

Approved for tabling.

REPUBLIC OF KENYA



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11/3/2020

THE NATIONAL ASSEMBLY

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TWELFTH PARLIAMENT (FOURTH SESSION)

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING  
.....

REPORT ON THE CONSIDERATION OF THE KENYA UWEZO FUND BILL (N.A. BILLS  
NO. 42 OF 2019)

CLERKS CHAMBERS  
DIRECTORATE OF COMMITTEE SERVICES  
PARLIAMENT BUILDINGS  
NAIROBI

MARCH, 2020

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## **CHAIRPERSON'S FOREWORD**

This report contains the proceedings of the Departmental Committee on Finance and National Planning on its consideration of the Kenya Uwezo Fund Bill, 2019, which was read a first time on **Wednesday, 3<sup>rd</sup> July, 2019** pursuant to Standing Order 127.

In processing the Bill, the Committee invited comments from the public by placing advertisements in the print media on **Thursday, 18<sup>th</sup> July 2019** pursuant to Article 118 of the Constitution. By the time the Committee was considering the Bill, two (2) stakeholders had submitted memoranda on the Bill both proposing amendments to the Bill.

The Committee put the stakeholders' comments into consideration while preparing the proposed Committee's amendments. Some of the proposals were adopted and therefore form part of the proposed Committee's amendments.

On behalf of the Departmental Committee on Finance and National Planning and pursuant to the provisions of Standing Order 199 (6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of the Kenya Uwezo Fund Bill, 2019.

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 its sittings. The Committee wishes to thank the sponsor of the Bill, Hon. David Kangogo Bowen, M.P. and the stakeholders who responded to the Committee's call for memoranda.

Finally, I wish to express my appreciation to the Honorable Members of the Committee who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Departmental Committee on Finance and National Planning has considered the Kenya Uwezo Fund Bill, 2019 and has the honour to report back to the National Assembly with the recommendation that the Bill is **approved with amendments**.

**Hon. Joseph Limo, M.P.**

## **EXECUTIVE SUMMARY**

The Kenya Uwezo Fund Bill (N.A. Bills No. 42 of 2019) was published on **17<sup>th</sup> June, 2019** and read a first time on **Wednesday, 3<sup>rd</sup> July 2019** and thereafter committed to the Departmental Committee on Finance and National Planning for consideration pursuant to Standing Order 127.

The Uwezo Fund stems from the pledge that His Excellency the President made to allocate the KSh. 6B that was meant for a presidential run-off to youth and women groups. Following this, the National Treasury allocated and Parliament approved the sum of KSh. 6B to go towards the Fund in the budget for the Financial Year 2013/2014.

The objective of the Bill is to elevate the Public Finance Management (Uwezo Fund) Regulations, 2013 into an Act of Parliament and to incorporate the Youth and Women Enterprise Development Funds into the Act. This Bill therefore repeals the following subsidiary legislations:-

- i. The Public Finance Management (Uwezo Fund) Regulations, 2013;
  - ii. The Public Finance Management (National Government Affirmative Action Fund) Regulations, 2016
  - iii. The Government Financial Management (Women Enterprise Fund) Regulations, 2007;  
and
  - iv. Youth Enterprise Development Fund Order, 2007
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## CHAPTER ONE

### 1 PREFACE

#### 1.1 Establishment of the Committee

1. The Departmental Committee on Finance & National Planning is one of the fifteen Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates pursuant to the *Standing Order 216 (5)* are as follows:
  - i. 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;
  - ii. To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
  - iii. To study and review all the legislation referred to it;**
  - iv. To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
  - v. To 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;
  - vi. To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No. 204 (Committee on appointments);
  - vii. To examine treaties, agreements and conventions;
  - viii. To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
  - ix. To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
  - x. To examine any questions raised by Members on a matter within its mandate.

#### 1.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following Government Ministries and Departments;
  - a. The National Treasury and Planning
  - b. Ministry of Devolution and ASAL
  - c. The Commission on Revenue Allocation
  - d. Office of the Controller of Budget
  - e. Salaries and Remuneration Commission

### 1.3 Committee Membership

4. The Departmental Committee on Finance and National Planning was constituted by the House in December, 2017 and comprises of the following Members:-

