



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

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THIRTEENTH PARLIAMENT – SECOND SESSION – 2023
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

REPORT ON:

THE GERIATRIC BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2022)

CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

THE NATIONAL ASSEMBLY PAPER PAID	
DATE: 05 OCT 2023	DAY: TUE 05/10/2023
TABLED BY:	Hon. Alice Nganga, MP Chairperson, Social Protection
CLERK AT THE TABLE:	A. Shubuko

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CHAIRPERSON'S FOREWORD

This report details the Departmental Committee on Social Protection's consideration of the Geriatric Bill (National Assembly Bill No. 50 of 2022). The Bill seeks to give effect to Article 57 of the Constitution; to establish the National Council for the Elderly; to provide for the care of elderly persons; to provide for the empowerment and protection of the elderly and the maintenance of their well-being, safety, and security, and for connected purposes.

The Bill was published on 4th November, 2022 and read a First Time in the House on 16th February, 2023. It was thereafter committed to the Departmental Committee on Social Protection for consideration and reporting to the House pursuant to the provision of Standing Order 127.

Article 118(1) (b) of the Constitution and Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. In compliance with the foregoing, the Committee, through the placement of advertisements in the print media on 23rd February 2023 invited the public and interested stakeholders to submit memoranda on the Bill. The Committee received views from the Ministry of Labour and Social Protection and the National Gender and Equality Commission. The Committee thereafter held meetings with the Principal Secretary, State Department for Social Protection and Senior Citizens and the National Gender and Equality Commission.

Having considered the Bill and based on analysis of submissions by the Ministry of Labour and Social Protection and the National Gender and Equality Commission, the Committee made observations which are contained in page no. 48 of this Report.

Having reviewed the Bill, the Committee recommends that pursuant to Standing Order 127, the Bill does proceed for Second Reading subject to the amendments contained in the Report.

Hon. Alice Ng'ang'a, MP,
Chairperson, Departmental Committee on Social Protection.

PART I

1.0 PREFACE

1.1 Introduction

1. This report details the Departmental Committee on Social Protection's consideration of The Geriatric Bill (National Assembly Bill No. 50 of 2022). The Bill seeks to give effect to Article 57 of the Constitution; to establish the National Council for the Elderly; to provide for the care of elderly persons; to provide for the empowerment and protection of the elderly and the maintenance of their well-being, safety, and security, and for connected purposes.
2. The Bill was published on 4th November, 2022 and read a First Time in the House on 16th February, 2023. It was thereafter committed to the Departmental Committee on Social Protection for consideration and reporting to the House pursuant to the provision of Standing Order 127.

1.2 Mandate of the Committee

3. The Departmental Committee on Social Protection is established under the National Assembly Standing Order No. 216. The functions and mandate of the Committee include, among others, **“to study and review all legislation referred to it”**.
4. The subject matter of the Departmental Committee on Social Protection are stated in the Second Schedule of the National Assembly Standing Orders as follows: Social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.

1.3 Oversight

5. In executing its mandate, the Committee oversees the following State Departments:
 - (a) The State Department for Social Protection and Senior Citizens Affairs;
 - (b) The State Department for Gender and Affirmative Action;
 - (c) The State Department for Youth Affairs;
 - (d) The National Gender and Equality Commission.

