 199, adopted this report on the Public Service Internship Bill, 2022 and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity.

| | NAMES | SIGNATURE |
|-----|---|-----------|
| 1. | Hon. Karemba Eric Muchangi Njiru, MP-Chair person | |
| 2. | Hon. Muli Fabian Kyule, MP- Vice Chairperson | |
| 3. | Hon. K'Oyoo James Onyango, M.P. | |
| 4. | Hon. Kagesi Kivai Ernest Ogesi, M.P. | |
| 5. | Hon. Kiti Richard Ken Chonga, M.P. | |
| 6. | Hon. Lomwa Joseph Samal, M.P. | |
| 7. | Hon. Omwera George Aladwa, M. P. | |
| 8. | Hon. Wambilianga Catherine Nanjala, MP | |
| 9. | Hon. Abdullahi Amina Dika, M.P. | |
| 10. | Hon. Aburi Donya Dorice, M.P. | |
| 11. | Hon. Barasa Patrick Simiyu , M.P. | |
| 12. | Hon. Chiforomodo Mangale Munga, M.P. | |
| 13. | Hon. Kihungi Peter Irungu, M. P. | |
| 14. | Hon. Sankaire Leah Sopiato, M.P. | |
| 15. | Hon. Siyoi Lillian Chebet, M.P. | |

Date:

**Annexure 2: Newspaper Advert inviting the public to
submit memoranda on the Bill**

KENYA PIPELINE COMPANY LIMITED
Africa's Premier Oil & Gas Company

KENPIE PLAZA,
SEKONDI ROAD,
OFF NANYUKI ROAD,
INDUSTRIAL AREA,
P.O. Box 73442-00200,
NAIROBI, KENYA.
TELEPHONE: 254-20-2665309
TELEFAX: 254-20-8040184/3540032
E-mail: info@kpc.co.ke

ADVERTISEMENT OF A VACANCY

The Kenya Pipeline Company (KPC) Limited is a State Corporation established under the Companies Act (CAP 486) of the Laws of Kenya to provide efficient, reliable, safe and cost-effective means of transporting quality oil and gas from source to the customer. Pursuant to this objective, the Company is seeking to recruit a highly motivated visionary, dynamic and results oriented candidate to fill the undermentioned vacant position.

| Position | Job Ref No. | Grade KPC | No. of Posts | Terms of Appointment |
|---|------------------|-----------|--------------|----------------------|
| 1 General Manager (HR & Administration) | KPC/ADVT/07/2023 | 2 | 1 | 5-year Contract |

APPLICATION REQUIREMENTS

Interested candidates are requested to visit the KPC website www.kpc.co.ke under the Career Opportunities section where the Job Description and Specification as well as the User Manual containing instructions on how to apply for the position have been posted.

All applications should be received not later than midnight EAT on 30th March 2023.

Only the candidate offered employment shall be required to present the following clearance certificates:

- A valid Certificate of Good Conduct from the Directorate of Criminal Investigations
- A valid Clearance Certificate from Higher Education Loans Board (HELB)
- A valid Tax Compliance Certificate from Kenya Revenue Authority (KRA)
- A current Clearance from the Ethics & Anti-corruption Authority (EACC)
- A current Report from an approved Credit Reference Bureau (CRB)

The Pipeline Company is an equal opportunity employer committed to diversity and gender equality. Women and persons with disability are encouraged to apply. Please note that, only shortlisted candidates will be contacted. Any form of canvassing will lead to automatic disqualification.

Contact us: Kenpie Plaza, Sekondi Road, Off Nanyuki Road, Industrial Area, Nairobi.
P.O. Box 73442 - 00200, Telephone: 020 2665309, Email: info@kpc.co.ke
www.kpc.co.ke @kenyapipeline Kenya Pipeline Company



COUNTY GOVERNMENT OF MURANG'A



TENDER NOTICE - COMMUNITY PROJECTS

The Governor Dr. Irungu Karumba through his manifesto promised to implement community projects with an object of providing good and accessible roads, the environment for traders and provision of safe clean water. To effectively and efficiently realize the said objectives in consultation with the County members. The Murang'a County government hereby invites sealed bids as indicated below:

| Sl. No. | Project Description | Registration No. |
|---------|--|------------------|
| 1 | PROPOSED GRADING & GRAVELLING WORKS OF KANAKU, KUKU, KANAKU, KAGODU, WYALA ROAD, KANAKU WARD | 121002/2022/2023 |
| 2 | PROPOSED GRADING & GRAVELLING WORKS OF KANAKU, KUKU, KANAKU, KAGODU, WYALA ROAD, KANAKU WARD | 121002/2022/2023 |
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| 9 | PROPOSED GRADING & GRAVELLING WORKS OF KANAKU, KUKU, KANAKU, KAGODU, WYALA ROAD, KANAKU WARD | 121002/2022/2023 |
| 10 | PROPOSED GRADING & GRAVELLING WORKS OF KANAKU, KUKU, KANAKU, KAGODU, WYALA ROAD, KANAKU WARD | 121002/2022/2023 |
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| 16 | PROPOSED GRADING & GRAVELLING WORKS OF KANAKU, KUKU, KANAKU, KAGODU, WYALA ROAD, KANAKU WARD | 121002/2022/2023 |
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| 41 | PROPOSED GRADING & GRAVELLING WORKS OF KANAKU, KUKU, KANAKU, KAGODU, WYALA ROAD, KANAKU WARD | 121002/2022/2023 |
| 42 | PROPOSED GRADING & GRAVELLING WORKS OF KANAKU, KUKU, KANAKU, KAGODU, WYALA ROAD, KANAKU WARD | 121002/2022/2023 |

Interested bidders may examine and obtain detailed tender documents free of charge from the website www.muranga.go.ke and also the public procurement information web-portal tenders.go.ke website.

All tenders must be submitted through the IFMS supplier portal and two hard copies of complete tender documents enclosed in plain sealed envelopes marked with tender name and reference number should be deposited in the tender box located at the Murang'a County Government Headquarters Officers, ground floor on or before Wednesday 22nd March, 2023 at 10.00 a.m.

NO bidder will be awarded more than two tenders.

Tenders will be opened immediately thereafter in the presence of bidders or their representatives who wish to attend.

Chief Officer - Roads, Housing & Infrastructure
FOR: COUNTY SECRETARY



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
13TH PARLIAMENT - SECOND SESSION

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

In the Matter of Consideration by the National Assembly of:-

- The Penal Code (Amendment) Bill (National Assembly Bill No. 56 of 2022);
- The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 62 of 2022);
- The Public Service Internship Bill (National Assembly Bill No. 63 of 2022); and
- The National Rating Bill (National Assembly Bill No. 55 of 2022)

And further

In the Matter of Articles 2(5) & (6) and 118 (1) (b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012

And

In the Matter of Consideration by the National Assembly of the Minamata Convention on Mercury

PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

A. BILLS

The Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the Bills listed below pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders.

- The Penal Code (Amendment) Bill (National Assembly Bill No. 56 of 2022) sponsored by Hon. David Gikaria, M.P. (Nakuru Town East).
The principal object of the Bill is to amend the Penal Code Cap. 63 by repealing section 182 which prescribes the offence of idle and disorderly persons. The law enforcers have often used section 182 to harass innocent members of the public.
- The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 62 of 2022) sponsored by Hon. Benjamin Gathiru Meljaden, M.P. (Embakasi Central).
The principal objective of the Bill is 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 Public Service Internship Bill (National Assembly Bill No. 63 of 2022); Sponsored by Hon. Nalsula Lesuuda, M.P. (Samburu West).
This is a Bill for an act of Parliament to make provision for internship of college and university graduates in the public sector; to provide hands-on training and acquisition of skills by graduates and for connected purposes.
- The National Rating Bill (National Assembly Bill No. 55 of 2022) sponsored by Hon. Kimali Khung'wah, MP (Leader of the Majority Party).
This is a Bill for an Act of Parliament to provide for comprehensive framework for imposition of rates on land and buildings by county governments; to provide for then valuation of rateable property; to provide for the appointment and powers of valuers; to provide for the establishment, powers and functions of the National Rating Tribunal and for connected purposes.

The Bills were Read a First Time on Wednesday, 8th March, 2023 and Pursuant to Standing Order 127(1), committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:-

SCHEDULE

| No. | Bill | Committee |
|-----|--|-------------------------------|
| 1 | The Penal Code (Amendment) Bill (National Assembly Bill No. 56 of 2022) | Justice and Legal Affairs |
| 2 | The Public Procurement and Asset Disposal (Amendment) Bill (National Assembly Bill No. 62 of 2022) | Finance and National Planning |
| 3 | The Public Service Internship Bill (National Assembly Bill No. 63 of 2022) | Labour |
| 4 | The National Rating Bill (National Assembly Bill No. 55 of 2022) | Lands |

Copies of the Bills are available at the National Assembly Table Office, or on www.parliament.go.ke/the-national-assembly/house-business/hills.

B. CONVENTION

The Minamata Convention on Mercury was submitted to the National Assembly on 23rd February, 2023 and subsequently committed to the Departmental Committee on Environment, Forestry and Mining for consideration and reporting to the House in accordance with Section 8 of the Treaty Making and Ratification Act, 2012.

The Minamata Convention on Mercury seeks to protect human health and the environment from anthropogenic emissions and releases of mercury and its compounds.

Pursuant to Articles 2(5) & (6) and 118 (1)(b) of the Constitution, the Departmental Committee on Environment, Forestry and Mining invites members of the public and relevant stakeholders to submit memoranda they may have on the Minamata Convention on Mercury.

The full text of the Minamata Convention on Mercury and its accompanying Memorandum to Parliament may be accessed at www.parliament.go.ke.

The memoranda should 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 ena@parliament.go.ke; to be received on or before Wednesday, 22nd March 2023 at 5.00 p.m.

SAMUEL NJOROGE
CLERK OF THE NATIONAL ASSEMBLY
16th March, 2023

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

**Annexure 3: Written Submissions from various
stakeholders**



REPUBLIC OF KENYA
MINISTRY OF PUBLIC SERVICE, GENDER AND AFFIRMATIVE ACTION
STATE DEPARTMENT FOR PUBLIC SERVICE
Office of the Principal Secretary

Telegraphic address: "Personnel", Nairobi
Telephone: Nairobi 227411
Telex: 23125
Fax: 243620
When Replying please quote:
Ref. No. MPSG&AA.6

P.O. BOX 30050 – 00100
NAIROBI,
KENYA.

Date: 12th April, 2023

The Clerk of the National Assembly
Parliament Buildings
NAIROBI

Attn: Daniel M. Mutunga

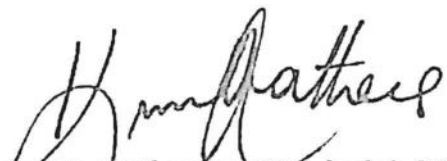
**RE: STATEHOLDERS SUBMISSIONS ON THE PUBLIC SERVICE INTERNSHIP
BILL NO. 63 OF 2022 BY THE DEPARTMENTAL COMMITTEE ON LABOUR**

Reference is made to your letter Ref. NA/DDC/LABOUR/2023/024 dated 29th March, 2023 on the above subject matter.

The Ministry of Public Service, Gender and Affirmative Action has received the Public Service Internship Bill, 2022 sponsored by Hon. Naisula Lesuuda, MP to review and provide proposed amendments in a written submission. The Bill makes provision for internship of college and university graduates in the public sector; to provide hands-on training and acquisition of skills by graduates.

This is pursuant to Standing Order 216 of the National Assembly Standing Orders that mandate the Departmental Committee on Labour to study and review all the legislation referred to it.

Please find attached the State Department for Public Service submission on the Public Service Internship Bill No. 63 of 2022 for your consideration.


Amos N. Gathecha, EBS, 'ndc', (K)
PRINCIPAL SECRETARY

Copy to: **Hon. Aisha Jumwa Katana**
Cabinet Secretary
Ministry of Public Service, Gender and Affirmative Action
Harambee House, Harambee Avenue
NAIROBI

STAKEHOLDERS SUBMISSIONS ON THE PUBLIC SERVICE INTERNSHIP BILL NO. 63 OF 2022

| Section No. | Page | Specific Clause | Proposed Amendment | Justification |
|------------------------------|------|--|--|--|
| Citation | 1594 | An ACT of Parliament to make provision for internship of college and university graduates in the public sector | There is need to consider the Private Sector in the Law for internship. | Currently interns are deployed to Private organizations such as hospitals, Law firms, Banks, Non-Governmental Organizations (NGO's) as well as in the Public Sector. |
| Part I -- Preliminary | 1594 | Section 2- Omission of definition of graduate | Include the definition of 'graduate' | The term graduate has been used in the citation and in the body but has not been defined. |
| | | Section 2 - 'Cabinet Secretary' means Cabinet Secretary for the time being responsible for matters relating to Labour | 'Cabinet Secretary' should mean Cabinet Secretary for the time being responsible for matters relating to Public Service | Executive Order No. 1 of 2023 mandates the Ministry of Public Service Gender and Affirmative Action to oversee internship in the Public Service |
| | | Section 2- 'Certificate' means certificate, diploma or degree | Define the word 'certificate' e.g., certificate means post-secondary school certificate | Provide for a standard minimum qualification and duration of training |

