

Approved for tabling.

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By Hon Samuel
Chab Kingi
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23 FEB 2016



PARLIAMENT OF KENYA

THE NATIONAL ASSEMBLY

ELEVENTH PARLIAMENT - THIRD SESSION

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL
AFFAIRS

REPORT ON

THE PRESIDENTIAL MEMORANDUM ON THE SMALL CLAIMS
COURT BILL, 2015

Clerks Chambers,
National Assembly,
Parliament Buildings,
Nairobi

February, 2016

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1.0 PREFACE

Hon Speaker,

On behalf of the Departmental Committee on Justice and Legal Affairs, and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House a report of the Committee on the President's memorandum on the Small Claims Court Bill, 2015.

1.1. Committee Membership

The Committee was constituted on Thursday, 16th May, 2013 and comprises of the following:-

1. Hon. Samuel Chepkong'a, M.P. – Chairperson
2. Hon. Priscilla Nyokabi, M.P. – Vice Chairperson
3. Hon. Njoroge Baiya, M.P.
4. Hon. Muriithi Waiganjo, M.P.
5. Hon. Ndirangu Waihenya, M.P.
6. Hon. Florence Kajuju, M.P.
7. Hon. Kang'ata Irungu, M.P.
8. Hon. Benson Mutura, M.P.
9. Hon. John Njoroge Chege, M .P.
10. Hon. William Cheptumo, M.P.
11. Hon. Mohamed Abdi Haji, M.P.
12. Hon. Sammy Koech, M.P.
13. Hon. Moses Cheboi, M.P.
14. Hon. Paul Bii, M.P.
15. Hon. Charles Gimose, M.P.
16. Hon. Johanna Ng'eno, MP.
17. Hon. Boniface Otsiula, M.P.

18. Hon. David Ouma, M.P.
19. Hon. Neto Agostinho, M.P.
20. Hon. Kaluma Peter, M.P.
21. Hon. Fatuma Ibrahim Ali, M.P.
22. Hon. Ben Momanyi Orari, M.P.
23. Hon. Tom J. Kajwang', M.P.
24. Hon. (Bishop) Mutua Mutemi, M.P
25. Hon. Olago Aluoch, M.P.
26. Hon. (Dr) Christine Oduor Ombaka, M.P.
27. Hon. Munuve G. Mati, M.P.
28. Hon. Mwamkale William Kamoti, M.P.
29. Hon. James Bett, M.P.

1.2 Mandate of the Committee

The Departmental Committee on Justice and Legal Affairs derives its mandate from provisions of Standing Order No. 216(5) which defines functions of the Committee as being:

- a) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;
- b) To study the programme and policy objectives of ministries and departments and the effectiveness of their implementation;
- c) To study and review all legislation referred to it;
- d) To study, assess and analyze the relative success of the ministries and departments measured by the results obtained as compared with their stated objectives;

- e) To investigate and enquire into all matters relating to the assigned ministries and departments as may be deemed necessary, and as may be referred to it by the House or a minister; and
- f) To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation.

In accordance with Second Schedule of the Standing Orders, the Committee is mandated to consider:-

- Constitutional Affairs
- The administration of law and Justice
- The Judiciary
- Public Prosecutions
- Elections
- Ethics, Integrity and anti-corruption and
- Human Rights.

1.3 Departments under the committee

- a) Office of the Attorney General and Department of Justice
- b) Ethics and Anti-Corruption Commission (EACC)
- c) Independent Electoral and Boundaries Commission (IEBC)
- d) Commission for the Implementation of the Constitution (CIC)
- e) Kenya National Commission on Human Rights (KNCHR)
- f) Office of the Director of Public Prosecutions (ODPP)
- g) Registrar of Political Parties
- h) Witness Protection Agency (WPA)

- i) Commission On Administrative Justice (COAJ)
- j) The Judiciary

1.4 Committee Meetings

The Committee considered the memorandum during its sitting held on 16th February, 2016 and adopted the Report on the President’s Memorandum on Thursday 18th February, 2016.