#### **Chairperson**

Hon. Joseph K. Limo, MP  
MP for Kipkelion East Constituency

#### **Jubilee Party**

#### **Vice-Chairperson**

Hon. Isaac W. Ndirangu  
M.P for Roysambu Constituency

#### **Jubilee Party**

#### **Members**

Hon. Jimmy O. Angwenyi, MP  
MP for Kitutu Chache North Constituency

#### **Jubilee Party**

Hon. Christopher Omulele, MP  
MP for Luanda Constituency

#### **ODM Party**

Hon. Dr. Enoch Kibunguchy, MP  
MP for Likuyani Constituency

#### **FORD-K**

Hon. Shakeel Shabbir Ahmed, MP  
MP for Kisumu Town East

#### **Independent Member**

Hon. Abdul Rahim Dawood, MP  
MP for North Imenti Constituency

#### **Jubilee Party**

Hon. Daniel E. Nanok, MP  
MP for Turkana West Constituency

#### **Jubilee Party**

Hon. Andrew A. Okuome, MP  
MP for Karachuonyo Constituency

#### **ODM Party**

Hon. David M. Mboni, MP  
MP for Kitui Rural Constituency

#### **CCU Party**

Hon. Francis K. Kimani, MP  
M.P. Molo Constituency

#### **Jubilee Party**

Hon. Joseph M. Oyula, MP  
MP for Butula Constituency

#### **ODM Party**

Hon. Joshua C. Kandie, MP  
MP for Baringo Central Constituency

#### **MCC Party**

The Hon. Lydia H. Mizighi, MP  
MP for Taita Taveta County

#### **Jubilee Party**

Hon. Mohamed A. Mohamed, MP  
MP for Nyali Constituency

#### **Independent Member**

Hon. Purity W. Ngirici, MP  
MP for Kirinyaga County

#### **Jubilee Party**

Hon. Samuel Atandi, MP  
MP for Alego Usonga Constituency

#### **ODM Party**

Hon. Stanley M. Muthama, MP  
MP for Lamu West Constituency

#### **MCC Party**

The Hon. Edith Nyenze, MP  
MP for Kitui West Constituency

#### **WDM-K**

#### 1.4 Committee Secretariat

5. The Committee is facilitated by the following Secretariat:-

**Head of Secretariat**

Ms. Leah W. Mwaura

**Senior Clerk Assistant**

Ms. Jennifer Ndeto

**Principal Legal Counsel I**

Ms. Laureen Wesonga

**Clerk Assistant II**

Mr. Josephat Motonu

**Fiscal Analyst I**

Mr. Chelang'a Maiyo

**Research Officer II**

## CHAPTER TWO

### **2 OVERVIEW OF THE KENYA UWEZO FUND BILL (N.A. BILLS NO. 42 OF 2019)**

#### **Statement of Objects and Reasons for the Bill**

6. The objective of the Bill is to elevate the Public Finance Management (Uwezo Fund) Regulations, 2013 into an Act of Parliament and to incorporate the Youth and Women Enterprise Development Funds into the Act. This Bill therefore repeals the following subsidiary legislations:-
  - v. The Public Finance Management (Uwezo Fund) Regulations, 2013;
  - vi. The Government Financial Management (Women Enterprise Fund) Regulations, 2007; and
  - vii. Youth Enterprise Development Fund Order, 2007
7. **Clause 1** of the Bill provides for the short title of the Bill.
8. **Clause 2** provides for the definition of term.
9. **Clause 3** provides for the application of the Bill.
10. **Clause 4** provides the guiding principles of the Bill.
11. **Clauses 5 and 6** provide for the establishment and the objects and purpose of the Uwezo Fund.
12. **Clauses 7 and 8** provide for the establishment and functions of the Uwezo Fund Board.
13. **Clause 9** provides for the role of the Ministry.
14. **Clauses 10, 11, 12, 13 and 14** provide for the appointment and qualification of the chairperson and members of the Uwezo Fund Board, as well as the conditions for their removal from office and the filling of a vacancy.
15. **Clauses 15 and 16** provide for the appointment and removal of the Chief Executive Officer.
16. **Clauses 17, 18 and 19** provide for the establishment of committees of the Board as well as the employment of employees of the Board.
17. **Clauses 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31** provide for the management of the Fund, the initial capital, fund allocation and expenditure of the Uwezo Fund.
18. **Clauses 32, 33, 34, 35, 36, 37 and 38** provide for the devolution of the Fund and the disbursement of funds. They provide for the establishment and functions of the Constituency Uwezo Fund Committee, the eligibility criteria for applicants as well as the disbursement of funds.
19. **Clause 39** deals with the provisions on delegated powers. It provides for the powers of the Cabinet Secretary to make regulations on any matter necessary for the carrying out of the provisions of this Act.
20. **Clause 40** provides for the winding up of the Fund.
21. **Clause 41** provides for the transitional provisions.



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

22. The Bill delegates the power to make regulations to the Cabinet Secretary but it does not limit fundamental rights and freedoms.

**Statement on whether the Bill concerns county governments**

23. The Bill does not concern county governments in terms of Article 109(3) of the Constitution as it does not contain provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

**Statement whether the Bill is a money bill**

24. The Bill is a money bill for purposes of Article 114 of the Constitution. The enactment of the Bill shall occasion additional expenditure of public funds.