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| | issued by an examining body or institution recognized in Kenya | for a duration of not less than six (6) months. | |
| | <p>Section 2 – ‘County Executive Committee Member’ means the County Executive Committee Member in each county responsible for matters relating to Labour</p> <p>Section 2 – “Intern” – ‘for a period of between three and twelve months’</p> <p>Section 2 – “Intern” – ‘experience for registration with respective professional bodies’</p> | <p>‘County Executive Committee Member’ should be the County Executive Committee Member in each county responsible for matters relating to Public Service</p> <p>‘experience for registration with respective professional bodies and /or.....’</p> | <p>Labour matters not devolved. Align to National Government function</p> <p>Most County Governments have County Executive Committee Member – Public Service</p> <p>Three months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos</p> <p>Internship is not only aimed at professional registration but to also to acquire necessary skills and experience to enhance employability</p> |

| | | | | |
|------|--|--|--|---|
| | | Section 2 – “Internship” ‘to enhance future employability and fulfil the legal requirement for professional registration’ | ‘to enhance future employability and/or fulfil the legal requirement for professional registration’ | Internship is not only aimed at professional registration but to also to acquire necessary skills and experience to enhance employability |
| 1596 | Section 5. (1) This Act shall apply to every public office established under the Constitution | This Act shall apply to every public office as defined in Article 260 of the Constitution | To specify the definition of ‘public office’ as per Article 260 of the Constitution ‘public office’ means an office in the national government, a county government or the public service, if the remuneration and benefits of the office are payable directly from the Consolidated Fund or directly out of money provided by Parliament | |

| | | | | |
|--|-------------|---|--|--|
| PART II- Recruitment of Interns | 1599 | Section 11. (1) Every intern engaged in the public service shall be entitled to the provision of a personal accident insurance cover by the relevant Public Service institution. | Interns will be required to have a valid personal accident insurance cover at the time of engagement to cover the period of internship. | There may arise administrative challenge in the Management of the insurance cover given the duration of internship. Due to the huge numbers, it may not be affordable and sustainable. |
| | 1599 | Section 12 (1) a Sick leave as may be applicable in the prevailing regulations | Any period of sick leave beyond thirty days shall not be considered for the payment of stipend | To encourage the intern to complete the period of internship as provided after lapse of sick leave. |
| | 1599 | Section 12 (1) b Maternity or paternity leave | Interns will be eligible for maternity leave and the internship programme will be deferred until such time they resume duty. Stipend will not be payable during the period of deferment. | To encourage the intern to complete the period of internship as provided after lapse of maternity leave. |

| | | | |
|-------------|--|--|--|
| 1599 | Section 12 (1) c Subsistence allowance as may be determined by the Cabinet Secretary from time to time. | Consider clarifying since it is not clear the purpose for payment of subsistence allowance and duration for the same. | The subsistence allowance is payable when one is working outside the duty station. |
| 1600 | Section 13 Duration of Internship - 'be valid for any period' | 'be valid for a period of between six and twelve months' | Any period below six months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos |
| 1600 | Section 14 (2) Termination of internship - 'submitting a thirty days' notice in writing' | 'submitting a two weeks' notice in case an intern secures an offer of employment before the expiry of the agreed internship period | This is in-order to allow the intern to accept the offer of the new appointment and assume duties without losing the opportunity |
| | Section 14 (2) Termination of internship | 'submitting a one months' notice by either party | In accordance with the Employment Act since the |

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|--|--|--|--|--|--|
| | | | | | intern is considered like an employee. |
|--|--|--|--|--|--|



PUBLIC SERVICE COMMISSION

Ref: PSC/LEG/019/14/158 Vol. VI (7)

6th April, 2023

The Clerk of the National Assembly
National Assembly
Parliament Buildings
Parliament Road
NAIROBI

THE PUBLIC SERVICE INTERNSHIP BILL, 2022

Reference is made to your letter dated 29th March, 2023 in which the Commission was invited to present submissions on the above cited Bill. As directed by the National Assembly, below are the Commission's written submissions on the said Bill.

Background

In the year 2016, the Commission developed an internship policy to guide Ministries Departments and Agencies (MDAs) in the management of internship programmes. The Commission subsequently monitored the implementation of the policy and with time noted that whereas the policy was intended to provide for the uniform management of internship programmes across all MDAs, there were numerous challenges that hampered the attainment of the Commission's goal on the same.

Subsequently, the Commission resolved to centralize the management of the internship programme. The decision of the Commission was for purposes of: -

1. Providing equal internship opportunities to the youth from all ethnic communities, men and women, persons with disabilities and marginalized communities thereby ensuring the right to equality and freedom from discrimination;
2. Guaranteeing transparency and accountability in the recruitment of interns;
3. Ensuring the application of uniform norms and standards in the management of interns;
4. Enhancing employability chances of young graduates by exposing them to the appropriate work environment that is correctly aligned to their training thus enabling them to acquire practical skills required by the job market.

Page 1 of 4

5. Inculcating public service values and ethos in young graduates from where the public service can recruit in the future;
6. Inculcating national values to make interns patriotic, upright and honest citizens; and
7. Giving hope to the young and keeping them occupied in meaningful engagements that provide a workplace experience that enhances their chances of employment even in the private sector.

The Commission's decision to centralize the management of the internship programme in the public service was presented to and discussed with the National Assembly Departmental Committee on Administration and National Security which approved the Commission's proposal and ensured the provision of a budget to manage the programme.

The first cohort of interns in the centralized internship programme commenced in October, 2019. Since then, four other cohorts of interns have been recruited and deployed to more than 200 MDAs, with the total number of interns in the five cohorts standing at over 16,000 in the last four years. Recruitment for cohort 5 interns has already been completed, and the Commission has already appointed and deployed them in April, 2023.

The Bill

Having looked at the Bill, the Commission notes the following:

1. The Bill is a replica of the Public Service Commission Internship Policy. This is good as it recognizes that there is already a working system in place that is well guided by policy developed by the Commission through a participatory process that involved key stakeholders;
2. The Bill places the management of the internship programme under the Cabinet Secretary responsible for matters related to labour. This is a misplacement of the internship programme. The core mandate of the Ministry of Labour is to deal with labour relations between employers and employees. The internship is a training programme that gives graduates an opportunity to gain skills in their area of training. Placing the internship programme under the Ministry of Labour will kill the programme as the Ministry's concentration is on an unrelated mandate;
3. The role of the Public Service Commission is not provided for in the Bill. It is noteworthy that Section 2 of the Employment Act, 2007 defines an employee to include an apprentice and indentured learner. This means that interns are presumed by law to be employees. In which case, if they are in the public service, they would be presumed to be employees in the public service. It follows therefore that since

the Commission has the sole constitutional mandate of management of human resource in the public service with the exception of the institutions listed in Article 234(3) of the Constitution, the internship programme would constitutionally and legislatively have to fall within the mandate of the Commission. Giving the overall management and oversight responsibility of the programme to the Ministry of Labour amounts to a breach of the Commission's constitutional mandate;

4. Clause 6 of the Bill has decentralized the management of the internship programme to MDAs with a provision for delegation of the function to a body, officer or authority. This in effect reverses the gains attained by the centralized system introduced by the Commission with the consent of the Departmental Committee on Administration and National Security in the year 2019. It basically takes the public service back to the era when there was no transparency and accountability in the management of internship opportunities;
5. Decentralization gives each MDA the power to individually advertise internship opportunities. This is not cost effective. A centralized system provides a pooled advertisement that caters for internship needs in all MDAs thereby saving on the cost of advertisement;
6. Decentralization may affect funding of the internship programme and risks diversion of funds to other purposes; and
7. Article 232 (1)(g), (h) and (i) of the Constitution provides for competition and merit subject to representation of Kenya's diverse communities and to affording equal opportunities to men and women, members of all ethnic groups and persons with disabilities. It would be impossible to comply with this constitutional provision in a decentralized internship programme as each MDA would be catering for its needs individually whereas a centralized system caters for the global picture nationally.

Proposal and Request

In view of the foregoing, the Commission proposes and requests as follows:

1. The Public Service Internship Bill, 2022 that is currently before the National Assembly Departmental Committee on labour be rejected;
2. For purposes of safeguarding and consolidating the gains so far made since the commencement of the centralized internship programme under the Commission and for purposes of ensuring uniformity and harmonization of internship programmes in the entire public service and for posterity, there is need to anchor the public service internship programme in legislation;

3. With regard to the public service that falls within the mandate of the Public Service Commission, the Public Service Commission Act should be amended to provide for internship programme as is currently managed by the Commission through the Public Service Internship Policy and Guideline, 2016; and
4. With regard to the public service that does not fall within the mandate of the Commission i.e. the Parliamentary Service Commission, the Judicial Service Commission, Teachers Service Commission, National Police Service Commission and the County Public Service, there is need for legislation that harmonizes internship programmes in the entire public service. This may be done as part of the Public Service (Human Resource Management) Bill or through amendments to the respective legislations.

Conclusion

In Conclusion, the Commission urges the Committee to consider amendments to the Public Service Commission Act, 2017 to incorporate the Public Service Internship Programme as currently managed by the Commission.



Dr. Simon K. Rotich, CBS
SECRETARY/CEO
PUBLIC SERVICE COMMISSION

Copy to: The Chairperson
 Departmental Committee on Labour
 National Assembly
 Parliament Buildings ✓
 Parliament Road
 NAIROBI

 Hon. Florence Bore
 Cabinet Secretary
 Ministry of labour and Social Protection
 Bishops Road
 NAIROBI

 Hon. Naisula Lesuuda, MP
 Samburu West Constituency
 Parliament Buildings
 NAIROBI

D/DC

Please deal

[Signature]

17/04/23



LAW SOCIETY OF KENYA
Lavington, Opposite Valley Arcade
Gitanga Road
P.O. Box 72219-00200
NAIROBI
Tel. 387 4664
0720 904983

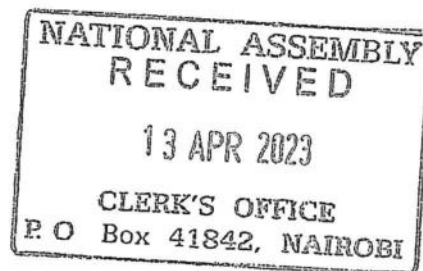
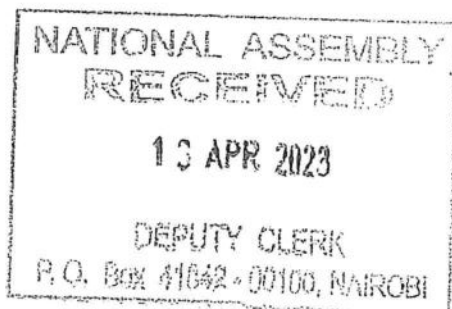
Rose Wanjohi
pls facilitate
up to 17/4/23

MEMORANDUM

ON

THE PUBLIC SERVICE INTERNSHIP BILL, 2022
APRIL, 2023

Eric Theuri, President Law Society of Kenya
Lavington, opp Valley Arcade,
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Tel: +254 111 045 300
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| | having proper mentorship if the internship period is too short | |
| AOB | The Bill provides the following leave entitlements – sick leave, maternity or paternity leave. On the other hand, the Internship Policy and Guidelines for the Public Service inclusive of these, provide for annual leave of earn 1.25 days per month, translating to 15 working days per annum. | We suggest the same to be included in the Bill where annual leave can be earned to interns serving 3 months and above. |
| | While the Bill provides for payment of a stipend to Interns which will be subject to the Cabinet Secretary prescribing through regulations, it is worthy noting and further amending the Bill to include consultations of stipend rates to be made with the Salaries and Remuneration Commission, having already issued a circular regarding the rates of stipend and DSA for interns in public service | |

In conclusion, we humbly submit that our comments be considered before enacting the Bill.

Yours faithfully,



Eric Theuri
President Law Society of Kenya

Annexure 4: Minutes



MINUTES OF THE 39TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON TUESDAY 13TH JUNE 2023 IN THE SMALL DINING, NEW WING, PARLIAMENT BUILDINGS AT 12:00 PM

PRESENT

1. The Hon. Chiforomodo Mangale Munga, M.P - **Sessional Chair**
2. The Hon. K'Oyoo James Onyango, M.P.
3. The Hon. Aburi Donya Dorice, M.P.
4. The Hon. Sankaire Leah Sopiato, M.P.
5. The Hon. Siyoi Lillian Chebet, M.P.

APOLOGIES

1. The Hon. Karemba Eric Muchangi Njiru, M.P. – Chairperson
2. The Hon. Muli Fabian Kyule, M.P. – Vice Chairperson
3. The Hon. Wambilianga Catherine Nanjala, M.P.
4. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
5. The Hon. Kiti Richard Ken Chonga, M.P.
6. The Hon. Lomwa Joseph Samal, M.P.
7. The Hon. Omwera George Aladwa, M.P.
8. The Hon. Abdullahi Amina Dika, M.P.
9. The Hon. Kihungi Peter Irungu, M.P.
10. The Hon. Barasa Patrick Simiyu, M.P.

IN ATTENDANCE

1. The Hon Umulkher Harun Mohamed, M.P.

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|----------------------------|
| 1. Ms. Samuel Wanjiru | - | Clerk Assistant III |
| 2. Ms. Christine Odhiambo | - | Senior Legal Counsel |
| 3. Ms. Wambui Nyachae | - | Research Officer III |
| 4. Mr. Timothy Chiko | - | Research Officer III |
| 5. Ms. Rinha Sainey | - | Media Relation Officer III |
| 6. Ms. Zainabu Wario | - | Serjeant-at-arms |
| 7. Ms. Felistus Muiya | - | Protocol Officer |

AGENDA

1. Preliminaries;
2. Confirmation of Minutes.
3. Matters Arising;
4. Pending Business
 - i. One Legislative Proposal
 - ii. One Bill
 - iii. Approval Hearing for Dr. Phyllis Wambui Wagacha, nominee for appointment as a Member of the Salaries and Remuneration Commission.

5. Meeting on Pre-publication Scrutiny of the County Governments (Amendment) Legislative Proposal 2023, With Hon. Umulkher Harun Mohamed, M.P, sponsor of the Legislative Proposal.
6. Consideration of the draft report on the Public Service Internship Bill, No. 63 of 2022
7. Any Other Business
8. Adjournment

MIN. NO. 290 NA/LABOUR/2023: PRELIMINARIES

Pursuant to Standing Order 188 on absence of Chairperson and Vice- Chairperson, the Honourable Members elected The Hon. Chiforomodo Mangale Munga to chair the sitting.

The Chairperson called the Meeting to order at half past twelve o'clock. This was followed by a prayer by The Hon. K'Oyoo James Onyango, M.P and introductions.

MIN.NO.291 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

This agenda was deferred

MIN.NO.292 NA/LABOUR/2023: MATTERS ARISING

No matters arose.

MIN.NO.293 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

- a. Legislative Proposal of the County Governments (Amendment) Bill, 2023 by Hon. Umulkher Harun Mohamed which seeks to amend the County Government Act, No. 17 of 2012 to provide that the composition of every County Public Service Board shall include a youth.
- b. The Public Service Internship Bill no. (National Assembly Bill no. 63) of 2022- The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
- c. Approval Hearing for Dr. Phyllis Wambui Wagacha, nominee for appointment as a Member of the Salaries and Remuneration Commission. The Committee has scheduled to conduct the approval hearing of the said nominee on Thursday 22nd June,2023.

MIN. NO. 294 NA/LABOUR/2023: PRE-PUBLICATION SCRUTINY OF THE COUNTY GOVERNMENTS (AMENDMENT) LEGISLATIVE PROPOSAL 2023, WITH HON. UMULKHER HARUN MOHAMED, M.P, SPONSOR OF THE LEGISLATIVE PROPOSAL.