The Report was unanimously adopted by majority of members present. Minutes of the Committee’s sittings are annexed hereto as appendix 1. A list of Members who attended the sitting that adopted the report is also annexed hereto as appendix 2.

1.5 Acknowledgements

The Committee wishes to thank the Offices of the Speaker and Clerk of the National Assembly for providing guidance and technical support without which its work would not have been possible. The Chairperson expresses gratitude to Committee Members for their devotion and commitment to duty which made the consideration of this Bill a reality.

Hon. Speaker Sir,

On behalf of the Committee, I now wish to table this report for consideration and passage by the House.

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

Hon. Samuel Chepkong’a, MP
(Chairperson)

Departmental Committee on Justice and Legal Affairs

2.0 BACKGROUND

The Bill to which the Presidential memorandum relates was dated 11th August, 2015 and was sponsored by the House Majority leader, Hon. Aden Duale, M.P.

The Bill sought to establish Small Claims Court to provide for the jurisdiction and procedures of the Courts and for connected purposes.

The Bill was passed by the House on 18th November, 2015 and forwarded to H.E. the President for assent on 14th December, 2015. In exercise of powers conferred by Article 115 of the Constitution, H.E. the President refused to assent to the Bill. He expressed reservations on amendments made by the House on Clause 37 of the Bill and proposed amendments to the said clause. The Bill was referred back to the House for reconsideration.

It should be noted that the Bill was amended by deletion of clause 37 (2). Clause 37 of the Bill provides for the enforcement of orders made by a small courts requiring a party to pay money and sets out the procedure applicable thereto. In this regard, sub clause (2) of the initial Bill provided as follows:

“(2) Where an application is made to the Court for the issue of any Process to enforce an order requiring a party to pay money to another as an alternative to compliance with a work order, that Court shall give notice of the application to the party against whom enforcement is sought.”

The amended subclause marked the commencement of the enforcement proceedings and triggered the actions anticipated under the rest of the clause i.e sub clauses (3) – (6).

2.1 The Small Claims Court Bill, 2015

The Bill was sponsored by Hon. Aden Duale and was passed by the House on 18th November, 2015. Thereafter, it was committed to H.E. the President for assent in line with provisions of the constitution of Kenya and the National Assembly Standing Orders.

3.0 THE PRESIDENTS MEMORANDUM ON THE BILL

Referral of the Bill to the House by H.E the President

H.E. the President by way of memorandum dated 23rd December, 2015 referred the Bill back to the House with reservations. This was pursuant to provisions of Article 115 of the constitution and was communicated to the House by the Speaker on Tuesday February 9th, 2016 and committed the memorandum to the Departmental Committee on Justice and Legal Affairs for consideration and report to the House.

While committing the memorandum to the Committee, the Speaker was categorical that the Committee considers it and reports back to the House on or before 23rd February, 2016 as required by Standing Order 154. A copy of the Presidential memorandum is annexed hereto as appendix 3.

3.1 Consideration of the President's Memorandum on Bills

The Committee was guided by the Hon. Speaker's Communication of 28th July, 2015 which gave Committees the liberty to amend recommendations from the President as long as the amendments account for the President's reservations in line with Article 115 of the Constitution. Amendments approved by the Speaker as taking into account the President's reservations would only require a simple majority to pass in the House.

4.0 COMMITTEE'S OBSERVATIONS

The Committee considered the President's Memorandum dated 16th February, 2016 and Observed as follows;

- i. The President's recommendation to the House to amend clause 37 is meant to ensure enforceability of the Act and related events designed to realize its objectives.
- ii. The deletion of subclause (2) by the House renders the rest of the clause unenforceable as it curtails the logical sequence of events initially designed for its enforcement.

5.0 COMMITTEE'S RECOMMENDATIONS

THAT pursuant to Standing Orders 154 and 199 and in view of the foregoing, the Committee recommends that Clause 37 of the Bill be amended by inserting the following new clause after sub clause (1)-

“(2) Where an application is made to the Court for the issue of any Process to enforce an order requiring a party to pay money to another, as an alternative to compliance with a work order, that Court shall give notice of the application to the party against whom enforcement is sought.”

