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KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION - 2012

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REPORT OF THE  
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND  
NATIONAL SECURITY ON THE ASSUMPTION OF THE OFFICE OF  
THE PRESIDENT BILL, 2012.

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CLERK'S CHAMBERS,  
PARLIAMENT BUILDINGS,  
NAIROBI

AUGUST, 2012

PAPER LAID  
By Hon Pollys  
Ochieng'o  
23/2/12

## PREFACE

Mr. Speaker, Sir,

The Parliamentary Departmental Committee on Administration and National Security was constituted pursuant to the provisions of Standing Order No. 198 of the National Assembly and has executed its mandate in accordance with the provisions of the said Standing Order 198 (3), which mandates the Committee Members to, inter alia;

*(i) study and review all legislation referred to it;*

*(ii) Make reports and recommendations to the House as often as possible, including recommendation of proposed legislation.*

Mr. Speaker,

The Committee, according to Schedule II of the Standing Orders, examines the following subjects:

- i) Public Administration
- ii) National security
- iii) Internal Security
- iv) Immigration
- v) Prisons Service
- vi) National Youth Service
- vii) Natural disasters

The Committee oversees the following Ministries and Departments:

- (i) Office of the President (Cabinet Office & State House)
- (ii) Office of the Vice President and Ministry of Home Affairs
- (iii) Ministry of State for Provincial Administration & Internal Security
- (iv) Office of the Prime Minister
- (v) Ministry of State for Public Service
- (vi) The Public Service Commission
- (vii) Ministry of State for Immigration & Registration of Persons

**Mr. Speaker, Sir,**

The following are the Members of the Committee:

The Hon. Fred Kapondi, MP (Chairman)  
The Hon. Peter Kiilu, MP (Vice Chairman)  
The Hon. Cyprian Omollo, MP  
The Hon. Danson Mungatana, MP  
The Hon. Raphael Letimalo, MP  
The Hon. Pollyins Ochieng', MP  
The Hon. Mohamed Hussein Ali, MP  
The Hon. Joseph Kiuna, MP  
The Hon. Maison Leshoomo, MP  
The Hon. Nkoidila ole Lankas, MP

**Mr. Speaker,**

The Assumption of Office of the President Bill, 2012 seeks to operationalize the provisions of Article 141 of the Constitution. The Constitution provides for the procedure and ceremony for the President-elect to assume office in the said Article by advancing a clear roadmap on the manner in which business shall be conducted for the newly elected President after a general election.

The Bill, once enacted, shall ensure a smooth transition into power by the President-elect and his Deputy. It does this by providing for the establishment of the Assumption of Office of the President ad hoc Committee. The Committee shall follow certain procedures as laid out in this Bill to ensure that there is no vacuum in the said Office after a general election. The Committee's other important functions include ensuring that the President-elect receives adequate security and proper briefings on the state of affairs.

**Mr. Speaker, Sir,**

The experiences of the 2007/2008 post-election events are still fresh in our minds. No one wishes to see a repeat of what transpired after the disputed elections. The uncertainty that gripped the nation cannot be taken for granted. The Bill is therefore very critical as it seeks to prevent such a scenario as was witnessed in the 2007 general elections.

The Committee on Administration and National Security held a meeting with the Cabinet Office on 22<sup>nd</sup> August, 2012. During the meeting, the Committee heard that the Bill had been crafted to promote a peaceful transitional period

**PROPOSED AMENDMENTS TO THE ASSUMPTION OF THE OFFICE OF THE PRESIDENT BILL, 2012**

During a meeting with the Office of the President (Cabinet Office) on the Assumption of the Office of the President Bill, 2012, the Committee proposed the following amendments;

**CLAUSE 5**

THAT the Bill be amended in Clause 5-

- (a) by inserting the following new paragraph immediately after paragraph (g)-

(gg) the Principal Secretary in the Ministry responsible for matters relating to the Cabinet office;

- (b) by deleting sub-clause (4) and substituting therefor the following new sub-clause-

(4) The Principal Secretary in the Ministry responsible for matters relating to the Cabinet office shall be the secretary to the Committee.

**CLAUSE 8**

THAT the Bill be amended in Clause 8 by inserting the following new sub-clause-

(2) The three Committee members nominated by the President-elect under section 5(2) (n) may cause the Chairman to call for a meeting to consider important matters of an urgent nature regarding the assumption of office by the President-elect.

**CLAUSE 11**

THAT the Bill be amended in sub-clause (2) of Clause 11 by inserting the words "in writing" immediately after the word "request".

**CLAUSE 19**

THAT the Bill be amended in sub-clause (1) of Clause 19 by deleting the words "three months" and substituting therefor the words "one month".

during and after a general election. It was thus important to set up a Committee which would be vested with powers to facilitate the President-elect to assume office smoothly. The Committee was informed that the legislation was not meant for the general elections in 2013, but were meant to address uncertainties in all future electoral process.

Mr. Speaker,

The Committee takes this opportunity to thank the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to the Committee during deliberations on the Assumption of Office of the President Bill, 2012.