Hon. Umulkher Harun Mohamed, M.P, sponsor of the County Governments (Amendment) Legislative Proposal appeared before the committee and submitted that;

The Legislative Proposal seeks to amend section No. 58 of the County Governments Act No. 17 of 2012 to provide for the inclusion of the youth in the County Public Service Boards.

The amendment seeks to give effect to the provisions of Article 55 of the Constitution which mandates the State to take measures, including affirmative action programmes, to ensure that the youth have opportunities to participate in political, social and economic spheres of life.

Further, the inclusion of the youth in the County Public Service Boards will ensure that the youth are given the opportunity to effectively participate in decision making.

The Honorable Member further highlighted the benefits of ensuring that the youth participate in decision making;

- i. Young people have unique perspectives and experiences that can inform policy decisions. Including them in the policy making process can lead to more comprehensive and effective policies that take into account the needs and concerns of young people.
- ii. Policies made today will have a significant impact on the future and young people are the ones who will be most affected by the policies. It is essential to involve them in the decision-making process to ensure that their interests are represented and their voices are heard.
- iii. Engaging young people in the policy making process can increase their sense of civic responsibility and encourage them to become more active and engaged citizens. This can help to build a more vibrant and participatory democracy. The population of the young people is not commensurate to the representation at the county service boards.
- iv. Including young people in the policy making process can help to ensure that a wide range of perspectives are considered and that policies are inclusive and equitable.
- v. Young people are often more innovative and creative than older generations, and including them in the policy decision making process can lead to more innovative and creative solutions to complex problems.

Committee Observations

After considering the submissions from the Honourable Member the committee noted the need to include other marginalized and vulnerable groups such as women and people with disability.

MIN. NO. 295 NA/LABOUR/2023: CONSIDERATION OF THE DRAFT REPORT ON THE PUBLIC SERVICE INTERNSHIP BILL, NO. 63 OF 2022

Ms. Christine Odhiambo, Senior Legal Counsel guided members through the draft report on the Public Service Internship Bill, No. 63 of 2022. The Committee resolved and recommended as follows;

THAT, clause 2 of the Bill be amended—

- a. in the definition of “Cabinet Secretary” by deleting the word “labour” and substituting therefor the words “public service”;

- b. by deleting the definition of "certificate";
- c. in the definition of "County Executive Committee member" by deleting the word "labour" and substituting therefor the words "public service";
- d. by deleting the definition of "intern";
- e. in the definition of "internship" by deleting the word "and" and substituting therefor the word "or";
- f. by inserting the following new definitions in their proper alphabetic sequence—
 - i. "graduate" means a person who has successfully completed a course of study or training and has been awarded a degree, diploma or certificate;
 - ii. "intern" means an unemployed person with relevant qualifications who has entered into a contract with a government organization for a period of between six and twelve months with the intent of acquiring relevant work experience for registration with respective professional bodies or to increase chances of employability;"
 - iii. "service Commission" means a constitutional Commission or independent office provided for in Chapter Fifteen of the Constitution, and includes—
 - (a) a County Public Service Board; and
 - (b) a County Assembly Service Board."

Justification

The amendments to clause 2 are necessary—

- a. to ensure that the Cabinet Secretary responsible in regards to matters relating to the recruitment of interns is the Cabinet Secretary responsible for matters relating to public service;
- b. there is need for deletion of the definition of "certificate" as the term is used in two different contexts in the Bill. The term is used in clause 7(1) to refer to a person with a certificate qualification as a person eligible for internship, while clause 8(1) provides that a public institution shall issue certificates of internship to interns upon successful completion of the internship programme;
- c. to ensure that the County Executive Committee member responsible in regards to matters relating to the recruitment of interns is the County Executive Committee member responsible for matters relating to public service;
- d. to redefine the term "intern" to provide for the period of internship to be between six and twelve months, and to ensure that internship is undertaken either for purposes of registration with professional bodies or to increase chances of employability;
- e. to introduce the definition of the term "graduate" since the term is used in clause 5(2) of the Bill, therefore it is necessary to expressly provide that the graduates referred to in the Bill means a person who holds a degree, diploma or certificate qualification; and
- f. to introduce the definition of "service Commission" which is necessary in regards to the differentiation of the intern recruitment process. Whereas the Public Service Commission shall be responsible for the recruitment of interns on behalf of ministries, departments and agencies, the Constitutional Commissions and county governments shall be responsible for the recruitment of interns within their respective public offices.

THAT, clause 5 of the Bill be amended in sub clause (1) by deleting the words "established under" and substituting therefor the words "as defined in Article 260 of"

Justification

The amendment seeks to provide with clarity that the application of the Bill shall extend to the collectivity of all public offices as established by and defined in the Constitution.

THAT, clause 6 of the Bill be amended by inserting the following new subclause immediately after subclause (4)–

“(5) In this section, “a person in charge of a public service institution” means–

- a. the Public Service Commission, on behalf of the ministries, departments and agencies; and
- b. all other persons responsible for service Commissions.”

Justification

The introduction of the new subclause is necessary for differentiation of the intern recruitment process. Whereas the Public Service Commission shall be responsible for the recruitment of interns on behalf of ministries, departments and agencies, the Constitutional Commissions and county governments shall be responsible for the recruitment of interns within their respective public offices.

THAT, clause 7 of the Bill be amended in sub clause (3) by deleting the word “been” appearing in paragraph (b)

Justification

The amendment seeks to correct a grammatical error.

THAT, clause 12 of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)–

“(ba) leave days on a pro rata basis as shall be determined by the Cabinet Secretary”

Justification

The amendment seeks to ensure that an intern shall be entitled to such leave days as shall be determined by the Cabinet Secretary, having regard to the period of internship.

THAT, clause 13 of the Bill be amended by deleting the words “not exceed twelve months” and substituting therefor the words “be for a period of between six and twelve months”.

Justification

The amendment seeks to expressly provide that an internship period under the Bill shall be for a period between six and twelve months, to ensure that an intern is afforded sufficient time to gain the requisite skills and experience.

THAT, the Bill be amended by deleting clause 15 and substituting therefor the following new clause–

1. Regulations. 15. The Cabinet Secretary may, in consultation with the relevant state organs, make regulations for the better carrying out of the provisions of this Act.
2. For the purposes of Article 94(6) of the Constitution—
 - a. the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act;

b. the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and to fulfill the objectives specified under this section; and

c. the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.'

Justification

The amendment seeks to provide that the regulations shall be made by the Cabinet Secretary in consultation with the state organs as defined in the Constitution, and also to provide for the extent and limits of the powers delegated to the Cabinet Secretary as provided in the Constitution.

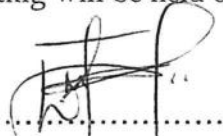
Having considered the submissions from the stakeholders, the Committee **unanimously** adopted the Draft Report on the Public Service Internship Bill, No. 63 of 2022, having been proposed by The Hon. K'Oyoo James Onyango, M.P. and seconded by The Hon. Sankaire Leah Sopiato, M.P.

MIN. NO. 296 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business arose

MIN. NO. 297 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at thirty two minutes past twelve o'clock. The next meeting will be held on notice.

SIGNED.......... DATE 22/06/2023
(CHAIRPERSON)

MINUTES OF THE 37TH SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON FRIDAY 19TH MAY 2023 IN KYAMWILU HILLS, CONFERENCE HALL, PRIDE INN PLAZA, SIGNATURE MALL, MLOLONGO AT 9,00AM

PRESENT

1. The Hon. Karemba Eric Muchangi Njiru, M.P. – Chairperson
2. The Hon. Muli Fabian Kyule, M.P. – Vice Chairperson
3. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
4. The Hon. Wambilianga Catherine Nanjala, M.P.
5. The Hon. Aburi Donya Dorice, M.P.
6. The Hon. Kihungi Peter Irungu, M.P.
7. The Hon. Siyoi Lillian Chebet, M.P.
8. The Hon. Kiti Richard Ken Chonga, M.P.
9. The Hon. Sankaire Leah Sopiato, M.P.

APOLOGIES

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Chiforomodo Mangale Munga, M.P
3. The Hon. Lomwa Joseph Samal, M.P.
4. The Hon. Omwera George Aladwa, M.P
5. The Hon. Barasa Patrick Simiyu, M.P.
6. The Hon. Abdullahi Amina Dika, M.P.

IN ATTENDANCE

1. Hon. Florence Bore – Cabinet Secretary, Ministry of Labour and Social Protection
2. Mr. Ndungu Kiarie-Chief Finance Officer, Ministry of Labour and Social Protection
3. Mr. Caleb Okelo- Ag. Director, National Employment Authority
4. Dr. William Kiprono-Secretary Administration, Ministry of Labour and Social Protection
5. Ms. Beatrice Mathenge-Ag. Registrar of Trade Unions
6. Mr. Stephen O. Ogenga -Director General ,NITA

COMMITTEE SECRETARIAT

- | | | |
|--------------------------|---|------------------------|
| 1. Ms. Rose M. Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Fredrick Muthngi. | - | Chief Fiscal Analyst |
| 3. Ms. Fiona Githunguri | - | Legal Counsel II |
| 4. Ms. Rehema Koech | - | Audio Officer III |
| 5. Ms. Zainabu Wario | - | Serjeant-at-arms |

AGENDA

1. Preliminaries;
2. Confirmation of Minutes.
3. Matters Arising;
4. Pending Business
 - i. One Legislative Proposal
 - ii. One Bill

iii. Three Questions

- a) Q/No. 058/2023 by Hon. Paul Katana, MP- PSC criteria of gazettement of hardship areas
- b) Question No. 048/2023 by Hon. Caroli Omondi,) regarding the gazettement of Suba South and Suba North Sub counties as hardship areas.
- c) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP on employment design for graduates.

5. Meeting on the Annual Estimates for Revenue and Expenditure FY 2023/24 with State Department for Labour and Skills Development
6. Meeting with Public Service Commission on the Public Service Internship Bill, 2022
7. Any Other Business
8. Adjournment

MIN. NO.275 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at half past nine o'clock. This was followed by a prayer by The Hon. Wambilianga Catherine Nanjala, M.P.

MIN.NO.276 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

This agenda was deferred

MIN.NO.277 NA/LABOUR/2023: MATTERS ARISING

No Matter arose.

MIN.NO.278 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

1. Legislative Proposal of the County Governments (Amendment) Bill, 2023 by Hon. Umulkher Harun Mohamed which seeks to amend the County Government Act, No. 17 of 2012 to provide that the composition of every County Public Service Board shall include a youth.
2. The Public Service Internship Bill no. (National Assembly Bill no. 63) of 2022- The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
3. Questions
 - (i) Q/No. 058/2023 by Hon. Paul Katana, MP (Kaloleni Constituency) on the criteria the government uses to categorize and gazette hardship areas and Kaloleni has not been included.
 - (ii) Question No. 048/2023 by Hon. Caroli Omondi, MP (Suba South Constituency) regarding the gazettement of Suba South and Suba North Sub counties as hardship areas.
 - (iii) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP (Kipkelion East) on the employment design of the country that requires experience thereby locking out fresh graduates.

**MIN. NO. 279 NA/ LABOUR/2023: MEETING WITH THE STATE DEPARTMENT FOR
LABOUR AND SKILLS DEVELOPMENT ON THE
BUDGET ESTIMATES FY 2023/24**

Hon. Florence Bore, Cabinet Secretary, Ministry for Labour and Social Protection accompanied by Mr. Ndungu kiarie, Chief Finance Officer, Ministry of Labour and Social Protection; Mr. Caleb Okelo, Ag. Director, National Employment Authority; Dr. William Kiprono-Secretary Administration, Ministry of Labour and Social Protection; Ms. Beatrice Mathenge-Ag. Registrar of Trade Unions and Mr. Stephen O. Ogenga Director General, NITA appeared before the Committee and briefed the Committee on the annual estimates FY 2023/24 of the Ministry as follows.

The State Department is implementing one of the key Bottom Up Transformational Agenda areas which is the “Labour Migration and Export Programme”. The Programme seeks to connect Kenya to the job opportunities available in other countries. Kenya is now recognized as a source, destination and transit of migrant workers. The International Labour Organization recognizes labour migration movements to have the potential to greatly impact the social and economic well-being of developing countries and can rejuvenate the workforce, allow labour-intensive sectors such as agriculture, construction and other menial services to function. This in return promotes entrepreneurship, supports social protection schemes, and helps meet the demand for skills in the Country.

The State Department has three (3) programmes which are

1. Labour, Employment and Safety Services
2. Manpower Development, Industrial Skills & Productivity Management
3. General Administration, planning and support services

The State Department has a total allocation of Ksh. 5,038.47million for recurrent and development expenditure in the FY 2023/24. The Recurrent Expenditure being Ksh. 4,349.52million while the Development expenditure is Ksh. 688.95 Million.

Under the Recurrent Vote, the State Department was allocated Ksh. 5.038 billion in FY 2023/2024 against a resource requirement of Ksh. 9.96 billion, leaving a resource gap of Ksh 4.93 billion which will lead to lack of realisation of the full potential in the implementation of policies, programmes and Projects within the vote.

Under the Development Vote, the allocation is at Kshs. 688.95 million against a requirement of Kshs. 3.21 billion. Some of the Projects have remained unfunded for a while due to the resource envelop availed to the sector. The gap will affect the Projects’ implementation status leading to Inflation on the Project Costs and deterioration of the Projects over time thereby increasing the initial cost of the Projects.

An introduction of a fully-fledged Registrar of Trade Unions (RTU) Department was allocated a budget. The Bottom-up Economic Transformational Agenda (BETA) under the Vote has been ring-fenced in a Sub-Vote as Labour Migration and Export Programme – BETA.

The State Department prioritized projects that were to be completed and provided for funding 100%. The Meru County Labour offices, Phase I of the Occupational Safety & Health-OSH-Institute and Rehabilitation of the Safe House in Nairobi will be completed in FY 2023/24.

List of new projects and justification.

The State Department has one (1) new Project: The Construction of the Kenya Post Training Institute with an estimated cost of **Kshs. 2 billion**. The Project was approved by the National Treasury as per their letter (Ref. TNT/PIM/27/1 VOL.III (3) dated 7th July, 2022. However, the Project did not receive allocation in 2023/24 FY due to budget ceiling limitation.

List of pending bills including historical pending bills

The State Department has a pending bill of **Kshs. 16,737,382** for FY 2021/22 as at May 2023 whose details are annexed. The Pending bills are mainly for air tickets and conference facilities. These bills could not be cleared due to insufficient funding. They have requested for reallocation of funds for the clearance of these bills during Supplementary II of FY 2022/23.