APPENDIX 1

MINUTES OF THE FIFTH SITTING OF THE DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, 18TH FEBRUARY, 2016 AT 10.30 A.M. IN COMMITTEE ROOM 9, MAIN PARLIAMENT BUILDINGS

PRESENT

Hon. Samuel Chepkonga, M.P.	-	Chairperson
Hon. Priscilla Nyokabi, M.P.	-	Vice Chairperson
Hon. John Njoroge Chege, M.P.		
Hon. Mohamed Abdi Haji, M.P.		
Hon. (Bishop) Robert Mutemi, M.P.		
Hon. Tom J. Kajwang', M.P.		
Hon. Ndirangu Waihenya, M.P.		
Hon. Paul K. Bii, M.P.		
Hon. John M. Waiganjo, M.P.		
Hon. Benson Mutura, M.P.		
Hon. David Ochieng, M.P.		
Hon. Moses Cheboi, M.P.		
Hon. Fatuma Ibrahim, M.P.		
Hon. Kamoti Mwamkale William, M.P.		
Hon. Sammy Koech, M.P.		
Hon. Olago Aluoch, M.P.		
Hon. Boniface Otsiula, M.P.		
Hon. Munuve Mati John, M.P.		

ABSENT:-

Hon. Ben Momanyi, M.P.
Hon. Johanna Ngeno, M.P.
Hon. Charles Gimose, M.P.
Hon. James Bett, M.P.
Hon. William Cheptumo, M.P.
Hon. Peter Kaluma, M.P.
Hon. Njoroge Baiya, M.P.
Hon. Kang'ata Irungu, M.P.
Hon. Dr. Christine Ombaka, M.P.
Hon. Florence Kajuju, M.P.
Hon. Neto Agostinho, M.P.

SECRETARIAT

Mr. Abenayo Wasike	-	Clerk Assistant I
Ms. Mary L. Lemerelle	-	Clerk Assistant III
Mr. Ahmed Salim	-	Clerk Assistant III
Ms. Clare Jerotich	-	Researcher
Ms. Mugure Gituto	-	Legal Counsel

MIN No.JLA. 18 /2016:- PRELIMINARIES

The Chairperson called the meeting to order at 10.45 a.m. with a word of prayer from Hon. Robert Mutemi, M.P.

The Chairman informed members that a Petition he referred to on Supreme Court proceedings be suspended pending clarification on the status since the secretariat had not received it.

The Secretariat was asked to compile all matters pending and status and report during the first week of March 2016.

MIN No.JLA.19 /2016:- CONFIRMATION OF THE PREVIOUS MINUTES

Minutes of the previous meeting held on 16th February, 2015 were adopted as a true record of the proceedings. The minutes were proposed by Hon. Mohammed Haji and seconded by Hon.Robert Mutemi.

MIN No.JLA .20 /2016:- ADOPTION OF THE REPORT ON PRESIDENTIAL MEMORANDUM ON SMALL CLAIMS COURT BILL,2015

The Committee adopted the report on the Small Claims Courts. The report was proposed by Hon. David Ochieng and seconded by Hon. Paul Bii.

MIN No. JLA.21 /2016:- AMENDMENT OF THE COURT OF APPEAL (ORGANISATION AND ADMINISTRATION) ACT, 2015

The meeting resolved that a letter be written to the Chief Registrar of Judiciary to provide views on the amendment to the Court of Appeal Act, 2015.

MIN No.JLA. 22 /2016:- ADJOURNMENT

There being no other business to transact, the sitting adjourned at fifteen minutes past eleven o'clock.

Signed.....