1.4 Committee Membership

6. The Committee was constituted by the House on 27th October, 2022 and comprises the following Members:

Chairperson

Hon. Alice Wambui Ngángá, MP
Thika Town Constituency
UDA Party

Vice-Chairperson

Hon. Hillary Kiplang'at Koskei, MP
Kipkelion West Constituency
UDA Party

Members

Hon. (Dr.) James Wambura Nyikal, M.P.
Seme Constituency

ODM PARTY

Hon. Timothy Wanyonyi Wetangula, M.P.
Westlands Constituency

ODM PARTY

Hon. (Dr.) Lilian Achieng Gogo, M.P.
Rangwe Constituency

ODM PARTY

Hon. Mark Ogolla Nyamita, M.P.
Uriri Constituency

ODM PARTY

Hon. Edith Vethi Nyenze, M.P.
Kitui West Constituency

WDM-K PARTY

Hon. Betty Njeri Maina, M.P.
Murang'a County

UDA PARTY

Hon. Michael Wambugu Wainaina, M.P.
Othaya Constituency

UDA PARTY

Hon. Sulekha Hulbale Harun, M.P.
Nominated Member

UDM PARTY

Hon. Amina Abdullahi Dika, M.P.
Tana River County

KANU PARTY

Hon. Hussein Abdi Barre, M.P.
Tarbaj Constituency

UDA PARTY

Hon. Susan Nduyo Ngugi, M.P.
Tharaka Nithi County

TSP PARTY

Hon. Agnes Mantaine Pareiyo, M.P.
Narok North Constituency

JUBILEE PARTY

Hon. Linet Chepkorir, M.P.
Bomet Constituency

UDA PARTY

1.5 Committee Secretariat

7. The Committee is facilitated by the following staff:

Ms. Hellen Lokwang Ekadeli
First Clerk Assistant/Head of Secretariat

Ms. Jemimah Waigwa
Senior Legal Counsel

Mr. Abdikafar Abdi Sheikh
Clerk Assistant III

Mr. Sakana Saoli
Clerk Assistant III

Mr. Boniface Mugambi
Serjeant-At-Arms

Mr. Adan Ahmed Abdi
Fiscal Analyst II

Ms. Grace Maneno
Research Officer III

PART II

2.0 OVERVIEW OF THE GERIATRIC BILL, 2022

8. The Geriatric Bill (National Assembly Bill No. 50 of 2022) is a Bill sponsored by the Hon. Gathoni Wamuchomba. The Bill seeks to give effect to Article 57 of the Constitution; to establish the National Council for the Elderly; to provide for the care of elderly persons; to provide for the empowerment and protection of the elderly and the maintenance of their well-being, safety, and security, and for connected purposes.
9. The Bill further seeks to give effect to Article 57 of the Constitution; to establish the National Council for the Elderly; to provide for the care of elderly persons; to provide for the empowerment and protection of the elderly and the maintenance of their well-being, safety, and security, and for connected purposes.

PART 1 OF THE BILL: PRELIMINARY

10. The Bill is divided into eight Parts and two schedules. The Bill has a total of 56 clauses. The following is a summary of the Bill as proposed by the Hon. Member:
11. Part 1 of the Bill is the preliminary provisions and contains the short title, interpretation clause and objects of the Bill.
12. Clause 2 defines various terms as used in the Bill which includes the following key definitions:
 - “care” means physical, psychological, social, or material assistance to an elderly person, and includes services aimed at promoting the quality of life and general well-being of the elderly person;
 - “caregiver” means a person who provides care to the elderly;
 - “community-based care and support services” means any programme contemplated under section 27;
 - “home for the elderly” means any building or premises maintained and used for the reception, protection, and temporary care of elderly persons in need of care and protection;
 - “home-based care” means care provided or services rendered at a place where elderly persons reside, excluding at a residential facility, by a care giver in order to ensure that the elderly person is maintain at a maximum level of comfort;

“elderly person” means a person who has attained the age of sixty years;

“elderly person in need of care and protection” means an older person contemplated under the Act;

13. Clause 3 of the Bill provides for the objects and purposes of the Bill which includes to:

- (a) establish the National Council for Elderly Persons;
- (b) provide a legal framework that promotes the rights of the elderly as enshrined under Article 57 of the Constitution;
- (c) promote and protect the dignity, well-being, safety, and security of elderly persons;
- (d) provide a framework for the registration of elderly persons, and the establishment and management of residential facilities for the elderly; and
- (e) prohibit the abuse of elderly persons.

14. Clause 4 of the Bill provides for the guiding principles of the Bill which includes that all proceedings, actions or decisions in a matter involving an elderly person, shall respect, promote and fulfil the rights of the elderly person subject to any lawful limitation; and respect the elderly person’s inherent dignity.

15. Clause 5 of the Bill provides for the application of the Bill which is that the Act shall apply to all entities providing services to elderly persons and binds both natural and juristic persons to the applicable extent.

PART II OF THE BILL: ESTABLISHMENT OF THE NATIONAL COUNCIL FOR THE ELDERLY

16. Part II of the Bill (Clauses 6-22) provides for the establishment the National Council for the Elderly. Clause 6 provides for the establishment of the Council as a body corporate. Clause 7 of the Bill provides for the functions of the Council which shall be to—

- a) advise state and non-state actors on promotion of access to essential services by elderly persons;
- b) regulate the establishment and management of institutions for the elderly;
- c) participate in the formulation, review and development of policies and legal framework on elderly persons;
- d) issue adjustment orders to institutions offering services to elderly persons;

- e) work with the relevant agencies to ensure that cases relating to the elderly are resolved expeditiously;
- f) advise the government on matters relating to elderly persons;
- g) facilitate the provision of assistive devices and medical appliances and other necessary equipment to elderly persons;
- h) facilitate preparation of wills for elderly persons at no cost to the elderly person or on such other terms as the Council may determine; among other functions.