Status of stalled projects

The State Department has one stalled project, the Construction of the National Employment Promotion Centre, Kabete. The Project is 72.6% done and the reason for stalling is due to some challenges the Contractor faced due to the frequent budget cuts over the years. The State Department is in the process of engaging the Contractor to see the best way forward. An allocation of **Kshs. 175.55 million** and **Kshs. 75.5 million** has been provided for **FY 2024/25** and **FY 2025/26** respectively to ensure completion

Pertinent issues affecting the attainment of programmes performance targets

The State Department is appealing for the intervention of this honourable Committee to consider additional funding in the following areas, for the FY 2023/24 budget:

a) Establishment and expansion of Labour Attaché Offices as per the Cabinet approval Ksh 274 million.

The State Department received Cabinet approval to appoint Labour Attaches to serve Kenyans in the following key labour destination: United Kingdom, Canada, Australia, Poland, Jeddah and Damman in Saudi Arabia, Kuwait and Oman. This move is intended to increase employment opportunities, ensure protection of Migrant Workers and improve provision of consular services. To operationalize these new offices the department is seeking for additional **250million**. In addition to opening these new stations, there are already three existing labour attaché offices in Qatar, United Arab Emirates and Saudi Arabia, which require additional funding of **Ksh 24 million** to enhance operations and maintenance.

b) Operationalization of the Contributory Migrant Workers Welfare Fund –Ksh 200 million.

The Ministry received an approval from Cabinet in February 2021 towards establishment of the contributory Migrant Workers Welfare Fund. The main objective of the Fund is to provide protection, welfare and assistance to Kenyan migrant workers during migration, stay in destination country and upon return to the country. The Ministry requires seed capital of **Ksh 200million** to develop Rules and Regulations, and operationalize the Fund.

c) Institutionalization of the National Labour Board (NLB) and Wages Councils (WCs) as provided for in the Labour Institutions Act- Ksh 60 million.

The National Labour Board (NLB) is provided for under the Labour Institutions Act, 2007 to advise the Cabinet Secretary on all matters concerning employment and labour; Legislation affecting employment and labour and any matter relating to labour relations and trade unionism. The NLB has Statutory Committees, which include Manpower, Labour Migration, Productivity, Trade Dispute, and International Labour Standards.

The labour Act 2007 Section 43(2) also establishes the Wages Councils to advise the National Labour Board on determination of remuneration and conditions of employment in the sectors, recommendation of minimum wage remuneration and conditions of employment.

The two are required to:

- Hold four (4) statutory meetings annually.
- Establish a secretariat to support the Board and the Councils. The secretariat should be composed of diverse professional skills ranging from social scientists, lawyers, economists, labour practitioners, statisticians among others
- Conduct research and surveys in labour and employment matters, and
- Engage and lobby other policy-making bodies.

However due to inadequate funding, the NLB is only able to hold one (1) meeting annually thus limiting effective delivery of their mandate. The Department is thus appealing for additional funding of **Ksh 60million** to support the National Labour Board and the Wages Councils.

d) Purchase of Motor Vehicles –Ksh 50 million

The State Department has a fleet of 71 vehicles at both the headquarters and field officers out of which, 43 are serviceable while 28 are grounded and earmarked for disposal. The available vehicles are over stretched hampering service delivery as most of the State Department activities are inspectorate in nature. The State Department is seeking for Ksh 50million for procuring five (5) motor vehicles to replace part of the current fleet, which are uneconomical to service.

e) Upgrading of Industrial Training Centers- Ksh 200 million

National Industrial Training Authority (NITA) has five (5) Industrial Training Centers in Nairobi (2), Athi-River, Mombasa and Kisumu which are Centers of Excellence in provision of quality industrial training. The Centers provide training solutions for employers in the manufacturing, sector with main focus on building construction, electrical, mechanical, refrigeration & air conditioning, automotive, leather, textile and apparel. These centers were designed and established in the late 1970s and early 80s and are in a dilapidated state with non-functional training equipment hence not attractive to employers and employees due to evolution of new technology over the years. In addition, the buildings were designed and constructed without considerations of access by persons living with disabilities. Towards this **Ksh, 200million** is required for upgrading of the centers to meet the current training needs.

f) Recruitment under the State Department- Ksh 360million

To enable effective and efficient service delivery, the State Department requires **Kshs. 360 million** for recruitment of Officers under the Labour Commissioner (LC), Registrar of Trade Unions (RTU), Directorate of Safety Health Services (DOSHS), National Human Resource Planning and Development Department (NHRPD), National Productivity and Competitive Centre (NPCC), and National Employment Authority (NEA).

g) Coordination of Labour Migration Management — Ksh 25 million

Labour migration has immense socio-economic benefits to both countries of origin and destination. It is a source of employment and livelihoods for migrant workers, bridges skills gaps in destination countries, supports skills development, technological transfer and a source of the much-needed remittances in the migrant workers' countries of origin.

Towards coordination of labour migration in the country, the State Department requires and additional **Kshs 25 million** for the following activities:

- Monitoring of the welfare of migrant workers at various stages of migration
- Develop a communication Strategy on labour migration to enhance the management of communication on labour migration
- Enhance Pre-departure Training and Orientation through reviewing the pre-departure training to incorporate emerging issues in Labour Migration and establishing a framework for identification, vetting and accrediting of training institutions involved in pre-departure training

h) Surveillance Equipment for Work Environment and Workers Health- Ksh 80million.

In order to execute its legal mandate under OSHA 2007 and WIBA 2007 in monitoring the work environment for the different workplace hazards and examine workers for the effects of hazardous exposure. This requires the acquisition of specialized equipment for sampling, analysis and control of workplace air-borne contaminants and hazardous physical agents, medical examinations of workers, and testing of industrial plants and equipment to be supplied to the Counties. The equipment was last procured in 2014/15 FY. Despite the Ministry recruiting 71 new OSH officers who have been posted to the field offices, they are unable to execute their mandate due to lack of the requisite specialized equipment.

i) Provision for GoK Funding for NITA - Kshs.290.32 million

The GOK Grant caters part of staff salaries while the difference is paid from the Agency's Appropriation in Aid (A-in-A) collections. With the cut of the grant, payment of salaries will not be guaranteed as the collections are also not definite. The Authority requires **Kshs. 299.94 million** to meet the salary requirement projection from the exchequer to cushion from the constraint of collecting to pay staff.

j) Provision for GoK Funding for NEA – 265 million

The lack of provision for the GoK allocation is bound to affect the implementation of the planned initiatives in FY 2023/24 towards promotion of employment services. These include:

- Development of strategies on search for job opportunities in local and foreign labour markets with special focus on professional and skilled cadres.
- Negotiate and sign Bilateral Labour Agreement (BLA) with potential labour destination countries.
- Develop and implement pre-employment services which include accreditation of skills and professional competency of workers, pre-departure orientation programme, and documentation of overseas employment and post arrival orientation.

Design and implement of a 'Return and Re-integration Programme' to enable returning migrant workers to settle and re-integrate fully.

The national productivity centre has been creating public awareness through the KSG. They have a program on productivity in the public service. They also have engagement in the SRC on productivity. They have a productivity framework for purposes of performance measurements in the MDAs in the National government. Thereafter they expect to roll out to the County agencies.

Under the Development Vote, the allocation is at **Kshs. 688.95 million** against a requirement of **Kshs. 3.21 billion**. Some of the Projects have remained unfunded for a while due to the resource envelop availed to the sector. The gap will affect the Projects' implementation status leading to Inflation on the Project Costs and deterioration of the Projects over time thereby increasing the initial cost of the Projects.

PICP – TVET and graduate program and with different marks. GUNITED - the Internship program via the Ministry is on work-based career (science and innovation). The program has not received counterpart funding from JICA and the GoK component was withdrawn, previously the program was under the Ministry for Education and it is in this financial year to Ministry for Labour and Social Protection.

During plenary,

The Committee heard that

1. NITA collects A-I-A amounting to Kshs. 2.4 Billion while the budgetary requirements for its operations is Kshs. 2.6 Billion.
2. The National Employment promotion centre project is pending as the contractor is unable to proceed with completion. The contractor is not owed monies and the total cost is Kshs. 450 million of which Kshs. 346 million has been spent so far.

The Committee received additional information. The key underfunded areas are highlighted below in order of priority

1. Upgrade and Maintenance of Huduma Kenya ICT infrastructure and systems - Kshs 746 million
2. Constructions of 20 new Huduma Centres in the counties- Kshs. 2,000 million
3. Development and Implementation of Post-Retirement Medical Insurance Scheme (PRMIS) for civil servants, teachers and disciplined service personnel Kshs. 1,000 million
4. In-Service Training to equip middle level to lower cadre staff with requisite competencies- Kshs 64 Million
5. Rehabilitation and Maintenance of Huduma Centres- Kshs 327 million
6. Establishment and operationalization of public service psychological centre and wellness programmes- Kshs 128 Million
7. Upgrade of Government Human Resource Information System (GHRIS) infrastructure and software- Kshs 60 million
8. Constructions and completion of key Infrastructural projects at KSG campuses- Kshs. 430 million

Totalling Kshs 4,755 million

MIN. NO. 280 NA/LABOUR/2023: SUBMISSIONS BY PUBLIC SERVICE COMMISSION ON THE PUBLIC SERVICE INTERNSHIP BILL, 2022

Amb. Anthony Muchiri, Chairperson, Public Service Commission accompanied by other officers appeared before the committee and made the following submissions on the Bill

The Bill is a replica of the Public Service Commission Internship Policy. It recognizes that there is already a working system in place that is well guided by policy developed by the Commission through a participatory process that involved key stakeholders.

The Bill places the management of the internship programme under the Cabinet Secretary responsible for matters related to labour. This is a misplacement of the internship programme. The core mandate of the Ministry of Labour is to deal with labour relations between employers and employees. The internship is a training programme that gives graduates an opportunity to gain skills in their area of training. Placing the internship programme under the Ministry of Labour will kill the programme as the Ministry's concentration is on an unrelated mandate.

The role of the Public Service Commission is not provided for in the Bill. It is noteworthy that Section 2 of the Employment Act, 2007 defines an employee to include an apprentice and indentured learner. This means that interns are presumed by law to be employees. In which case, if they are in the public service, they would be presumed to be employees in the public service. It follows therefore that since

the Commission has the sole constitutional mandate of management of human resource in the public service with the exception of the institutions listed in Article 234(3) of the Constitution, the internship programme would constitutionally and legislatively have to fall within the mandate of the Commission. Giving the overall management and oversight responsibility of the programme to the Ministry of Labour amounts to a breach of the Commission's constitutional mandate:

Clause 6 of the Bill has decentralized the management of the internship programme to MDAs with a provision for delegation of the function to a body, officer or authority. This in effect reverses the gains attained by the centralized system introduced by the Commission with the consent of the Departmental Committee on Administration and National Security in the year 2019. It basically takes the public service back to the era when there was no transparency and accountability in the management of internship opportunities.

Decentralization gives each MDA the power to individually advertise internship opportunities. This is not cost effective. A centralized system provides a pooled advertisement that caters for internship needs in all MDAs thereby saving on the cost of advertisement. Decentralization may affect funding of the internship programme and risks diversion of funds to other purposes.

Article 232 (1)(g), (h) and (i) of the Constitution provides for competition and merit subject to representation of Kenya's diverse communities and to affording equal opportunities to men and women, members of all ethnic groups and persons with disabilities. It would be impossible to comply with this constitutional provision in a decentralized internship programme as each MDA would be catering for its needs individually whereas a centralized system caters for the global picture nationally.

The Commission proposes and requests as follows:

1. The Public Service Internship Bill, 2022 that is currently before the National Assembly Departmental Committee on labour be rejected:
2. For purposes of safeguarding and consolidating the gains so far made since the commencement of the centralized internship programme under the Commission and for purposes of ensuring uniformity and harmonization of internship programmes in the entire public service and for posterity, there is need to anchor the public service internship programme in legislation:
3. With regard to the public service that falls within the mandate of the Public Service Commission, the Public Service Commission Act should be amended to provide for internship programme as is currently managed by the Commission through the Public Service Internship Policy and Guideline, 2016.
4. With regard to the public service that does not fall within the mandate of the Commission i.e. the Parliamentary Service Commission, the Judicial Service Commission, Teachers Service Commission, National Police Service Commission and the County Public Service, there is need for legislation that harmonizes internship programmes in the entire public service. This may be done as part of the Public Service (Human Resource /management) Bill or through amendments to the respective legislations.

The Commission urges the Committee to consider amendments to the Public Service Commission Act, 2017 to incorporate the Public Service Internship Programme as currently managed by the Commission

During Plenary,

The Committee heard that the challenges faced by the Commission include

1. Interns wish to extend the internship period beyond the stipulated 12 months.
2. Placement of the interns in areas of their specialization and expertise in the MDAs.

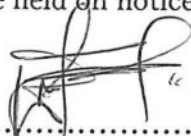
The Committee to propose amendments that will include other service commissions since the independent commission and offices are not subject to the Ministry of Public service pursuant to Article 249(2) of the constitution.

MIN. NO. 281 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business arose

MIN. NO. 282 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at quarter to two o'clock. The next meeting will be held on notice.

SIGNED.......... DATE 22/06/2023.....
(CHAIRPERSON)

MINUTES OF THE 31th SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON THURSDAY 4TH MAY 2023 IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT PRECINCTS AT 12:00 AM

PRESENT

1. The Hon. Muli Fabian Kyule, M.P. - Vice Chairperson
2. The Hon. Kagesi Kivai Ernest Ogesi, M.P.
3. The Hon. K'Oyoo James Onyango, M.P.
4. The Hon. Kiti Richard Ken Chonga, M.P.
5. The Hon. Wambilianga Catherine Nanjala, M.P.
6. The Hon. Aburi Donya Dorice, M.P.
7. The Hon. Abdullahi Amina Dika, M.P.
8. The Hon. Siyoi Lillian Chebet, M.P.
9. The Hon. Sankaire Leah Sopiato, M.P.
10. The Hon. Kihungi Peter Irungu, M.P.

APOLOGIES

1. The Hon. Karemba Eric Muchangi Njiru, M.P. - Chairperson
2. The Hon. Omwera George Aladwa, M.P.
3. The Hon. Lomwa Joseph Samal, M.P.
4. The Hon. Barasa Patrick Simiyu, M.P.
5. The Hon. Chiforomodo Mangale Munga, M.P.