(Chairperson)

Date.....19th February, 2016

**MINUTES OF THE FOURTH SITTING OF THE DEPARTMENTAL COMMITTEE
ON JUSTICE AND LEGAL AFFAIRS HELD ON TUESDAY, 16TH FEBRUARY,
2016 AT 10.30 A.M. IN THE SMALL DINING, PARLIAMENT BUILDINGS**

PRESENT

Hon. Samuel Chepkonga, M.P.	-	Chairperson
Hon. Priscilla Nyokabi, M.P.	-	Vice Chairperson
Hon. John Njoroge Chege, M.P.		
Hon. Mohamed Abdi Haji, M.P.		
Hon. (Bishop) Robert Mutemi, M.P.		
Hon. Tom J. Kajwang', M.P.		
Hon. Ndirangu Waihenya, M.P.		
Hon. Paul K. Bii, M.P.		
Hon. John M. Waiganjo, M.P.		
Hon. Benson Mutura, M.P.		
Hon. Moses Cheboi, M.P.		
Hon. Fatuma Ibrahim, M.P.		
Hon. Kamoti Mwamkale William, M.P.		
Hon. Sammy Koech, M.P.		
Hon. Olago Aluoch, M.P.		
Hon. Boniface Otsiula, M.P.		

ABSENT:-

Hon. Ben Momanyi, M.P.
Hon. Johanna Ngeno, M.P.
Hon. Charles Gimose, M.P.
Hon. James Bett, M.P.
Hon. William Cheptumo, M.P.
Hon. David Ochieng, M.P.
Hon. Munuve Mati John, M.P.
Hon. Peter Kaluma, M.P.
Hon. Njoroge Baiya, M.P.
Hon. Kang'ata Irungu, M.P.
Hon. Dr. Christine Ombaka, M.P.
Hon. Florence Kajuju, M.P.
Hon. Neto Agostinho, M.P.

IN ATTENDANCE

Mr. Abenayo Wasike	-
Ms. Mary L. Lemerelle	-
Mr. Ahmed Salim	-
Ms. Clare Jerotich	-
Ms. Mugure Gituto	-

NATIONAL ASSEMBLY

Clerk Assistant I
Clerk Assistant III
Clerk Assistant III
Legal Researcher
Legal Counsel

MIN No.JLA.14/2016:-

PRELIMINARIES

The Chairperson called the meeting to order at 10.35 a.m. with a word of prayer from Hon. Robert Mutemi, M.P.

The Chairman briefed Members on the following matters;

i. Courtesy call by Ethics and Anti-Corruption Commission

The Committee resolved to have a meeting with the EACC on 25th February, 2016 in Parliament Buildings. This follows the Commissions letter through the office of the CNA.

ii. Invitation By the Ministry Devolution and Planning for a Retreat to discuss the draft devolution policy

The Committee accepted the invitation and resolved to attend the Workshop in Mombasa as proposed on 15th to 17th March, 2016

iii. Submission of annual report (2014-2015)by Ethics and Anti-Corruption Commission and (2013-2014) by Judiciary

The Secretariat was tasked to look at annual reports and advise the Committee on critical issues that may be of concern to the Committee. The secretariat should report in subsequent meetings.

Transition Authority report on the retreat held in Mombasa on 11th to 14th February, 2016

The Committee resolved that following consultations in Mombasa they find it necessary to extend the Transition Authority term for two years till March, 2018.

The Chairperson brought to the attention of members matters pending business before the Committee. These are Bills and petitions referred to the Committee for consideration.

MIN No.JLA.15/2016:-

PENDING BUSINESS BEFORE THE COMMITTEE

Matters pending consideration by the Committee are as per the attached list as at 3rd February 2016.

Members resolved to consider pending matters as follows;

Petitions

- The Supreme Court Proceedings - Petition to amend article 163 (2) of the Constitution will be considered on Thursday 18th February 2016.
- The Committee will write a reminder to the Judiciary to provide views on the Petition on alleged non-refunded cash bails by Marimanti laws.

Bills

- The Secretariat was asked to look at all election Bills and ensure that an advert is put in the print media for Public participation through submission of memoranda.
- The Committee also resolved that Election law Bills (No.1), (No.2) and (No.3) should be considered at the same time

Min.No.JLA.16/2016 President's Memorandum on Small Claims Court Bill, 2015.

Members observed that the President did not assent to the Bill and returned the same to the House with reservations/recommendations.

The Committee considered the reservations on the Bill and acceded to the President's recommendation on deletion of Clause 37 (2).

The Committee was concerned that the President should only express his reservations and leave it to Parliament to provide recommendations.