17. Clause 8 of the Bill provides for the powers of the Council. Clause 9 of the Bill provides for the composition of the Council which shall consist of—

- a) a Chairperson appointed by the President;
- b) the Principal Secretary of the Ministry responsible for matters relating to the elderly or a designated representative;
- c) the Principal Secretary of the Ministry responsible for finance or a designated representative; and
- d) four other members appointed competitively by the Cabinet Secretary being—
 - i. two persons nominated by the most representative organizations for elderly persons; and
 - ii. two elderly persons representing special interests;

18. Clause 10 of the Bill provides for the qualifications for appointment of the Chairperson and Members of the Council. It provides that a person shall be qualified for appointment as the Chairperson of the Council, if the person—

- (a) is a Kenyan citizen;
- (b) holds a Bachelors degree from a university recognized in Kenya;
- (c) possess at least fifteen years' relevant working experience, five of which should have been in senior management, and has qualifications in—
 - (i) public administration;
 - (ii) human rights;
 - (iii) economics;
 - (iv) corporate governance and management; or
 - (v) law;
- (d) meets the requirements of Chapter six of the Constitution

19. For a member, the qualifications are that one must be:

- (a) a Kenyan citizen;
- (b) holds at least a diploma from an institution recognized in Kenya in any of the following fields—
 - (i) social studies and development;
 - (ii) public administration;
 - (iii) human rights;
 - (iv) law;
 - (v) economics;
 - (vi) corporate governance and management;
 - (vii) gerontology; or
 - (viii) geriatrics.
- (c) has knowledge and at least seven years' experience, three of which should have been on matters relating to elderly persons; and
- (d) meets the requirements of Chapter six of the Constitution.

20. Clauses 12 and 14 of the Bill provide for the appointment of the Chief Executive Officer and Staff of the Council. Clause 18 of the Bill provides that the Chairperson and members of the Council shall hold office for a term of three years and may be eligible for reappointment for a further and final term of three years.

PART III OF THE BILL: RIGHTS AND OBLIGATIONS OF THE FAMILY IN CARING FOR THE ELDERLY

21. Part III of the Rights and Obligations of the Family in Caring for the Elderly. Clause 23 of the Bill provides for the obligations of the family of an elderly person. These are:

- (1) The elderly persons shall be cared for mainly by their families.
- (2) Where an elderly person requires medical, the family shall—
 - (a) facilitate the medical expenses of an elderly person suffering from illnesses; and
 - (b) ensure that the elderly person receives nursing care.
- (3) The family shall ensure that the elderly persons are housed under suitable accommodation.

- (4) The family of the elderly persons shall not seize the property of an elderly person including houses owned or any income generated from property owned by an elderly person.
 - (5) The elderly persons have a right to marry, remarry, and divorce under any law without interference from the family.
 - (6) The family of the elderly persons shall facilitate the elderly persons to reside with their spouses unless there are compelling circumstances to warrant separation.
22. Clause 24 of the Bill provides for the obligations of the State for elderly persons. It provides that the Cabinet Secretary shall prescribe the age of an elderly person and any other criteria to be used in identifying an elderly person who may be eligible to receive social assistance from the state. The Bill however provides that an elderly person who is a beneficiary of life annuity or pension from the state shall not be eligible to receive social assistance.
23. Clause 25 of the Bill provides for employment of elderly persons on scaled hours' basis. It provides that the Cabinet Secretary may in consultation with the Council, the Public Service Commission, independent commissions, state agencies and the Salaries and Remuneration Commission publish regulations for the voluntary post-retirement employment of elderly persons in the following critical service areas—
- (a) national security;
 - (b) health; and
 - (c) education.
24. Clauses 26 provides for the rights of elderly persons which includes the right to participate in community life in a position appropriate to their interests and capabilities; participate in inter-generational programmes and establish and participate in matters of association.
25. The Bill further provides for the following additional rights:
- (a) clause 27 provides for the Right to family and community care;
 - (b) clause 28 provides for the right to legal capacity;
 - (c) clause 29 the right to equality and non-discrimination;
 - (d) clause 30 provides for right to documents of registration,
 - (e) clause 31 provides for the right to privacy;

- (f) clause 32 provides for the right to protection and safety against risk and humanitarian emergencies;
- (g) clause 33 provides for the right to education; and
- (h) clause 34 provides for the right to health which provides that the national Government and county governments shall take measures to ensure that every elderly person is provided with a subsidised comprehensive post-retirement medical cover. Further, public health institutions shall not charge any fees for issuance of medical assessment reports to elderly persons.