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|-------------------------|
| 1. Ms. Rose M. Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - | Senior Legal Counsel |
| 4. Ms. Wanjiru Githunguri | - | Legal Counsel II |
| 5. Mr. Timothy Chiko | - | Research Officer III |
| 6. Ms. Rehema Koech | - | Audio Officer III |
| 7. Ms. Rinha Sainey | - | Media Relations Officer |
| 8. Mr. Alan Gituku. | - | Serjeant-at-arms |

AGENDA

1. Preliminaries;
2. Confirmation of Minutes.
3. Matters Arising;
4. Pending Business
 - i. One Legislative Proposal
 - ii. One Bill
 - iii. Three Questions
 - a) Q/No. 058/2023 by Hon. Paul Katana, MP- PSC criteria of gazettement of hardship areas
 - b) Question No. 048/2023 by Hon. Caroli Omondi,) regarding the gazettement of Suba South and Suba North Sub counties as hardship areas.

c) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP on employment design for graduates.

5. Meeting on the Public Service Internship Bill, No. 63 of 2022 with;

i. Hon. Naisula Lesuuda, M.P. -Sponsor of the Bill

ii. Public Service Commission

6. Any Other Business

7. Adjournment

MIN. NO.231 NA/LABOUR/2023: PRELIMINARIES

The Vice-Chairperson called the Meeting to order at thirty minutes past twelve o'clock. This was followed by a prayer by The Hon. Siyoi Lillian Chebet, M.P.

The Vice- Chair informed the Committee of a letter from the Public Service Commission requesting for rescheduling of the meeting due to prior engagements. The Committee resolved to proceed with the meeting with the Hon. Naisula Lesuuda, M.P, sponsor of the Bill to get her response on written submissions by the Public Service Commission.

MIN.NO.232 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

This agenda was deferred

MIN.NO.233 NA/LABOUR/2023: MATTERS ARISING

No Matter arose.

MIN.NO.234 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

1. Legislative Proposal of the County Governments (Amendment) Bill, 2023 by Hon. Umulkher Harun Mohamed which seeks to amend the County Government Act, No. 17 of 2012 to provide that the composition of every County Public Service Board shall include a youth.
2. The Public Service Internship Bill no. (National Assembly Bill no. 63) of 2022- The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
3. Questions
 - (i) Q/No. 058/2023 by Hon. Paul Katana, MP (Kaloleni Constituency) on the criteria the government uses to categorize and gazette hardship areas and Kaloleni has not been included.
 - (ii) Question No. 048/2023 by Hon. Caroli Omondi, MP (Suba South Constituency) regarding the gazettement of Suba South and Suba North Sub counties as hardship areas.
 - (iii) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP (Kipkelion East) on the employment design of the country that requires experience thereby locking out fresh graduates.

MIN. NO. 235 NA/ LABOUR/2023: SUBMISSIONS BY HON. HON. NAISULA LESUUDA, M.P, SPONSOR OF THE PUBLIC SERVICE INTERNSHIP BILL NO. (NATIONAL ASSEMBLY BILL NO. 63) OF 2022.

Hon. Naisula Lesuuda, M.P. - Sponsor of the Bill, appeared before the committee and made the following submissions on the written memoranda by the Public Service Commission;

On the Bill being a replica of the Public Service Commission Internship Policy, Hon. Lessuda, MP agreed and submitted that the Public Service Internship Bill flows from the Public Service Commission Internship Policy for the public service.

On the Bill incorrectly placing the management of the internship programme under the Cabinet Secretary responsible for matters related to labour, Hon. Lesuuda MP, agreed with submission and the proposed amendment to provide that the responsible Cabinet Secretary shall be the Cabinet Secretary responsible for Public Service.

On the role of the Public Service Commission being not provided for in the Bill, Hon. Lesuuda, MP informed the Committee that the Bill seeks to serve as an overall legal framework for the incorporation of interns in all offices within the public service, both in the national and county governments. The Bill therefore seeks to guard against the enactment of several legislations to provide for internship within the public service and to harmonize the salient principles to be observed by all offices in the public service in the recruitment of interns.

On its memoranda, the Public Service Commission had submitted that Clause 6 of the Bill decentralizes the management of the internship programme to MDAs with a provision for delegation of the function to a body, officer or authority. This reverses the gains of a centralized system introduced by the Commission. The Commission further submitted that, decentralization would give each MDA the power to individually advertise for internship opportunities, and this is not cost effective, and may affect funding of the internship programme. Hon. Lesuuda, MP informed the committee that the bill seeks to provide an overall legal framework to guide internship programmes in public institutions at both levels of government.

The Public Service Commission further submitted that Article 232(1)(g), (h) and (i) of the Constitution provides for competition and merit, representation of Kenya's diverse communities and equal opportunities to all. It would be impossible to comply with this constitutional provision in a decentralized internship programme. However, Hon. Lessuda, MP countered that Article 232 of the Constitution provides that the values and principles of public service shall apply to all State organs in both levels of government; and to all State corporations. These values include fair competition, merit and representation of Kenya's diverse communities, and these must be observed by all offices within the public service.

Committee Observations.

The Committee while considering the Bill made the following key observations;

- i. The term 'certificate' has been used in two different contexts. To mean the standard minimum qualification for internship (includes diploma, graduate certificates) and the certificate issued upon completion of the internship period.

- ii. Executive Order No. 1 of 2023 mandates the Ministry of Public Service Gender and Affirmative Action to oversee internship in the Public Service.
- iii. The County Executive Committee Member' should be the County Executive Committee Member in each county responsible for matters relating to Public Service.
- iv. There is need to amend clause 5(1) to provide that the Act shall apply to every public office as defined in Article 260 of the Constitution.
- v. Internship is not only aimed at professional registration but to also to acquire necessary skills and experience to enhance employability.
- vi. The need to provide annual leave as an additional entitlement for interns.
- vii. Any internship period below six months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos.
- viii. Clause 15 of the Bill provides for the provisions on delegated powers, and gives the Cabinet Secretary the power to make regulations for the better carrying out of the provisions of the Act.

Committee recommendation

Having considered the Bill and the views by different stakeholders, the Committee recommended-

- i. THAT there is need to delete the definition of "certificate" as contained in the Bill.

Justification

The term has been used in two different contexts in the Bill which would not warrant a similar definition.

- ii. THAT the Bill be amended to provide for definition of "Cabinet Secretary" to mean the Cabinet Secretary responsible for matters relating to public service.

Justification

The ministry of Public Service, Gender and affirmative action oversees the training and volunteer ship in the Public Service.

- iii. THAT the Bill be amended to provide for definition of "County Executive Committee Member' 'to mean the County Executive Committee Member responsible for matters relating to public service

Justification

Labour matters are not devolved but they align to National Government function. Most County Governments have County Executive Committee Member for Public Service.

- iv. THAT the Bill be amended to provide that this Act shall apply to every public office as defined in Article 260 of the Constitution.

Justification

This is for clarity purpose to specify the definition of 'public office' as per Article 260 of the Constitution.

- v. THAT the definitions of "intern" and "internship" be amended by deleting the word "and" and substituting therefor the word "or",

Justification

To ensure that internship is undertaken either for purposes of registration with professional bodies or to increase chances of employability

- vi. THAT the Bill be amended by inserting a new paragraph that would allow the Cabinet Secretary to prescribe the leave days that an intern may be entitled to.

Justification

Entitlement to annual leave is provided for in law. It may be done on a pro rata basis considering the period of the internship.

- vii. THAT the bill be amended to provide for an internship period between six (6) to twelve(12) months.

Justification

To enable adequate acquisition of skills and experience that required for registration by professional bodies

- viii. THAT Part III of the Bill be amended to provide for the extent and limits of the powers delegated to the Cabinet Secretary.

Justification

For the purposes of Article 94(6) of the Constitution—

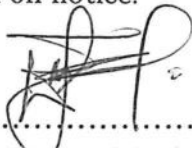
- a) the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act;
- b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and to fulfil the objectives specified under this section; and
- c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013.

MIN. NO. 236 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business arose

MIN. NO. 237 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at ten minutes past one o'clock. The next meeting will be held on notice.

SIGNED.......... DATE 22/06/2023
(CHAIRPERSON)

MINUTES OF THE 27th SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON TUESDAY 25TH APRIL 2023 IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT PRECINCTS AT 10:00 AM

PRESENT

- | | | |
|---|---|------------------|
| 1. The Hon. Karemba Eric Muchangi Njiru, M.P. | - | Chairperson |
| 2. The Hon. Muli Fabian Kyule, M.P. | - | Vice Chairperson |
| 3. The Hon. K'Oyoo James Onyango, M.P. | | |
| 4. The Hon. Kagesi Kivai Ernest Ogesi, M.P. | | |
| 5. The Hon. Kiti Richard Ken Chonga, M.P. | | |
| 6. The Hon. Abdullahi Amina Dika, M.P. | | |
| 7. The Hon. Aburi Donya Dorice, M.P. | | |

APOLOGIES

1. The Hon. Lomwa Joseph Samal, M.P.
2. The Hon. Omwera George Aladwa, M.P.
3. The Hon. Wambilianga Catherine Nanjala, M.P.
4. The Hon. Barasa Patrick Simiyu, M.P.
5. The Hon. Chiforomodo Mangale Munga, M.P.
6. The Hon. Kihungi Peter Irungu, M.P.
7. The Hon. Sankaire Leah Sopiato, M.P.
8. The Hon. Siyoi Lillian Chebet, M.P.

INATTENDANCE

Honourable Member(s)

1. The Hon Naisula Lesuuda, M.P. -Sponsor of the Bill

Stakeholders

1. Hon. Aisha Jumwa - Cabinet Secretary, Ministry of Public Service, Gender and Affirmative Action.
2. Mr. Amos N Gathecha -Principal Secretary, State Department for Public Service
3. Mr. Sylvester Bolo - Director, Human Resource Management and Development, State Department for Public Service
4. Mr. Isaac Ngige - Parliamentary Liaison Officer, Ministry of Public Service, Gender and Affirmative Action.

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|------------------------|
| 1. Ms. Rose M. Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - | Senior Legal Counsel |
| 4. Ms. Wanjiru Githunguri | - | Legal Counsel II |
| 5. Mr. Timothy Chiko | - | Research Officer III |
| 6. Mr. Alex Amwata | - | Hansard Officer III |
| 7. Ms. Rehema Koech | - | Audio Officer III |

AGENDA

1. Preliminaries;
2. Confirmation of Minutes.
3. Matters Arising;

4. **Pending Business**
 - i. One Legislative Proposal
 - ii. One Bill
 - iii. Three Questions
 - a) Q/No. 058/2023 by Hon. Paul Katana, MP- PSC criteria of gazettelement of hardship areas
 - b) Question No. 048/2023 by Hon. Caroli Omondi,) regarding the gazettelement of Suba South and Suba North Sub counties as hardship areas.
 - c) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP on employment design for graduates.
 - iv. Approval hearing for Mr. Isaac Melly, nominee for appointment as member of the Salaries and Remuneration Commission.
5. **Meeting on the Public Service Internship Bill, No. 63 of 2022 with;**
 - i. Hon. Naisula Lesuuda, M.P. -Sponsor of the Bill
 - ii. State Department for Public Service
 - iii. Public Service Commission
6. Any Other Business
7. Adjournment

MIN. NO.201 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at twenty-four minutes past ten o'clock. This was followed by a prayer by The Hon. Kagesi Kivai Ernest Ogesi, M.P. Thereafter, self- introductions were made.

MIN.NO.202 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

This agenda was deferred.

MIN.NO.203 NA/LABOUR/2023: MATTERS ARISING

No Matter arose.

MIN.NO.204 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

1. Legislative Proposal of the County Governments (Amendment) Bill, 2023 by Hon. Umulkher Harun Mohamed which seeks to amend the County Government Act, No. 17 of 2012 to provide that the composition of every County Public Service Board shall include a youth.
2. The Public Service Internship Bill no. (National Assembly Bill no. 63) of 2022- The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
3. Questions
 - (i) Q/No. 058/2023 by Hon. Paul Katana, MP (Kaloleni Constituency) on the criteria the government uses to categorize and gazette hardship areas and Kaloleni has not been included.
 - (ii) Question No. 048/2023 by Hon. Caroli Omondi, MP (Suba South Constituency) regarding the gazettelement of Suba South and Suba North Sub counties as hardship areas.
 - (iii) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP (Kipkelion East) on the employment design of the country that requires experience thereby locking out fresh graduates.

4. Approval hearing for Mr. Isaac Melly, nominee for appointment as member of the Salaries and Remuneration Commission. The Committee will conduct the approval hearing on 28th April 2023.

**MIN. NO. 205 NA/ LABOUR/2023: SUBMISSIONS BY THE STATE DEPARTMENT
FOR PUBLIC SERVICE ON THE PUBLIC SERVICE
INTERNSHIP BILL, NATIONAL ASSEMBLY BILL
NO.63, 2022.**

Hon. Aisha Jumwa, Cabinet Secretary, Ministry of Public Service, Gender and Affirmative Action accompanied by Mr. Amos N Gathecha, Principal Secretary, State Department for Public Service; Mr. Sylvester Bolo, Director, Human Resource Management and Development, State Department for Public Service and Isaac Ngige, Parliamentary Liaison Officer, Ministry of Public Service, Gender and Affirmative Action appeared before the committee and submitted that;

The Executive Order No. 1 of 2023 mandates the Ministry of Public Service, Gender and Affirmative Action to oversee Internship and Volunteer Policy for Public Service. The Ministry has developed an overarching Internship and Volunteer Policy and Guidelines for the Public Service. This addresses the need to have a uniform approach to deal with Internship and Volunteerism in the Public Service and that the Bill can address the inherent gaps in existence.

The internship and volunteer policy 2023 provides for all internships and volunteerism in the public service including ministries and their agencies, commissions and independent offices.

The Cabinet Secretary reiterated the need to consider the Private Sector in the law for internship. Currently interns are deployed to private organizations such as hospitals, law firms, banks, Non-Governmental Organizations as well as Public Sector.