### **CHAPTER THREE**

#### **3. PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION**

25. Through an advertisement in the print media on Thursday, 18<sup>th</sup> July, 2019 the Committee invited the public to present submissions on the Kenya Uwezo Fund Bill, 2019.
26. The Committee received submissions on the Bill from the following stakeholders:-
- i. Ministry of Public Service, Youth and Gender vide letter Ref. No. MPYG.CS/6
  - ii. National Youth Council vide letter Ref. No. NYC 1/5 Vol. 1 (51)
  - iii. Office of the Attorney General vide letter Ref. No. AG/LDD/578/1/83
27. The Committee extensively considered the contents of the submissions. Details of the deliberations and the Committee's observations and resolutions are contained in chapter four of this report.

#### **3.1 Submission by Stakeholders**

##### **3.1.1 Ministry of Public Service, Youth and Gender**

28. The Ministry was in support of the Bill citing that it was in line with the reforms that the Government has introduced to:-
- i. Provide a one stop shop for affirmative action groups seeking affordable and accessible business loans;
  - ii. Improve effectiveness; and
  - iii. Eliminate overlaps.
29. They proposed a number of amendments to the Bill that will be highlighted in Chapter Four of this report.

##### **3.1.2 National Youth Council**

30. The Council submitted that the Bill once enacted into law will provide a unified model for the sector that will rid off the inefficiencies associated with many non-unified funds.
31. They proposed an amendment to clause 10(2) and addition of a new clause to the Bill.

##### **3.1.3 Office of the Attorney General**

32. The Attorney General requested the withdrawal of the Bill citing that the Executive had identified the need to think the overall policy underlying the affirmative action legislation with a view to strengthening the law and the attendant implementation. He stated that the anticipated policy was likely to inform and affect most of the affirmative legislations beyond what was been proposed by the Bill. With the reasoning cited above, the Attorney proposed the withdrawal of the Bill to pave way for a comprehensive and more effective affirmative action legal framework.

## **CHAPTER FOUR**

### **4 CLAUSE BY CLAUSE CONSIDERATION OF THE BILL**

33. This part deals with the clause by clause consideration of the Bill by the Committee after taking into consideration the views of the aforementioned stakeholders.

#### **4.1 Part 1: Preliminary clause 1**

34. Clause 1 provides for the short title of the Bill.

#### **Stakeholders' Views**

##### **Ministry of Public Service, Youth and Gender**

35. The Ministry proposed that the short title of the Bill should be changed to 'The Kenya Biashara Fund Bill' in order to underscore the empowerment aspect of the Fund. The new title will also distinguish the Fund from the merged entities.

##### **Clause 2**

36. Provides for interpretation.

##### **Clause 3**

37. Provides for the application of the Bill.

##### **Clause 4**

38. Provides the guiding principles

#### **4.2 Part II: Establishment of the Uwezo Fund**

##### **Clause 5**

39. The clause provides for the establishment of the Fund.

40. The Ministry proposed that sub-clause 5(3) should be deleted and replaced by the following new sub-clauses:-

(3) The Fund shall consist of-

- a) monies appropriated by Parliament for the purposes of the Fund;
- b) income generated from the proceeds of the Fund;
- c) income from investments made by the Fund;
- d) grants, donations, bequests or other gifts made to the Fund; and
- e) monies from any other source approved by the Cabinet Secretary.

##### **Clause 6**

41. Provides the objects and purpose of the Fund.

#### **Stakeholders' views**

##### **Ministry of Public Service, Youth and Gender**

42. The Ministry proposed that additional objects should be added to the Bill to:-

- i. Facilitate mainstreaming of the interests of women, youth and persons with disabilities enterprises or groups and micro, small and medium enterprises in bilateral and international trade, investment and agreements;

- ii. Support capacity building of the beneficiaries of the Fund and their institutions through training, incubation, mentorship, start-up support and promotion of innovation and development of products;
- iii. Facilitate periodic market surveys and data analysis to identify industry opportunities for women, youth, persons with disability enterprises or groups and micro, small and medium enterprises; and
- iv. Promote, develop and facilitate access to government procurement opportunities by women, youth and persons with disabilities enterprises or groups and micro, small and medium enterprises.

#### **Clause 7**

43. Provides for the establishment of the Uwezo Fund.

44. The Ministry proposed that the sub-clause should be deleted and replaced with the following new sub-clause:-

(2) The Board shall consist of:-

- a) Non-executive chair appointed by the President;
- b) PS Treasury;
- c) PS Gender;
- d) National Council of Persons with Disabilities nominee;
- e) Youth nominee by the National youth Council; and
- f) Three other persons (one woman) not public officers appointed by the responsible CS.

45. This is to comply with Mwongozo guidelines and to spread representation. National Gender and Equality Commission provides oversight and hence cannot be part of the Board.

#### **Clause 8**

46. Outlines the functions of the Board.

#### **Stakeholders' views**

##### **Ministry of Public Service, Youth and Gender**

47. The Ministry submitted that the clause should be amended by inserting the following new paragraphs:-

- i. Oversee the administration of the fund;
- ii. Advise the CS responsible on general operations;
- iii. Receive reports on the performance of the Funds;
- iv. Develop policy, regulations and guidelines relating to the disbursement of the Fund; and
- v. Mobilise resources for the Fund.