The Committee resolved that by accepting recommendations by the President should not be a precedent and that in future the President should only communicate his reservations and allow the Committee to formulate recommendations for consideration by the House.

The Committee asked the Legal Counsel to research on best practices in other jurisdictions and report to the Committee within two weeks.

MIN No.JLA.16 /2016:-

ANY OTHER BUSINESS

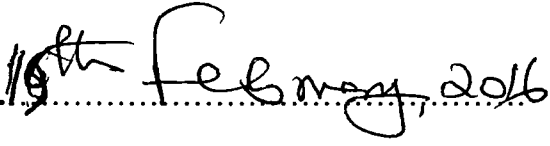
A concern was raised that the Government Proceedings Amendment Bill by Hon.Olago Aluoch hasn't been published yet. The Committee resolved to revive the proposed bill for publishing.

MIN No.JLA.17/2016:-

ADJOURNMENT

There being no other business, the sitting was adjourned at 11.45 a.m

Signed .....
(Chairperson)

DATE .....

APPENDIX 2



KENYA NATIONAL ASSEMBLY
ELEVENTH PARLIAMENT

DEPARTMENTAL COMMITTEE ON JUSTICE & LEGAL AFFAIRS

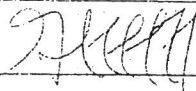
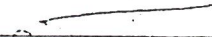
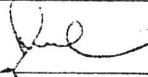
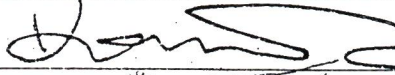



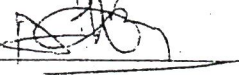
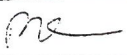

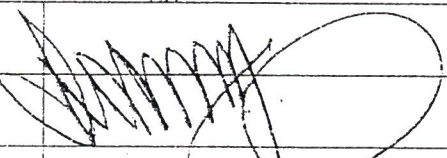
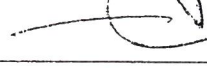


MEMBERS ATTENDANCE


DATE: 18TH FEBRUARY, 2016.

VENUE: SMALL DINING, MAIN PARLIAMENT BUILDINGS

AGENDA: ADOPTION OF THE REPORT ON PRESIDENTIAL MEMORANDUM TO THE SMALL CLAIMS COURT BILL, 2015, AND CONSIDERATION OF THE AMENDMENT ON THE COURT OF APPEAL ACT, 2015

	NAMES	SIGNATURE
1.	Hon. Samuel Chepkonga (Chairperson)	
2.	Hon. Priscila Nyokabi (Vice Chairperson)	
3.	Hon. Agostinho Neto	
4.	Hon. Ben Momanyi Orori	
5.	Hon. Benson Mutura	
6.	Hon. Boniface Otsiula	
7.	Hon. Charles Gimose	
8.	Hon. Christine Ombaka (Dr.)	
9.	Hon. David Ochieng'	
10.	Hon. Fatuma Ibrahim	
11.	Hon. Florence Kajuju	
12.	Hon. Irungu Kang'ata	
13.	Hon. James Bett	
14.	Hon. Johanna Ngeno	
15.	Hon. John Munuve	

16.	Hon. John M. Waiganjo	
17.	Hon. John Njoroge	
18.	Hon. John Olago Aluoch	
19.	Hon. Kamoti W. Mwamkale	
20.	Hon. Mohamed Abdi Haji	
21.	Hon. Moses Cheboi	
22.	Hon. Njoroge Baiya	
23.	Hon. Paul K.Bii	
24.	Hon. Peter Kaluma	
25.	Hon. Robert Mutemi (Bishop)	
26.	Hon. Sammy Koech	
27.	Hon. T.J. Kajwang	
28.	Hon. Waihenya Ndirangu	
29.	Hon. William Cheptumo	