The Committee is also grateful to the Ministry of State for Provincial Administration and National Security, and in particular Cabinet Office, for initiating, drafting and publishing this important Bill which would ensure a smooth transition to power of a newly elected President and his Deputy.

Mr. Speaker, Sir,

On behalf of the Committee, and pursuant to Standing Order 111 (2), it is my pleasant duty to table in the House the Report of the Departmental Committee on Administration and National Security on the Assumption of Office of the President Bill, 2012.

Signed..........Date.....23/08/2012.....

Hon. Fred Kapondi, MP

Chairman, Departmental Committee on Administration and National Security

**MINUTES OF THE 48<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY, HELD ON WEDNESDAY, 22<sup>ND</sup> AUGUST, 2012, IN THE COMMITTEE ROOM, 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS, AT 11.30PM**

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**PRESENT**

The Hon. Fred Kapondi, MP (Chairman)  
The Hon. Peter Kiilu, MP (Vice Chairman)  
The Hon. Raphael Letimalo, MP  
The Hon. Danson Mungatana, MP  
The Hon. Mohamed Hussein Ali, MP  
The Hon. Joseph Kiuna, MP  
The Hon. Maison Leshoomo, MP

**ABSENT WITH APOLOGY**

The Hon. Pollyins Ochieng, MP  
The Hon. Cyprian Omollo, MP

**ABSENT**

The Hon. Nkoidila Ole Lankas, MP

**IN ATTENDANCE - NATIONAL ASSEMBLY**

Mr. Daniel Mutunga - Second Clerk Assistant  
Mr. Abdullahi Aden - Third clerk Assistant

**IN ATTENDANCE – CABINET OFFICE**

Mr. Samuel Mwale, CBS - Principal Administrative Secretary  
Hon. Prof. Kivutha Kibwana - Presidential Advisor on Constitutional Affairs  
Mr. Kathurina M'inoiti - Chairman Kenya Law Reform Commission

**MIN.NO.170/2012 - PRELIMINARIES**

The Chairman called the meeting to order at 11.45am. Prayers were said. He welcomed the team from the Office of the President to the meeting to deliberate on the Assumption of the Office of the President Bill, 2012.

**MIN. NO. 171/2012 – PRESENTATION BY THE CABINET OFFICE**

In his presentation, the Principal Administrative Secretary informed the Committee that;

- (i) The Assumption of the Office of the President Bill, 2012 provided for an orderly transition. The Bill seeks to remove the uncertainty that revolves a general election. The Bill further seeks to operationalize Article 141 of the Constitution..
- (ii) The Assumption of the Office of the President Bill, 2012 is not only for the next President in the year 2013 but for all the future Presidents of the Republic of Kenya.
- (iii) The Assumption of the Office of President Committee may from time to time establish sub-committees for the better carrying out of its functions under this act.

The Members sought the following clarifications;

- (i) The Committee sought the logic behind clause 5 (4) which states that the members of the Committee shall elect from among their number a secretary while the work of taking minutes and keeping the records of the committee can still be undertaken by the Principal Secretary in the Ministry responsible for matters relating to Information and Communication.
- (ii) The Committee further sought why the number of the Committee members in the Assumption of the Office of President was too large which may further slow the pace in undertaking their duties.
- (iii) The Committee sought the importance of clause 7 (2) where the Assumption of the Office of President Committee may co-opt in to membership a sub-committee established under subsection (1), persons whose knowledge and skills are considered necessary for the functions of the Committee.

Response by the Cabinet Office

The Principal Administrative Secretary informed the Committee that it was necessary to retain the Principal Communication Secretary because communication was vital during the electioneering period. Further, the every Member of the Committee had a specific role to play in the transition period. Co-option of a sub-committee would be necessary if the Committee required persons outside the Committee.

The following amendments to the Bill were proposed;

Amend Clause 5-

- (a) by inserting the following new paragraph immediately after paragraph (g)-  
(gg) the Principal Secretary in the Ministry responsible for matters relating to the Cabinet office;
- (b) by deleting sub-clause (4) and substituting therefor the following new sub-clause-  
(4) The Principal Secretary in the Ministry responsible for matters relating to the Cabinet office shall be the secretary to the Committee.

Clause 8 – insert the following new sub-clause-

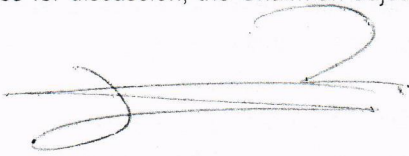
- (2) The three Committee members nominated by the President-elect under section 5(2) (n) may cause the Chairman to call for a meeting to consider important matters of an urgent nature regarding the assumption of office by the President-elect.

Sub-clause (2) of Clause 11 – insert the words “in writing” immediately after the word “request”.

Sub-clause (1) of Clause 19 – delete the words “three months” and substituting therefor the words “one month”.

**MIN. NO.167/2012 - A.O.B/ADJOURNMENT**

There being no other business for discussion, the Chairman adjourned the meeting at fifteen minutes past one o'clock.



Signed:  
Chairman.....Hon. Fred Kapondi, MP.....Date.....23/8/2012.....