#### **Clause 9**

48. Provides the role of the Ministry.

#### **Stakeholders' views**

##### **Ministry of Public Service, Youth and Gender**

49. The Ministry proposed that the clause should be amended by deleting sub-clauses (a) and (b) and replacing them with the following new sub-clauses:-

- a) Facilitate and oversee the operations of the Board and in particular;

- b) Develop policy measures relating to the Fund and prescribe Regulations on the formula for distribution of the Fund.

50. This is to take into consideration possible re-organisation of the Government.

**Clause 10**

51. Outlines the qualifications of Board Members.

**Stakeholders' views**

**Ministry of Public Service, Youth and Gender**

52. The Ministry proposed that the clause should be amended in sub-section (1)(c) by deleting the word 'five' and replacing with the word 'ten'. This is because advanced experience is required of the chairperson to steer the Board.

**National Youth Council**

53. The Council proposed that sub-clause (2)(c) should be amended either by deleting the word 'five' and replacing it with the word 'three' or deleting the word 'post-qualification'. This is to give an opportunity to young people to hold the position. The five years' experience is disadvantageous to the youth.

**Clause 11**

54. Provides for the removal from office.

**Clause 12**

55. Provides for vacation from office.

**Clause 13**

56. Provides for the filling of a vacancy.

**Clause 14**

57. Highlights how meetings of the Board shall be held.

**Clause 15**

58. Provides for the appointment of the Chief Executive Officer.

**Stakeholders' Views**

**Ministry of Public Service, Youth and Gender**

59. The Ministry proposed amendment of sub-clause (1) by inserting the following new clause:-

*'The CEO and staff of the secretariat shall be appointed competitively in consultation with the Public Service Commission'*. This is because PSC provides the norms and standards in public service.

**Committee's observations and recommendations on the clause**

60. The Committee observed that

**Clause 16**

61. Provides the process of removal of the Chief Executive Officer.

**Committee's observations and recommendations on the clause**

62. The Committee observed that there were no comments from stakeholders on the clause.

**Clause 17**

63. Provides for the Committees of the Board.

**Committee's observations and recommendations on the clause**

64. The Committee observed that no comments had been received from stakeholders on the clause.

**Clause 18**

65. Provides for the delegation by the Board.

**Committee's observations and recommendations on the clause**

66. The Committee observed that no comments had been submitted by stakeholders on the clause.

**Clause 19**

67. Provides the employees of the Board.

**Committee's observations and recommendations on the clause**

68. The Committee observed that there were no comments on the clause from stakeholders.

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**4.3 Part III: Management of the Fund**

**Clause 20**

69. Provides how the Fund will be administered.

**Committee's observations and recommendations on the clause**

70. The Committee observed that there were no comments on the clause from stakeholders.

**Clause 21**

71. Provides for the initial capital of the Fund.

**Committee's observations and recommendations on the clause**

72. The Committee observed that there were no comments from stakeholders on the clause.

**Clause 22**

73. Provides for fund allocation.

**Stakeholders' views**

**Ministry of Public Service, Youth and Gender**

74. The Ministry proposed that the following amendments should be made to the clause:-

- i. The Bill should consider an additional recurrent line budget from the exchequer to cushion operations and maintenance. This is because the 3% is inadequate to cater for administration cost of the fund;
- ii. The Bill should consider the cost associated with the transition process and recommend that the exchequer provides a budget line for transition costs; and

- iii. The Fund should be 100% a revolving Fund. From the experience of current Funds, the 20% grant creates/perpetuates a culture of dependency and a challenge on the sustainability of the Funds.