Abenayo M. Wasike

For: The Clerk of the National Assembly



DEPARTMENTAL COMMITTEE ON JUSTICE & LEGAL AFFAIRS


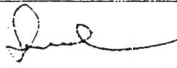
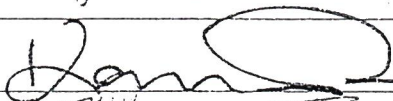
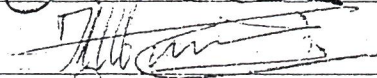
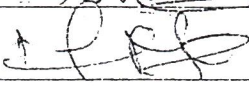
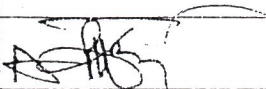

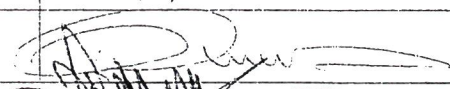

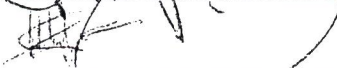

MEMBERS ATTENDANCE

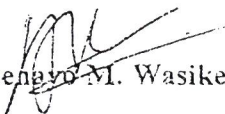
Date: 16th FEBRUARY, 2016.

Venue: SMALL DINING MAIN PARLIAMENT BUILDINGS

Agenda: PENDING BILLS AND PETITIONS

	NAMES	SIGNATURE
1.	Hon. Samuel Chepkonga (Chairperson)	
2.	Hon. Priscila Nyokabi (Vice Chairperson)	
3.	Hon. Agostinho Neto	
4.	Hon. Ben Momanyi Orori	
5.	Hon. Benson Mutura	
6.	Hon. Boniface Otsiula	
7.	Hon. Charles Gimose	
8.	Hon. Christine Ombaka (Dr.)	
9.	Hon. David Ochieng'	
10.	Hon. Fatuma Ibrahim	
11.	Hon. Florence Kajuju	
12.	Hon. Irungu Kang'ata	
13.	Hon. James Bett	
14.	Hon. Johanna Ngeno	
15.	Hon. John Munuve	
16.	Hon. John M. Waiganjo	

17.	Hon. John Njoroge	
18.	Hon. John Olago Aluoch	
19.	Hon. Kamoti W. Mwamkale	
20.	Hon. Mohamed Abdi Haji	
21.	Hon. Moses Cheboi	
22.	Hon. Njoroge Baiya	
23.	Hon. Paul K.Bii	
24.	Hon. Peter Kaluma	
25.	Hon. Robert Mutemi (Bishop)	
26.	Hon. Sammy Koech	
27.	Hon. T.J. Kajwang	
28.	Hon. Waihenya Ndirangu	
29.	Hon. William Cheptumo	


Abengyo M. Wasike

For: The Clerk of the National Assembly

APPENDIX 3

THE CONSTITUTION OF KENYA

REFUSAL TO ASSENT TO THE SMALL
CLAIMS COURT BILL, 2015

MEMORANDUM

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

Submitted to the Speaker of the National
Assembly.

WHEREAS a Bill entitled "A Bill for An Act of
Parliament to establish Small Claims Courts; provide for
the jurisdiction and procedures of the Courts and for
connected purposes", the short title of which is "The Small
Claims Court Bill, 2015", was passed by the National
Assembly on the 18th November, 2015;

AND WHEREAS the Small Claims Court Bill, 2015, was
presented to me for assent, in accordance with the
provisions of the Constitution, on the 14th December,
2015;

Members refused to assent to
the president's recommendation
16/12/15

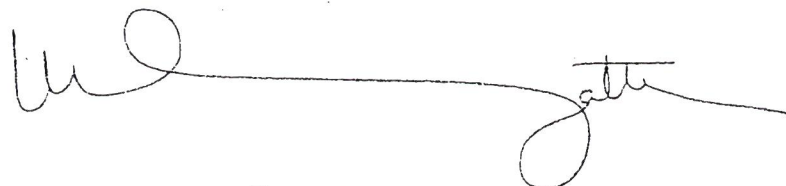
The deletion of the subclause renders the clause unenforceable as it curtails the logical sequence of events initially designed for its enforcement, which cannot possibly have been the intention of Parliament.