The Cabinet secretary submitted that

1. the Bill should define the following terms in **Clause 1** of the Bill;
 - i. 'Graduate' which used in the citation and in the body but has not been defined.
 - ii. 'Cabinet Secretary' should mean Cabinet Secretary for the time being responsible for matters relating to Public Service.
Justification- Executive Order No. 1 of 2023 mandates the Ministry of Public Service Gender and Affirmative Action to oversee internship in the Public Service.
 - iii. 'Certificate' e.g., certificate means post- secondary school certificate for a duration of not less than six (6) months.
Justification- This is needed to provide for a standard minimum qualification and duration of training.
 - iv. 'County Executive Committee Member' should be the County Executive Committee Member in each county responsible for matters relating to Public Service.
Justification- Labour matters are not devolved but there is need to align to National Government Function. Most County Governments have County Executive Committee for Public Service.
 - v. Internship period of an " Intern"- to amend and increase for a period between 6 to 12 months
Justification- the 3 months provided in the Bill may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos
 - vi. "Intern- experience for registration with respective professional bodies and /or.....
Justification- "/or"... To provide that internship is not only for registration to professional bodies but experience to increase employability.
 - vii. "Internship...to enhance future employability and/or fulfil the legal requirement for professional registration'. I
Justification for inclusion of "/or" is that internship is not only aimed at professional registration but to also to acquire necessary skills and experience to enhance employability.

2. **Clause 5(1) of the Bill** be amended to provide that this Act shall apply to every public office as defined in Article 260 of the Constitution. This is to specify the definition of 'public office' as per Article 260 of the Constitution
3. **Clause 11(1) on provision of personal accident insurance cover**, there may arise administrative challenge in the Management of the insurance cover given the duration of internship. Due to the huge numbers, it may not be affordable and sustainable.
4. **Clause 12(1)(a)** be amended to provide that any period of sick leave beyond thirty days shall not be considered for the payment of stipend. This is to encourage the intern to complete the period of internship as provided after lapse of sick leave.
5. **Clause 12(1) (b)** be amended to provide that interns will be eligible for maternity leave and the internship programme will be deferred until such time they resume duty. Stipend will not be payable during the period of deferment. To encourage the intern to complete the period of internship as provided after lapse of maternity leave.
6. **Clause 12(1) (c)** should consider clarifying since it is not clear the purpose for payment of subsistence allowance and duration for the same. The subsistence allowance is payable when one is working outside the duty station.
7. **Clause 13 on internship period that shall not exceed twelve months-** Any period below six months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos.
8. **Clause 14(2) on Termination of internship** be amended to provide for a notice of two weeks incase an intern secures an offer of employment before the expiry of the agreed internship period.
9. **Clause 14(2) on Termination of internship** be amended to provide for a one month notice by either party. In accordance with Employment Act, an intern is considered as an employee.

Committee Observations

The Committee noted that

1. The proposed bill does not take into account the involvement of the Private Sector in provision of internship opportunities. Although the private sector is sensitive to costs especially on wage bills, the Ministry should consider alternative mechanisms to fund internship in the private sector including tax rebates. The Ministry submitted that there are ongoing consultations to develop mechanisms to facilitate onboarding of the private Sector in the internship programmes.
2. The Committee raised a concern on public organizations charging interns for internship opportunities. The Principal Secretary, State Department for Public Service informed the committee that the ministry was unaware of the allegation. The committee tasked the Principal Secretary to take up the matter, investigate and report back to the Committee.
3. The Committee further queried on the roles of the Ministry of Public Service, Gender and Affirmative Action and that of the Public Service Commission in the internship Programme. The Principal Secretary submitted that The Executive Order No.1 of 2023 mandates the Ministry of Public Service, Gender and Affirmative Action to oversee Internship and Volunteer Policy for Public Service. The Public Service Commission implements the programme for internship.

**MIN. NO. 206 NA/ LABOUR/2023: SUBMISSION BY HON. NAISULA LESUUDA, M.P.-
SPONSOR OF THE PUBLIC SERVICE INTERNSHIP
BILL, NATIONAL ASSEMBLY BILL NO.63, 2022**

Hon. Naisula Lesuuda, M.P. the Sponsor of the Bill appeared before the Committee and submitted that

The Public Service Internship Bill, 2022 seeks to establish a legal framework for the regulation of internship programmes within the public service. It seeks to give effect to Article 55 of the Constitution which provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment.

The Bill therefore makes provision for internship of college and university graduates in the public sector, and also provides for hands-on training and acquisition of skills by graduates. The Bill seeks to ensure the provision of a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the internship programme.

The principal objectives of the Act include the enhancement of youth development and employability; the provision of guidelines and standards applicable to all interns within the public service as well as to ensuring effectiveness and efficiency in the implementation and management of internship programmes.

Hon. Naisula Lesuuda, M.P. further informed the Committee that onboarding of the Private Sector in the proposed law will require more consultations. The Honourable member insisted that the Bill is considered in its current form which only provides for internship in the public sector. Thereafter, with engagement of the Private Sector to facilitate smooth onboarding.

The member agreed with the definitions for the following terms 'graduate', 'Cabinet Secretary', 'certificate', 'Public Service', 'County Executive Committee Member', "Intern" and "Internship" as proposed by the State Department of Public Service.

The Sponsor of the Bill agreed with the state department that the CS under whose internship docket should be one that deals with matters public service. Further, the term "public service" should be defined as is provided in the definition in Article 260 of the Constitution.

On provision of group accident cover for interns, Hon. Lesuuda, MP agreed that it may be expensive. However, the cover can be self-contributory, deducted from the stipend as provided in the law.

In regards to period of sick leave, maternity leave, payment of subsistence allowances, period of internship and termination of internship, the member submitted that Cabinet Secretary may prescribe regulations. Part III of the Bill provides for the provisions on delegated powers, and gives the Cabinet Secretary the power to make regulations for the better carrying out of the provisions of the Act.

Committee Observation

The Committee observed that the bill had undergone advertisement and request for memoranda from the public as a "public service" internship bill. There were no memoranda received from the private sector. Therefore, inclusion of the private sector may require additional public participation which in its current form is not realistic. Secondly, it will also offend provisions of S.O 133(5) as it proposes to unreasonably or unduly expand the subject of the bill.

Committee resolution

The Committee resolved to invite the Public Service Commission, who had sought more time to consider the Bill, to make detailed submissions on the Bill.

MIN. NO. 207 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business rose.

MIN. NO. 208 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

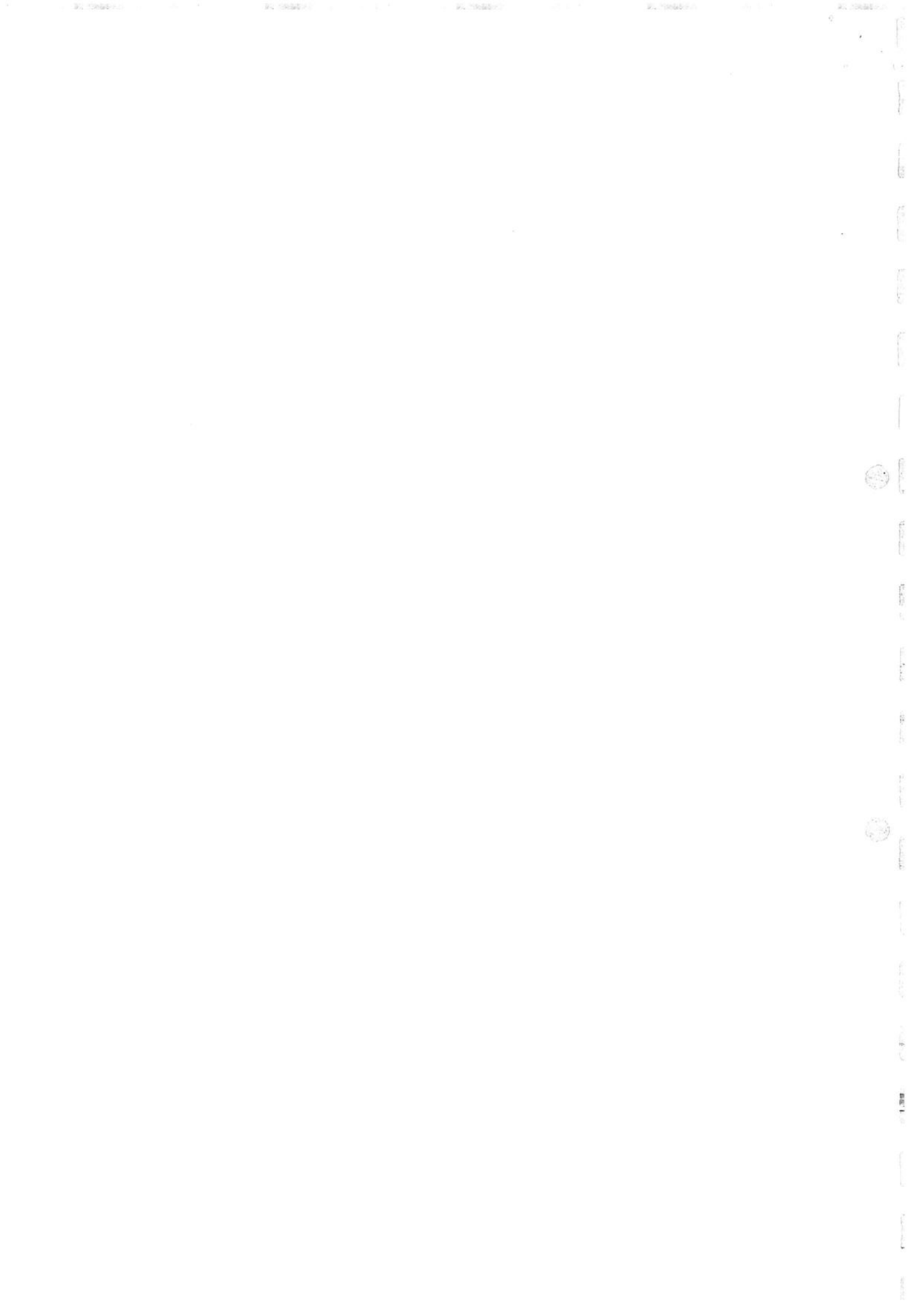
There being no other business, the meeting was adjourned at forty-nine minutes past eleven o'clock. The next meeting will be held on notice.

SIGNED.....

(CHAIRPERSON)

DATE

22/06/2023



MINUTES OF THE 26th SITTING OF THE DEPARTMENTAL COMMITTEE ON LABOUR HELD ON TUESDAY 18TH APRIL 2023 IN THE COMMITTEE ROOM, 5TH FLOOR, CONTINENTAL HOUSE, PARLIAMENT PRECINCTS AT 10:00 AM

PRESENT

- | | | |
|---|---|------------------|
| 1. The Hon. Karemba Eric Muchangi Njiru, M.P. | - | Chairperson |
| 2. The Hon. Muli Fabian Kyule, M.P. | - | Vice Chairperson |
| 3. The Hon. Kagesi Kivai Ernest Ogesi, M.P. | | |
| 4. The Hon. Kiti Richard Ken Chonga, M.P. | | |
| 5. The Hon. Lomwa Joseph Samal, M.P. | | |
| 6. The Hon. Chiforomodo Mangale Munga, M.P. | | |
| 7. The Hon. Kihungi Peter Irungu, M.P. | | |
| 8. The Hon. Barasa Patrick Simiyu, M.P. | | |
| 9. The Hon. Abdullahi Amina Dika, M.P. | | |

APOLOGIES

1. The Hon. K'Oyoo James Onyango, M.P.
2. The Hon. Omwera George Aladwa, M.P.
3. The Hon. Wambilianga Catherine Nanjala, M.P.
4. The Hon. Aburi Donya Dorice, M.P.
5. The Hon. Siyoi Lillian Chebet, M.P.
6. The Hon. Sankaire Leah Sopiato, M.P.

COMMITTEE SECRETARIAT

- | | | |
|---------------------------|---|------------------------|
| 1. Ms. Rose M. Wanjohi | - | Senior Clerk Assistant |
| 2. Mr. Samuel Wanjiru | - | Clerk Assistant III |
| 3. Ms. Christine Odhiambo | - | Senior Legal Counsel |
| 4. Ms. Wanjiru Githunguri | - | Legal Counsel II |
| 5. Mr. Timothy Chiko | - | Research Officer III |
| 6. Mr. Alex Amwata | - | Hansard Officer III |
| 7. Ms. Rehema Koech | - | Audio Officer III |
| 8. Mr. Alan Gituku | - | Serjeant-At-Arms |

AGENDA

1. Preliminaries;
2. Confirmation of Minutes.
3. Matters Arising;
4. **Pending Business**
 - i. One Legislative Proposal
 - ii. Two Bills
 - iii. Three Questions
 - a) Q/No. 058/2023 by Hon. Paul Katana, MP- PSC criteria of gazettement of hardship areas
 - b) Question No. 048/2023 by Hon. Caroli Omondi,) regarding the gazettement of Suba South and Suba North Sub counties as hardship areas.
 - c) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP on employment design for graduates

5. Consideration of pending submissions and a draft report on The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46), 2022
6. Briefing on The Public Service Internship Bill, 2022(National Assembly Bill No. 63)
7. Any Other Business
8. Adjournment

MIN. NO.193 NA/LABOUR/2023: PRELIMINARIES

The Chairperson called the Meeting to order at thirty minutes past ten o'clock. This was followed by a prayer by The Hon. Abdullahi Amina Dika, M.P.

MIN.NO.194 NA/LABOUR/2023: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTING.

This agenda was deferred.

MIN.NO.195 NA/LABOUR/2023: MATTERS ARISING

Under MIN. NO. 191 NA/LABOUR/2023:

The Chairperson informed the committee that the familiarization retreat with the Ministry of Labour and Social protection and National Industrial Training Authority (NITA) had been rescheduled to take place between Thursday 4th May 2023 and Sunday 7th May, 2023 in Mombasa.

MIN.NO.196 NA/LABOUR/2023: PENDING BUSINESS BEFORE THE COMMITTEE

The following business has been committed to the committee

1. Legislative Proposal of the County Governments (Amendment) Bill, 2023 by Hon. Umulkher Harun Mohamed which seeks to amend the County Government Act, No. 17 of 2012 to provide that the composition of every County Public Service Board shall include a youth.
2. The Public Service (Values and Principles) (amendment) Bill no. 46 of 2022 on proposed amendments which seek to establish a mechanism for all state organs in the National and County governments and State Corporations to submit annual reports on details of the human resource in Constitutional Commissions, Independent offices, County Public Service Boards and County Assembly Service Boards.
3. The Public Service Internship Bill no. (National Assembly Bill no. 63) of 2022- The Principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the Public Service. Article 55 of the constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter alia relevant education, training and employment. The bill seeks to ensure a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the Internship programme.
4. Questions
 - (i) Q/No. 058/2023 by Hon. Paul Katana, MP (Kaloleni Constituency) on the criteria the government uses to categorize and gazette hardship areas and Kaloleni has not been included.
 - (ii) Question No. 048/2023 by Hon. Caroli Omondi, MP (Suba South Constituency) regarding the gazettelement of Suba South and Suba North Sub counties as hardship areas.