**Clause 23**

75. Provides for the expenditure of the Fund.

**Committee's observations and recommendations**

76. The Committee observed that there was no stakeholder comment on the clause.

**Clause 24**

77. Provides for the retention of receipts.

**Committee's observations and recommendations on the clause**

78. The Committee observed that there was no stakeholder comment on the clause.

**Clause 25**

79. Provides for the application of Government regulations and procedures.

**Committee's observations and recommendations on the clause**

80. The Committee observed that there were no comments by stakeholders on the clause.

**Clause 26**

81. Provides the expenses of administering the Fund.

**Committee's observations and recommendations on the clause**

82. The Committee observed that there were no stakeholder comments on the clause.

**Clause 27**

83. Provides for the investment of the Fund.

**Committee's observations and recommendations on the clause**

84. The Committee observed that there was no comment from the stakeholders on the clause.

**Clause 28**

85. Provides for the annual estimates.

**Committee's observations and recommendations on the clause**

86. The committee observed that no stakeholder had submitted views on the clause.

**Clause 29**

87. Provides for the accounts and audit.

**Committee's observations and recommendations on the clause**

88. The Committee observed that there were no stakeholder comments on the clause.

**Clause 30**

89. Provides for the annual report.

**Committee's observations and recommendations on the clause**

90. The committee observed that no comment had been submitted by stakeholders on the clause.

**Clause 31**

91. Provides the interest rates.

**Committee's observations and recommendations on the clause**

92. The Committee observed that there were no comments from stakeholders on the clause.

**4.4 Part IV: Devolution of the Fund and Disbursement of Funds**

**Clause 32**

93. Provides for Fund disbursement.

**Committee's observations and recommendations on the clause**

94. The Committee observed that no stakeholder had submitted views on the clause.

**Clause 33**

95. Provides for the establishment of Constituency Uwezo Fund Committees.

**Stakeholders' views**

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**Ministry of Public Service, Youth and Gender**

96. The Ministry proposed the following amendments to the clause:-

- i. Amend sub-clause 33(2)(a) by stating that the Deputy County Commissioner is the Chair of the Committee. This is in line with the national Government Executive Order No.1;
- ii. Deleting sub-clause 33(2)(e). This is in line with the functions and mandates;
- iii. Amend sub-clause 33(2)(h) by stating that the officer from the responsible ministry shall be the secretary this is in line with the functions and mandates of a constitutional commission;
- iv. Inserting the paragraph 'Sub County representative of the responsible ministry because some Constituencies have more than three wards; and
- v. Deleting sub-clause 33(4) because the clause does not define the ward representatives indicated in the clause.

**Clause 34**

97. Outlines the functions of the Constituency Uwezo Fund Committees.

**Committee's observations and recommendations on the clause**

98. The Committee observed that no stakeholder had submitted views on the clause.

**Clause 35**

99. Provides for the bank accounts.

**Stakeholders' views**

**Ministry of Public Service, Youth and Gender**

100. The Ministry proposed that the clause should be amended to:-



- i. Propose that three bank accounts should be maintained at the board level and disburse directly to the beneficiaries' bank accounts; and
- ii. Propose that the role of the constituency committee is to review and recommend approval of the loans, monitor and recover outstanding loans.

**Clause 36**

101. Outlines the eligibility criteria for applicants.
102. The Ministry proposed deletion of sub-clause (1) and replacing it with the following new clause:-
  - (1) A woman, youth, person with disability and micro, small and medium enterprise shall be eligible to apply for a loan for business purposes from the Fund if-
    - a) In the case of a group, is registered with the Department of Social Services, Cooperatives or the Registrar of Society and:-
      - (i) At least seventy percent of the membership is aged between 18 and 35 years;
      - (ii) At least seventy percent of the membership is composed of women aged eighteen years and above; or
      - (iii) At least seventy percent of the membership is composed of persons with disability.
    - b) In the case of an enterprise owned by women, youth, persons with disability, micro, small and medium enterprises registered under the Registration of Business Names Act, Partnerships Act, Companies Act or Cooperatives Act;
    - c) In the case of unregistered business, the person shall have a business permit and PIN issued by the Kenya Revenue Authority; or
    - d) In the case of a natural person, the person shall demonstrate that he or she is running an enterprise or intends to start an enterprise.
  - (2) Women, youth and persons with disability enterprises shall be given preference while processing loans by the Fund.

**Clause 37**

103. Provides for the disbursement of funds.

**Committee observations and recommendations on the clause**

104. The Committee observed that there was no stakeholder view on the clause.

**Clause 38**

105. Provides for the repayment of the loan.

**Stakeholders' views**

**Ministry of Public Service, Gender and Youth**

106. The Ministry proposed an amendment to sub-clause (2) by deleting the word 'six' and replacing with the word 'three' in order to sustain the revolving nature of the Fund.

**4.5 Part V: Provision on Delegated Powers**

**Clause 39**

107. Provides for the Regulations.

**Committee observations and recommendations on the clause**

108. The Committee observed that no stakeholder had submitted their views on the clause.

**Clause 40**

109. Provides for the winding up of the Fund.

**Committee observations and recommendations on the clause**

110. The Committee observed that no stakeholder had submitted views on the clause.

**Clause 41**

111. Provides the transitional clauses

**Committee observations and recommendations on the clause**

112. The Committee observed that there was no comment from the stakeholders on the clause.

**4.6 First Schedule**

113. Provisions as to the conduct of business and affairs of the Board.

**Committee observations and recommendations on the schedule**

114. The Committee observed that there was no comment from the stakeholders on the schedule.

**4.7 Second Schedule**

115. Provisions as to the initial capital and interest rates of the Fund.

**Stakeholders' Views**

**Ministry of Public Service, Youth and Gender**

116. Amend the Schedule by:-
- i. Initial capital to include the addition injection through Parliamentary appropriation in order to provide a wider capital base. The initial capital is already owed as loans by the beneficiaries;
  - ii. Developing a Sharia compliant product for inclusivity;
  - iii. Remove the proposed interest; and
  - iv. Propose a one off administrative fee of 6% to cater for administrative costs.