RECOMMENDATION:

In view of the foregoing, I recommend that Clause 37 of the Bill be amended by inserting the following subclause immediately after subclause (1) –

“(2) Where an application is made to the Court for the issue of any process to enforce an order requiring a party to pay money to another as an alternative to compliance with a work order, that Court shall give notice of the application to the party against whom enforcement is sought.”

Dated the 23rd December....., 2015.



UHURU KENYATTA,
President.

APPENDIX 4

REPUBLIC OF KENYA



ELEVENTH PARLIAMENT - (FOURTH SESSION)

THE NATIONAL ASSEMBLY

MESSAGE (NO.1 OF 2016)

REFERRAL BY H.E. THE PRESIDENT OF THE NATIONAL EMPLOYMENT AUTHORITY BILL, 2015 AND THE SMALL CLAIMS COURT BILL, 2015

Honourable Members,

I wish to welcome you back to the House for the Fourth Session of this Eleventh Parliament after the well deserved long recess. It is my hope that all Members have rested and are now rejuvenated for what promises to be another busy Session. As an overview, we have a number of Bills with constitutional deadlines that require to be passed by August 27th 2016, some of which need to also be considered by the Senate. We are also at the beginning of the Budget Cycle and have various other important matters before us, including the various Bills proposing to amend the Constitution.

Having said that Honourable Members, I now wish to convey two messages from His Excellency the President which were received in my office during the recess period. In the two Messages, the President is requesting the National Assembly to consider his reservations on-

- (i) The National Employment Authority Bill, 2015; and,
- (ii) The Small Claims Court Bill, 2015.

Honourable Members,

The First Message relates to the National Employment Authority Bill, 2015. You will recall that on 8th October, 2015, the National Assembly passed the National Employment Authority Bill, 2015 which was sponsored by the Hon. Johnson Sakaja,

MP. Subsequently, the Bill was presented for *Assent* to H.E. the President in accordance with the provisions of the Constitution and our Standing Orders. However, H.E. the President, by way of Memorandum has referred this Bill back to the National Assembly for reconsideration pursuant to the provisions of Article 115(1)(b) of the Constitution. In his reservations to the National Assembly, the President observes that the National Employment Authority Bill as passed did not incorporate transitional provisions which would facilitate the perpetual and legal transformation of the existing National Employment Bureau, which is a department in the Ministry of Labour and East African Affairs, into the new body being created in the Bill.

Honourable Members,

In the second Message, His Excellency the President has also referred the Small Claims Court Bill, 2015 back to the National Assembly for reconsideration. The said Bill, being amongst the statutes with a constitutional deadline, was passed by the House on 18th November, 2015, and subsequently presented for Assent. His reservations on the Bill relate to Clause 37 which provides for the enforcement of orders made by the Small Claims Court. In passing that particular Clause, the House deleted crucial text of sub-clause (2) which consequently rendered the entire Clause unenforceable. I want to admit that, indeed my office noticed the omission during the preparation of the Vellums prior to presentation to the President for Assent. Having consulted with the office of the Attorney General on the most suitable corrective measure, it was felt that, since correcting the deletion was beyond the powers of the Speaker as contemplated under Standing Order 152(3), the only option was for the President to return the Bill to the House for reconsideration of the specific sub-clause. It is on this basis that this particular Bill has been referred back to the House by the President for reconsideration.

Honourable Members,

In conclusion, Standing Order 154 requires the National Assembly to consider the President's reservations within 21 days. In this regard, the National Employment Authority Bill, 2015 stands committed to the Departmental Committee on Labour and Social Welfare, while the Small Claims Court Bill, 2015 is committed to the Departmental Committee on Justice and Legal Affairs for further consideration. The Committees should table their reports by February 22, 2016. In considering the Memoranda, regard will be given to the guidance given by the Speaker in a Communication delivered on July 28, 2015 concerning consideration of Presidential Memorandum and amendments thereto, particularly my guidance, that amendments by a Committee or an individual Member that have the effect of fully accommodating the Presidential reservations will not attract two thirds requirement for passage.

Honourable Members,

I wish to remind the House and the Committees that only clauses of the Bills for which the President has made reservations will be reconsidered by the House.

I Thank you!



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

TUESDAY, FEBRUARY 9, 2016