(iii) Q/No. 067/2023 by Hon. Cherorot Kimutai, MP (Kipkelion East) on the employment design of the country that requires experience thereby locking out fresh graduates.

MIN. NO. 197 NA/ LABOUR/2023: CONSIDERATION OF PENDING SUBMISSIONS AND A DRAFT REPORT ON THE PUBLIC SERVICE (VALUES AND PRINCIPLES) AMENDMENT BILL, NATIONAL ASSEMBLY BILL NO.46,2022.

Ms. Rose Wanjohi, Senior Clerk Assistant, took the Committee through the Draft Report on The Public Service (Values and Principles) Amendment Bill, National Assembly Bill No.46,2022.

The Bill seeks to amend the Public Service (Values and Principles) Act, no. 1A of 2015 to require all state organs and state corporations to submit annual reports on details of the human resource in constitutional commissions, independent offices and County Public Service Boards and County Assembly Service Board. The Reports should contain details outlining the total number of employees and highlighting their gender, age, county of birth and county of residence. The justification is that it will facilitate the public service values and principles that require the public service to reflect Kenya's diverse communities and afford adequate and equal opportunities for appointment of women and men, members of all ethnic groups and persons with disabilities pursuant to Article 232 of the Constitution. By receiving annual reports, legislatures can discharge the oversight role bestowed upon them as they will be able to analyze and query non-compliant state organs.

Proposed amendment to s.16 of No. 1A of 2015

1. In sub-clause (3) by inserting the following paragraph immediately after paragraph (d)-
“(da) details on the human resource establishment within the Service Commission outlining the total number of employees and highlighting their gender, age, county of birth, county of residence, ethnicity and whether they are persons living with disabilities.”
2. by inserting the following new subsection immediately after subsection (3)-
(4) An authorised officer who fails to prepare a report under subsection (1) may be subjected to disciplinary action in accordance with the laid-out procedures

In line with the Article 118 (1) (b) of the Constitution and Standing Orders 127(3), the National Assembly in the local daily newspapers of 23rd February, 2023 invited the public to make representations on the proposed amendments in the Bill as per annexure 2 of the report. The Committee received written submissions on the proposed amendments to the Public Service (Values and Principles) Act, No. 1A of 2015.

The following Stakeholders were requested to submit their views to the Committee:

- i. Office of the Attorney General
- ii. The Public Service Commission
- iii. The Kenya Law Reform Commission
- iv. The Law Society of Kenya
- v. The Data Commissioner
- vi. The Salaries and Remuneration Commission
- vii. The Kenya National Human Rights and Equality Commission
- viii. The National Lands Commission
- ix. The Independent Electoral and Boundaries Commission
- x. The Judicial Service Commission
- xi. Commission on Revenue Allocation
- xii. The Teachers Service Commission
- xiii. The National Police Service Commission
- xiv. The Auditor General

- xv. Controller of Budget

The following stakeholders submitted their memoranda to the Committee: -

- i. The Public Service Commission
- ii. The Kenya Law Reform Commission
- iii. The Law Society of Kenya
- iv. Office of the Data Commissioner
- v. The Teachers Service Commission
- vi. Commission on Revenue Allocation
- vii. The National Police Commission
- viii. The Salaries and Remuneration Commission
- ix. Office of the Attorney General

Committee Observations

The Committee while considering the Bill made the following key observations;

1. The term “persons living with disabilities” is offensive and has a negative connotation and should be amended in the bill and be defined as is contained in the Constitution.
2. The matter of what data is private or privileged as has been proposed to be contained in the report as per the parameters should be determined as per the data protection act since the report is a public document.
3. The term “authorized officer” should be defined in a way that brings on board the other commissions and independent offices.
4. Where the “laid out procedures” lie should be specified e.g., the specific law or if the same are as per the administrative policies of the institutions they serve.
5. The authorized Officers have a right to fair hearing and Fair administrative action. Further different services have different disciplinary procedures.
6. To include the county of residence and that of birth is not provided for in the constitution, it may be deemed discriminatory offending article 27 (4) and will make the reporting exercise cumbersome since the totals of each parameter is what is required.
7. The inclusion of county service boards and the provision for the reporting to include the governor and county assembly means the bill requires concurrence from the Senate.

Committee recommendations.

Having considered the Bill and the views by different stakeholders, the Committee recommended-

1. THAT, the Bill be amended by inserting the following definition in section 2 of the Act:
“authorized officer” means any officer appointed within the public service or service Commission to perform its delegated functions within the public service or service Commission;

Justification

The amendment seeks to provide the definition of the term “authorized officer” which is contained in the Bill and is also used in other sections of the Act but is not defined in the Public Service (Values and Principles) Act, 2015.

2. THAT, the Bill be amended by inserting the following definition in section 2 of the Act:
“public office” has the meaning assigned in Article 260 of the Constitution.

Justification

The amendment seeks to ensure that a public office is defined as contained in the Constitution, and further to ensure that every public office shall be mandated to prepare a report on the status of the promotion of the values and principles of public service.

3. THAT, clause 2 of the Bill be amended in the proposed new paragraph (da) by deleting the word "living".

Justification

The deletion of the word "living" is necessary so as to use the term "persons with disabilities" as provided in Article 54 of the Constitution.

4. THAT, clause 2 of the Bill be amended in the proposed new paragraph (da) by deleting the words "county of birth, county of residence".

Justification

The deletion of the parameters of county of birth and county of residence is necessary as these two parameters are not provided for in the Constitution as parameters for achieving fair competition, merit and fair representation within the public service.

5. THAT, clause 2 of the Bill be amended in the proposed new subsection (4) by inserting the words "of the respective service Commission or public office" immediately after the words "in accordance with the laid out procedures".

Justification

The amendment seeks to eliminate the possibility of ambiguity and provide with clarity that the disciplinary action to be taken against any authorized officer who fails to prepare the report shall be the disciplinary procedures applicable to the office of the specific authorized officer.

6. THAT, the Bill be amended by inserting an amendment to section 16(1) of the Bill as follows: "Section 16 of the principal Act is amended in subsection (1) by inserting the words "and each public office" immediately after the words "each service Commission"

Justification

The amendment seeks to ensure that each public office within the meaning of the Constitution shall be obligated to prepare a report on the status of the promotion of the values and principles of public service. This is in keeping with the provisions of Article 232(2) of the Constitution which provides that the values and principles of public service shall apply to public service in all State organs in both levels of government and all State corporations.

The Committee having considered the submissions from various stakeholders, **unanimously** adopted the Report on The Public Service (Values and Principles) Amendment Bill, National Assembly Bill No.46,2022, with the above amendments, having been Proposed by The Hon. Lomwa Joseph Samal, M.P and seconded by The Hon. Kagesi Kivai Ernest Ogesi, M.P.

MIN. NO. 198 NA/ LABOUR/2023: BRIEFING ON THE PUBLIC SERVICE INTERNSHIP BILL, NATIONAL ASSEMBLY BILL NO.63,2022.

Ms. Wanjiru Githunguri, Legal Counsel, briefed the committee on the Public Service Internship Bill, National Assembly Bill No.63,2022.

The Public Service Internship Bill, 2022 seeks to establish a legal framework for the regulation of internship programmes within the public service. It seeks to give effect to Article 55 of the Constitution which provides that the State shall take measures, including affirmative action

programmes to ensure that the youth have access to inter alia relevant education, training and employment.

The Bill therefore makes provision for internship of college and university graduates in the public sector, and also provides for hands-on training and acquisition of skills by graduates. The Bill seeks to ensure the provision of a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the internship programme.

The principal objectives of the Act include the enhancement of youth development and employability; the provision of guidelines and standards applicable to all interns within the public service as well as to ensuring effectiveness and efficiency in the implementation and management of internship programmes.

Part II of the Bill provides for the recruitment of interns. This Part mandates a person in charge of a public service institution to identify and advertise all internship opportunities available within the institution.

This Part sets out the eligibility criteria for interns as any person who has completed their certificate, diploma or degree qualification from an institution recognised in Kenya; or a person who has not been exposed to work experience related to the person's area of study.

This Part however excludes retirees and persons who have been removed or resigned from office.

This Part sets out the roles and responsibilities of public service institutions to plan and budget for internship programmes as well as to provide the necessary facilities to enable interns to acquire the required skills and knowledge.

This Part also sets out the roles and responsibilities of interns to demonstrate commitment and willingness to participate in the learning experiences of the internship programme, and to observe confidentiality of information and security of equipment during the course of the internship programme.

This Part further sets out the entitlements of interns during the internship programme, and these are—

- (a) monthly stipend to be prescribed by the Cabinet Secretary;
- (b) personal accident insurance cover;
- (c) sick leave, maternity or paternity leave; and
- (d) subsistence allowance as shall be determined by the Cabinet Secretary.

This Part sets the maximum internship period as twelve months.

The Part also sets out the grounds for termination of internship, which are—

- (a) absence from the public service institution without permission or reasonable cause for a period exceeding twenty four hours;
- (b) gross or disorderly conduct;
- (c) unsatisfactory performance;
- (d) failure to obey any lawful instructions; or
- (e) commission of a criminal offence.

This Part also allows for the termination of the internship programme by submission by the intern of a thirty days' notice in writing to the person in charge of the public service institution.

Part III of the Bill provides for the provisions on delegated powers, and gives the Cabinet Secretary the power to make regulations for the better carrying out of the provisions of the Act.

The Committee has received stakeholder submissions of the Bill from the Public Service Commission, and the State Department of Kenya.

Committee Observations.

The Committee observed the need to include the private sector in the proposed public service Internship Bill. This can be done through tax rebates and incentives for private firms engaging interns.

Stakeholder Submissions

i. Public Service Commission submitted;

That the Bill is a replica of the Public Service Commission Internship Policy. The Bill also incorrectly places the management of the internship programme under the Cabinet Secretary responsible for matters related to labour;

That the role of the Public Service Commission is not provided in the Bill. Section 2 of the Employment Act defines an employee to include an apprentice and indentured learner, therefore interns are presumed to be employees within the public service. The Public Service Commission has the sole constitutional mandate of management of human resource in the public service, therefore the internship programme would have to fall within the mandate of the Commission.

That **Clause 6** of the Bill decentralizes the management of the internship programme to MDAs with a provision for delegation of the function to a body, officer or authority. This reverses the gains of a centralized system introduced by the Commission. Decentralization gives each MDA the power to individually advertise for internship opportunities, and this is not cost effective, and may affect funding of the internship programme;

That Article 232(1)(g), (h) and (i) of the Constitution provides for competition and merit, representation of Kenya's diverse communities and equal opportunities to all. It would be impossible to comply with this constitutional provision in a decentralized internship programme.

That the Committee should consider amendments to the Public Service Commission Act to incorporate the Public Service Internship Programme as currently managed by the Commission.

That the Bill should be rejected.

ii. State Department for Public Service submitted;

That there is need to consider the Private Sector in the Law for internship. Currently, interns are deployed to Private organizations such as hospitals, Law firms, Banks, Non-Governmental Organizations (NGO's) as well as in the Public Sector.

That the Bill should define the following terms in **Clause 1** of the Bill;

- (i) 'graduate' which used in the citation and in the body but has not been defined.
- (ii) 'Cabinet Secretary' should mean Cabinet Secretary for the time being responsible for matters relating to Public Service. Executive Order No. 1 of 2023 mandates the Ministry of Public Service Gender and Affirmative Action to oversee internship in the Public Service
- (iii) 'certificate' e.g., certificate means post- secondary school certificate for a duration of not less than six (6) months. This is needed to provide for a standard minimum qualification and duration of training
- (iv) 'County Executive Committee Member' should be the County Executive Committee Member in each county responsible for matters relating to Public Service.

- (v) "Intern"- 3 months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos (No justification or proposal given)
- (vi) "Intern"- 'experience for registration with respective professional bodies and /or.....
- (vii) "Internship"- 'to enhance future employability and/or fulfil the legal requirement for professional registration'. Internship is not only aimed at professional registration but to also to acquire necessary skills and experience to enhance employability.

That **Clause 5(1)** of the Bill be amended to provide that this Act shall apply to every public office as defined in Article 260 of the Constitution. This is to specify the definition of 'public office' as per Article 260 of the Constitution

That **Clause 11(1)** on provision of personal accident insurance cover, there may arise administrative challenge in the Management of the insurance cover given the duration of internship. Due to the huge numbers, it may not be affordable and sustainable.

That **Clause 12(1)(a)** be amended to provide that any period of sick leave beyond thirty days shall not be considered for the payment of stipend. This is to encourage the intern to complete the period of internship as provided after lapse of sick leave.

That **Clause 12(1)(b)** be amended to provide that interns will be eligible for maternity leave and the internship programme will be deferred until such time they resume duty. Stipend will not be payable during the period of deferment. To encourage the intern to complete the period of internship as provided after lapse of maternity leave.

That **Clause 12(1)(c)** should consider clarifying since it is not clear the purpose for payment of subsistence allowance and duration for the same. The subsistence allowance is payable when one is working outside the duty station.

That **Clause 13** on internship period that shall not exceed twelve months- Any period below six months may not be adequate for acquisition of relevant experience & skills and inculcation of public service values and ethos.

Committee Observations

The Committee observed THAT

1. The Bill flows from the Public Service Commission Policy for the Public Service. Further the Ministry has revised the Policy to the current policy "*Internship and Volunteer Policy and Guidelines for the Public Service*" January 2023.
2. That the current Bill has taken up provisions that the previous Bill did not carry
 - a. Onboarding of the private sector
 - b. Bridging courses for persons who have gained experience but have yet to receive certification
3. The Bill is a money Bill since if passed it will require budgetary allocation for all public offices for payment for stipends to interns, not confined to the Public Service Commission where the internship program and policy for the government is currently domiciled.
4. National Industrial Training Authority receives a training Levy on all trainings undertaking both in the public and private sector.
5. Compelling the private sector to take on interns and perhaps employing them permanently would create a financial burden to companies trying to stay afloat, as the numbers may be unsustainable. However, perhaps with incentive from the government, the companies may take onboard the interns.
6. The Bill can cure the mischief of exploitation of professions like teachers, doctors, lawyers who currently are taken on as unpaid interns in the private sector to gain experience yet are struggling to repay the loans taken on during their schooling.