**4.8 Third Schedule**

117. Transitional clauses

**Stakeholders' views**

**Ministry of Public Service, Youth and Gender**

118. Amend the Schedule by deleting sub-clause 2(d). This is because the Fund seeks to merge affirmative action credit funds. National Government Affirmative Action Fund is an affirmative action grant fund and not a credit fund.

#### **4.9 New Clause**

##### **National Youth Council**

119. They proposed that an amendment should be made to provide for transparency, accountability and public participation guidelines to inform the operation of the Fund.

## **CHAPTER FIVE**

### **5 COMMITTEE'S GENERAL OBSERVATIONS**

The Committee observed as follows, THAT –

120. the Cabinet Secretary responsible for the National Treasury has established the Uwezo Fund under section 24 of the Public Finance Management Act.
121. there may be a challenge in operationalising the Kenya Uwezo Fund Act upon enactment as the same may infringe on the provisions of section 6 of PFMA that provides that the latter legislation prevails where there is in contravention on establishment and management of public funds.
122. the Memorandum of objects and reasons cites that the Bill seeks to elevate the Public Finance Management (Uwezo Fund) Regulations 2013 into Act. At the same time, the Bill repeals several other subsidiary legislations namely the Public Finance Management (Uwezo Fund) Regulations, 2013, the Public Finance Management (National Government Affirmative Action Fund) Regulations, 2016, the Government Financial Management (Women Enterprise Fund) Regulations, 2007 and the Youth Enterprise Development Fund Order, 2007 that are under separate guidelines and are established for different purposes and have nothing to do with the Public Finance Management (Uwezo Fund) Regulations 2013.
123. the Bill has gone outside of the scope by attempting to merge the four funds that are established through different frameworks and targets different groups.

**CHAPTER SIX**

**6 COMMITTEE RECOMMENDATION**

124. The Committee, having considered the Bill clause by clause and based on the aforementioned observations proposes to the House that the Bill be deleted in its entirety.

SIGNED.......... DATE..... 11/3/2020.....

**THE HON. JOSEPH LIMO, MP**

**CHAIRPERSON**

**DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING**

**MINUTES OF THE 11<sup>TH</sup> SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON TUESDAY, 10<sup>TH</sup> MARCH, 2020 ON 5<sup>TH</sup> FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 10.00 AM**

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**PRESENT**

1. Hon. Joseph K. Limo, MP - **Chairperson**
2. Hon. Jimmy O. Angwenyi, MGH, MP
3. Hon. Christopher Omulele, MP
4. Hon. Dr. Enoch Kibunguchy, MP
5. Hon. Shakeel Shabbir Ahmed, CBS, MP
6. Hon. Abdul Rahim Dawood, MP
7. Hon. Andrew A. Okuome, MP
8. Hon. David M. Mboni, MP
9. Hon. Francis K. Kimani, MP
10. Hon. Joseph M. Oyula, MP
11. Hon. Joshua C. Kandie, MP
12. Hon. Mohamed A. Mohamed, MP
13. Hon. Purity Ngirici, MP
14. Hon. Samuel Atandi, MP
15. Hon. Edith Nyenze, MP

**ABSENT WITH APOLOGY**

1. Hon. Isaac W. Ndirangu, MP - **Vice Chairperson**
2. Hon. Daniel E. Nanok, MP
3. Hon. Lydiah Mizighi, MP
4. Hon. Stanley M. Muthama, MP

**INATTENDANCE**

**SECRETARIAT**

1. Ms. Leah Mwaura - Senior Clerk Assistant/Head of the Secretariat
2. Ms. Jennifer Ndeto - Principal Legal Counsel I
3. Ms. Laureen Wesonga - Clerk Assistant II
4. Mr. Chelang'a Maiyo - Research Assistant II
5. Mr. John Njoro - Serjeant-At-Arms
6. Ms. Euridice Nzioka - Audio Officer
7. Mr. Vitalis Augo - Office Assistant
8. Mr. Faustine Rotich - Intern

**SPONSORS OF THE LEGISLATIVE PROPOSAL**

1. Hon. Benjamin Washiali, MP - MP, Mumias East
2. Hon. Oroo Oyioka, MP - MP, Bonchari
3. Hon. Eng. Wainaina Jungle, MP - MP, Thika Town
4. Hon. Didmus Barasa, MP - MP, Kimilili

## AGENDA

1. Prayers
2. Communication from the Chairperson
3. Confirmation of Minutes
4. Matters Arising
5. **Meeting with to:-**
  - i. **Discuss the following Legislative Proposals:-**
    - a. **The Pensions (Amendment) Legislative Proposal, 2019** by Hon. Didmus Wekesa Barasa, M.P.;
    - b. **The Public Finance Management (Amendment) Legislative Proposal, 2019** by Hon. Paul Abuor, M.P.;
    - c. **The Insurance Professionals Registration Legislative Proposal, 2019** by Hon. Benjamin Washiali, M.P.;
    - d. **The Parliamentary Pensions (Amendment) Legislative Proposal, 2019** by Hon. George Peter Kaluma, M.P.;
    - e. **The Public Procurement and Asset Disposal (Amendment) Bill, 2019** by Hon. Eng. Jungle Patrick Wainaina, MP; and
    - f. **The Central Bank of Kenya (Amendment) Bill, 2019** by Hon. Oroo Oyioka, MP
  - ii. **Adopt reports on the consideration of the following Bills:-**
    - a. **The Public Procurement and Asset Disposal (Amendment) Bill (N.A. Bills No. 36 of 2019)**
    - b. **The Kenya Uwezo Fund Bill (N.A. Bills No. 42 of 2019)**
6. Adjournment/ Date of the next meeting

### **MIN.NO.NA/F&NP/2020/052: COMMUNICATION FROM THE CHAIRPERSON**

The meeting was called to order at 10.28am and a prayer was said. The Chairperson then welcomed Hon. Benjamin Washiali, MP to make submissions on his Legislative Proposal.

### **MIN.NO.NA/F&NP/2020/053: CONFIRMATION OF MINUTES**

Agenda deferred

### **MIN.NO.NA/F&NP/2020/054: CONSIDERATION OF THE INSURANCE PROFESSIONALS LEGISLATIVE PROPOSAL, 2019**

Hon. Washiali, the Sponsor of the Legislative Proposal submitted that:-

The Bill intends to ensure professionalism in the insurance industry by establishing the Insurance Institute of Kenya like other professionals. The Institute will provide training for insurance professionals. This is because the insurance industry has many unscrupulous persons hence the need for legislation to regulate their conduct and in order to protect the citizenry.

### **MEMBERS' DELIBERATIONS**

The meeting noted that the proposed Bill was a good legislation that will ensure professionalism in the insurance industry. They therefore recommended that the proposed Bill should be published.

**MIN.NO.NA/F&NP/2020/055: CONSIDERATION OF THE PUBLIC  
PROCUREMENT AND ASSET DISPOSAL  
(AMENDMENT) LEGISLATIVE, 2019**

Hon. Eng. Jungle Patrick Wainaina, MP informed the meeting that most contracts in the National and county governments were being awarded to foreigners. The Bill proposes that tenders should be divided into smaller bits so that the same tender can be awarded to more than one companies. Additionally, there should be engineer and market estimate price of different contracts in order to ensure that the amount allocated to the tenders will ensure that the work done is up to standard and also minimize wastage of resources. The contracts will be awarded to contractors who will quote prices that are either plus or minus 15% of the engineer and market price.

Further, the Bill proposes that a tender will be awarded to a successful tenderer by way of a bank guarantee. This will enable a contractor to be paid by the bank if the National or county government fails to pay them ninety (90) days after completion of the contract. The proposed Bill also proposes that there should be 1.5 stabilization rate for local contractors in order to give them a level playing field with the foreigners.

Finally, the Legislative Proposal provides that tenders below KSh. 1 billion should be awarded to locals.

**MEMBERS' DELIBERATIONS**

1. Members noted that the proposed Bill was good as it would cure numerous challenges that have been experienced by contractors in the country including late payment after completion of contracts;
2. Members noted that if enacted, the Bill will ensure that tenders are not awarded to tenderers who give very low quotations for tenders as most of them do below standard jobs;
3. Members were of the opinion that the bank guarantees may not be favourable to banks. Members requested Hon. Wainaina to give examples of countries where the bank guarantees have been implemented and worked successfully;
4. The meeting also noted that dividing tenders into small bits may not guarantee the same quality of the work and the contracts may not be completed within the same time frame due to difference in the capacity of the contractors; and
5. Members noted that the proposed Bill was good and proposed the following further amendments:-
  - i. A contract should be completed within the period in the contract failure to which the contractor should be penalized;
  - ii. The essence of variation in time and money should be captured in the proposed Bill;
  - iii. The number of days within which the bank guarantee takes effect should be captured in the Bill; and
  - iv. The proposed Bill should specify the Kenyan company that is being referred to.
6. The Committee recommended that the proposed Bill should be published.

**MIN.NO.NA/F&NP/2020/056: CONSIDERATION OF THE CENTRAL BANK OF  
KENYA (AMENDMENT) LEGISLATIVE  
PROPOSAL, 2019**

Hon. Oroi Oyioka, the sponsor of the Legislative Proposal submitted that the proposed Bill seeks regulation of the digital lending platforms by the Central Bank of Kenya. The interest rates



and penalties by such lenders are usually very high. He noted that regulating the digital lenders will help the government to collect more revenue through the registration fees.