Committee resolutions

The Committee resolves

1. to invite the Sponsor of The Public Service Internship Bill, National Assembly Bill No.63,2022, Hon. Naisula Lesuuda, M.P, Public Service Commission, State Department for Public Service for a meeting to make detailed submissions on the Bill.
2. to seek views from the Federation of Kenya Employers on the proposal of onboarding the Private Sector in the Public Service Internship Bill.

MIN. NO. 199 NA/LABOUR/2023: ANY OTHER BUSINESS

No other business rose.

MIN. NO. 200 NA/LABOUR/2023: ADJOURNMENT/ DATE OF NEXT MEETING

There being no other business, the meeting was adjourned at seven minutes past twelve o'clock. The next meeting will be held on notice.

SIGNED..... DATE 22/06/2023
(CHAIRPERSON)

**The Public Service Internship Bill (National Assembly
Bill No. 63 of 2022)**



SPECIAL ISSUE

Kenya Gazette Supplement No. 203 (National Assembly Bills No. 63)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2022

NAIROBI, 16th December, 2022

CONTENT

Bill for Introduction into the National Assembly—

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The Public Service Internship Bill, 2022

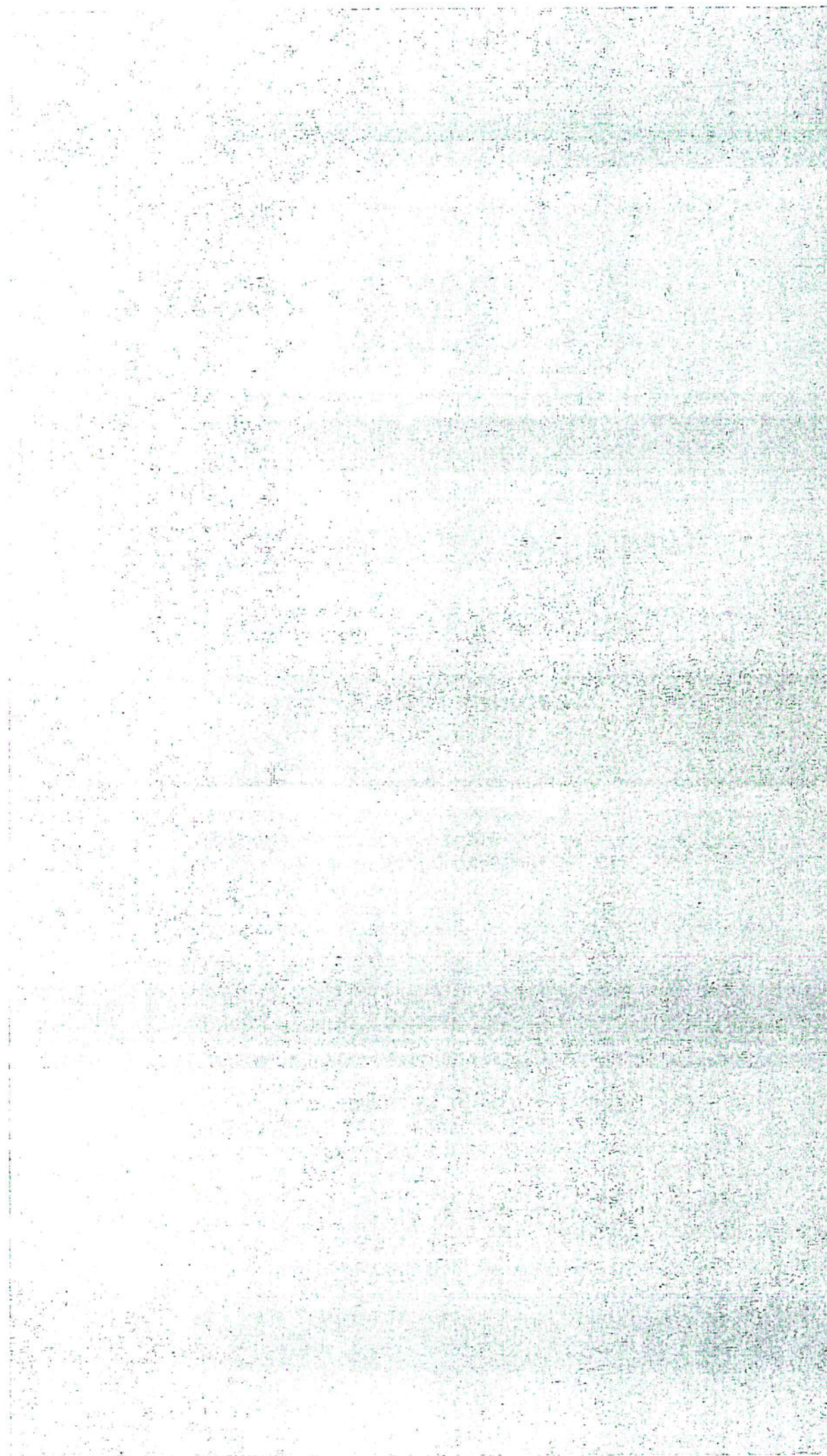
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THE PUBLIC SERVICE INTERNSHIP BILL, 2022
ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Objectives of the Act.
- 4—Guiding principles.
- 5—Application.

PART II—RECRUITMENT OF INTERNS

- 6—Declaration of internship opportunities.
- 7—Eligibility of internship.
- 8—Roles and responsibilities of public service institutions.
- 9—Roles and responsibilities of interns.
- 10—Payment of stipend.
- 11—Insurance.
- 12—Other entitlements of interns.
- 13—Duration of internship.
- 14—Termination of internship.

**PART III—PROVISIONS ON DELEGATED
POWERS**

- 15—Regulations.

THE PUBLIC SERVICE INTERNSHIP BILL, 2022**A Bill for**

AN ACT of Parliament to make provision for internship of college and university graduates in the public sector; to provide for hands-on training and acquisition of skills by graduates; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Public Service Internship Act, 2022. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to labour;

“certificate” means a certificate, diploma or degree issued by an examining body or institution recognized in Kenya;

“County Executive Committee member” means the County Executive Committee member in each county responsible for matters relating to labour;

“County Public Service Board” means the County Public Service Board established under section 57 of the County Governments Act; No. 17 of 2012.

“intern” means an unemployed person with relevant qualifications who has entered into a contract with a government organization for a period of between three and twelve months with the intent of acquiring relevant work experience for registration with respective professional bodies and to increase chances of employability;

“internship” means a programme meant to provide unemployed graduates with opportunities for hands-on training for skills acquisition to enhance future employability and fulfill the legal requirement for professional registration;

“mentor” means a competent person who provides practical training and facilitates other forms of training to interns;

“monitoring and evaluation” means the mechanisms put in place to ensure adherence to quality, standards, cost effectiveness and relevance of an internship programme;

“public office” has the meaning assigned to it in Article 260 of the Constitution;

“public service” has the meaning assigned to it in Article 260 of the Constitution;

“public service institution” means any public office and includes both the national and county governments;

“supervisor” means an employee under whom an intern is placed for purposes of allocating work to them and overseeing their work performance; and

“youth” has the meaning assigned to it in Article 260 of the Constitution.

3. The objectives of this Act shall be to—

Objectives of the Act.

- (a) preserve human dignity as set out under Article 19 of the Constitution through the realization of the economic and social rights under Article 43 (1) of the Constitution;
- (b) enhance youth development and employability by creating clear linkages between education, training and work;
- (c) ensure a well-structured and coordinated internship programme;
- (d) provide guidelines and standards applicable to all interns within the public service;
- (e) ensure effectiveness and efficiency in implementation and management of internship programmes;
- (f) provide guidelines for monitoring, evaluation and reporting for improvement and sustainability of internship programmes within the public service; and
- (g) provide interns with the requisite experience in their fields of study.

4. The principles that shall govern internship management in the public service shall be—

Guiding principles

- (a) to promote sustainable development;
- (b) promotion of equity and fairness by ensuring inclusivity and accessibility of opportunities to interns from diverse backgrounds;
- (c) transparent recruitment and selection procedures;
- (d) professionalism in ensuring that interns are provided with and acquire the practical experience required for their professional and career development;
- (e) efficiency of the internship programmes on the basis of cost-effectiveness;
- (f) relevance, fit to purpose and quality supervision through ensuring provision of appropriate and relevant work experience that is commensurate with the qualifications of an intern; and
- (g) adherence to government or public agency programmes and activities.

5.(1) This Act shall apply to every public office established under the Constitution.

Application

(2) This Act shall apply to the following categories of persons eligible for internship—

- (a) unemployed graduates with appropriate skills who require practical hands-on experience to improve their chances of employment;
- (b) graduates with professional qualifications who are required by their professional bodies to undertake internship as a pre-condition for registration; or
- (c) any person who has successfully completed a course of training under the Technical and Vocational Education and Training Act.

No. 29 of 2013

PART II—RECRUITMENT OF INTERNS

6. (1) A person in charge of a public service institution shall identify and declare all internship opportunities available within the public service institution.

Declaration of internship opportunities

(2) A person in charge of a public service institution shall advertise the internship opportunities referred to in subsection (1) in the website of the public service institution and in at least two newspapers of nationwide circulation.

(3) The advertisement specified in subsection (2) shall contain all relevant information pertaining to the internship, including—

- (a) the areas of specialization required;
- (b) total number of interns required;
- (c) duration of the internship; and
- (d) deadline for submission of applications.

(4) A person in charge of a public service institution shall conduct the recruitment of interns or may delegate the function of recruitment of interns to any of its members, officer, body or authority.

7. (1) A person shall be eligible to be an intern if the person—

Eligibility for
internship.

(a) has completed their certificate, diploma or degree qualification from an institution recognized in Kenya; or

(b) has not been exposed to work experience related to the person's area of study.

(2) Despite subsection (1), a person shall be eligible for internship where the internship is a requirement for registration by the professional body regulating the person's profession.

(3) A person shall not be eligible for internship if the person—

(a) has retired from formal employment on attaining the retirement age; or

(b) has been vacated formal employment through removal or by resignation.

8. For purposes of effectiveness of an internship programme, every public service institution shall—

(a) set up internship management committees;

Roles and
responsibilities of
public service
institutions.

- (b) plan and budget for internship programmes;
- (c) identify and declare all internship opportunities available whenever they arise;
- (d) conduct the recruitment of interns on the basis of merit;
- (e) conduct regular induction programmes for supervisors and mentors involved in internship programmes;
- (f) provide the necessary facilities to enable interns to acquire the required skills and knowledge;
- (g) pay the prescribed stipends to interns in accordance with this Act;
- (h) appoint supervisors and mentors for the interns;
- (i) ensure that interns are properly engaged in relevant work assignments;
- (j) monitor and evaluate the progress of internship programmes in their organizations;
- (k) report to the Cabinet Secretary, in the case of a public service institution in the national government; or the County Executive Committee member, in the case of a public service institution in the county government, on a quarterly basis, on internship programmes undertaken in their organizations and any challenges experienced; and
- (l) issue certificates of internship to interns upon successful completion of the internship programme.

9. Every intern engaged in the public service shall—

- (a) abide by the rules and regulations of the public service institution;
- (b) demonstrate commitment and willingness to fully and actively participate in the learning experiences of the internship programme;
- (c) be ready to be deployed to any relevant office or work station within the public service institution where there may be an internship vacancy;

Roles and responsibilities of interns.

- (d) make effort to acquire relevant skills in the area of specialization;
- (e) complete assignments given by the mentor or supervisor;
- (f) provide regular feedback to the supervisor on the progress that the intern is making and any challenges thereto with regard to the internship programme;
- (g) observe confidentiality of information and security of tools or equipment that are placed in the possession of the intern in the course of the internship programme;
- (h) ensure a proper hand over of all materials and equipment belonging to the public service institution at the end of the internship period; and
- (i) ensure clearance by the relevant authorities before leaving the internship station.

10. An intern engaged in the public service shall be eligible for payment of such monthly stipend as the Cabinet Secretary shall prescribe in regulations.

Payment of stipend.

11. (1) Every intern engaged in the public service shall be entitled to the provision of a personal accident insurance cover by the relevant public service institution.

Insurance.

(2) The personal accident insurance cover provided in subsection (1) shall be valid for the duration of the internship period.

12. (1) In addition to the monthly stipend and insurance cover provided in sections 10 and 11 respectively, every intern engaged in the public service shall be entitled to—

Other entitlements of interns.

- (a) sick leave as may be applicable in the prevailing regulations;
- (b) maternity or paternity leave; and
- (c) subsistence allowance as may be determined by the Cabinet Secretary from time to time.

(2) Despite the provisions of subsection (1), an intern shall not be eligible to receive pension or gratuity.

13. An internship period shall be valid for any period as may be determined by a person in charge of a public service institution, but such internship period shall not exceed twelve months.

Duration of
internship.

14. (1) An intern shall be liable to have his or her internship discontinued on the grounds of –

Termination of
internship.

- (a) absence from the public service institution without permission or reasonable cause for a period exceeding twenty four hours;
- (b) gross or disorderly conduct;
- (c) unsatisfactory performance;
- (d) failure to obey any lawful instructions; or
- (e) commission of a criminal offence.

(2) An intern may terminate internship by submitting a thirty days' notice in writing to the person in charge of the public service institution.

PART III—PROVISIONS ON DELEGATED POWERS

15. The Cabinet Secretary may make regulations for the better carrying out of the provisions of this Act.

Regulations.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to establish a legal framework for the regulation of internship programmes within the public service. Article 55 of the Constitution provides that the State shall take measures, including affirmative action programmes to ensure that the youth have access to inter-alia relevant education, training and employment.

The Bill seeks to ensure the provision of a monthly stipend, insurance and other entitlements to persons engaged in internships within the public service for the duration of the internship programme. The provision of stipend to interns is necessary as the interns contribute to the manpower of the organization by offering their professional skills as apprentices.

Part I of the Bill provides for the preliminary provisions, which includes the short title and interpretation of terms as used in the Bill. This Part also provides for the guiding principles as well as the institutions and persons to whom the Act shall apply.

Part II of the Bill provides for the recruitment of interns. This Part sets out the procedure for the recruitment of interns, the entitlements of interns as well as the respective roles and responsibilities of interns and public service institutions.

Part III of the Bill provides for the provisions on delegated powers, and gives the Cabinet Secretary the power to make regulations for purposes of the better carrying out of the provisions of the Act.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill delegates legislative powers to the Cabinet Secretary, but it does not limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Bill concerns county governments in terms of Article 109(5) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

The Bill provides for the recruitment of interns in both the national and county governments.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 8th December, 2022.

NAISULA LESUUDA,
Member of Parliament.