#### **MEMBERS' DELIBERATIONS**

1. Members observed that the interest rate chargeable by the digital lending platforms should be similar to that of commercial banks;
2. Members noted that the proposed Bill should be amended to provide for regulations to shylocks in addition to the digital lenders; and
3. The Committee recommended that the Legislative Proposal should be published.

#### **MIN.NO.NA/F&NP/2020/057: CONSIDERATION OF THE PENSIONS BILL, 2019**

The Sponsor of the Bill, Hon. Didmus Barasa submitted that the objective of the proposed Bill is to save Kenyans from delayed payment of pension. The Legislative Proposal proposes that pension should be paid within ninety (90) days of retirement. He further noted that pension administrators will be committing an offense if they fail to pay pension and will be required to individually pay a fine of KSh. 1 million.

#### **MEMBERS' DELIBERATIONS**

1. Members noted that interest should be introduced to the amount of pension due to a member after the ninety (90) days until the pension is paid in full;
2. Members noted that the pension should be paid by the institution and not the pension administrator because most of the delays are occasioned by the institution and not the administrator;
3. Members proposed that an amendment should be made to ensure that pension due to a widow/widower should also be paid within ninety (90) days;
4. Members noted that the Pensions Act only recognizes widows and not widowers, they proposed that an amendment should be made to capture widowers too; and
5. The Committee recommended that the proposed Bill should be published.

#### **MIN.NO.NA/F&NP/2020/058: CONSIDERATION OF THE PUBLIC FINANCE MANAGEMENT LEGISLATIVE PROPOSAL, 2019**

The sponsor of the Legislative Proposal, Hon. Paul Abuor, did not attend the meeting. His Legislative Proposal will therefore be considered in another meeting.

#### **MIN.NO.NA/F&NP/2020/059: CONSIDERATION OF THE PARLIAMENTARY PENSIONS LEGISLATIVE PROPOSAL, 2019**

The sponsor of the Legislative Proposal, Hon. George Kaluma, did not attend the meeting. His Legislative Proposal will therefore be considered in another meeting.

#### **MIN.NO.NA/F&NP/2020/060: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL (AMENDMENT) BILL (N.A. BILLS NO. 36 OF 2019)**

The Committee adopted the report on the consideration of the Public Procurement and Asset Disposal (Amendment) Bill (N.A. Bills No. 36 of 2019) having been proposed and seconded by

Hon. Jimmy Angwenyi, MP and Hon. Andrew Okuome, MP respectively. The Committee recommended that the Bill should be deleted in its entirety.

**MIN.NO.NA/F&NP/2020/061: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE KENYA UWEZO FUND BILL (N.A. BILLS NO. 42 OF 2019)**

The Committee adopted the report on the consideration of the Kenya Uwezo Fund Bill (N.A. Bills No. 42 of 2019) having been proposed and seconded by Hon. Jimmy Angwenyi, MP and Hon. Joseph Oyula, MP respectively. The Committee recommended that the Bill should be deleted in its entirety.

**MIN.NO.NA/F&NP/2020/062: ADJOURNMENT/DATE OF NEXT MEETING**

There being no other business to deliberate on, the meeting was adjourned at 1.11p.m. The next meeting will be held on Thursday, 12<sup>th</sup> March, 2020 at 10.00 a.m.

**HON. JOSEPH K. LIMO, MP**

**(CHAIRPERSON)**

SIGNED..........DATE.....11/3/2020.....

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

DEPARTMENTAL COMMITTEE ON FINANCE & NATIONAL PLANNING  
ADOPTION SCHEDULE FOR THE REPORT ON THE CONSIDERATION OF THE KENYA  
UWEZO FUND BILL (N.A. BILLS NO. 42 OF 2019)

DATE: 10<sup>TH</sup> MARCH, 2020

NAME	SIGNATURE
1. HON. JOSEPH K. LIMO, MP – CHAIRMAN	
2. HON. ISAAC W. NDIRANGU – VICE-CHAIRMAN	
3. HON. JIMMY O. ANGWENYI, MGH, MP	
4. HON. CHRISTOPHER OMULELE, MP	
5. HON. ENOCH KIBUNGUCHY, MP	
6. HON. SHAKEEL SHABBIR AHMED, CBS, MP	
7. HON. ABDUL RAHIM DAWOOD, MP	
8. HON. DANIEL E. NANOK, MP	
9. HON. ANDREW A. OKUOME, MP	
10. HON. DAVID M. MBONI, MP	
11. HON. KURIA KIMANI, MP	
12. HON. JOSEPH M. OYULA, MP	
13. HON. JOSHUA KANDIE, MP	
14. HON. LYDIA H. MIZIGHI, MP	
15. HON. MOHAMED ALI, MP	
16. HON. PURITY NGIRICI, MP	
17. HON. SAMUEL ATANDI, MP	
18. HON. STANLEY M. MUTHAMA, MP	
19. HON. EDITH NYENZE, MP	