PART IV OF THE BILL: COMMUNITY BASED CARE FOR ELDERLY PERSONS

26. Part IV of the Bill provides for Community Based Care for Elderly persons. Clause 39 of the Bill provides that an elderly person receiving community-based care and support services has, in addition to the rights contemplated under the Act, the right to reside at the family home; pursue opportunities for the full development of their potential; and benefit from family and community care and protection in accordance with the society's system of cultural values.
27. Clause 40 of the Bill provides for Community Based Programmes and stipulates that the Cabinet Secretary may, in collaboration with any relevant Cabinet Secretary or the relevant Executive Committee Member in a county develop community-based programmes on prevention of abuse and promotion of protection of elderly persons. The programmes contemplated under the Bill are programmes whose objective is to—
- (a) promote the economic empowerment of elderly persons;
 - (b) establish recreational opportunities for elderly persons;
 - (c) provide information on education and counselling services, HIV and AIDS, care for orphans, age related medical conditions like Alzheimer's, dementia, and basic emergency care; among other objectives.
28. Clause 40 of the Bill further provides for Home-based care programmes for frail elderly persons within the community which may include—
- (a) provision of hygienic and physical care for elderly persons;
 - (b) provision of professional and lay support for the care of elderly persons within the home;
 - (c) rehabilitation programmes that include provision of assistive devices;

- (d) protection of the rights of elderly women to freedom from violence, sexual abuse and discrimination based on gender, and abuses in relation to property and land rights;
 - (e) protection of the rights of elderly persons with disabilities;
 - (f) provision of respite care;
 - (g) provision of information, education and counselling for family members, caregivers, and the community on age related life conditions; and
 - (h) provision of free health care to vulnerable elderly persons and to other elderly persons as may be determined by the Cabinet Secretary.
29. Clause 41 of the Bill provides for the registration of community-based care and support services by the Council in the prescribed manner.
30. The Clause further provides that any person who provides home-based care and support services shall ensure that caregivers receive the prescribed training. The Council shall also maintain a register of all caregivers providing home-based care and shall prescribe a code of conduct for such caregivers. Clause 43 of the Bill provides that the Council shall monitor and evaluate community-based care and support services.
31. Clause 44 of the Bill further provides that the national Government and each county government shall ensure access to justice for elderly persons, including use of age-appropriate exceptions for the elderly, in order to facilitate their involvement in all legal proceedings.

PART V OF THE BILL-PROHIBITION OF ABUSE OF ELDERLY PERSONS

32. Part V of the Bill deals with prohibition of abuse of elderly persons. Clause 45 of the Bill provides that a person shall not subject an elderly person to any form of physical or mental abuse and creates an offence for any person who subjects elderly persons to abuse which shall be punishable by imprisonment for a term not exceeding 5 years or a fine not exceeding 1 million.
33. Clause 46 of the Bill provides that a medical practitioner, social worker or any other person who examines, attends to, or deals with an elderly person and who suspects that an elderly person has been abused shall notify the Council and the Director of Medical Services of such abuse or injury.

PART VI OF THE BILL-FINANCIAL PROVISIONS

34. Clause 48 of the Bill provides for the funds of the Council which shall consist of such monies, as may, from time to time, be appropriated by the Parliament; interest from bank deposits; such monies, revenue or assets as may accrue to or vest in the Council in the exercise of its powers or the performance of its functions; and any grants, gifts, donations, or other endowments given to the Council. This Part of the Bill also provides for annual reporting and application of the Public Audit Act, 2015.

PART VIII OF THE BILL-MISCELLANEOUS PROVISIONS

35. Clause 52 of the Bill provides for the determination of any matter concerning an elderly person and provides that such matter shall be determined through an approach which is conducive to conciliation, mediation and problem solving shall be preferred; a confrontational approach shall be avoided; and delays shall be avoided as far as possible. Clause 53 provides for the Common Seal; Clause 54 is the general penalty and clause 55 provides for regulation making authority of the Cabinet Secretary

PART VIII OF THE BILL-TRANSITIONAL PROVISIONS

36. This Part provides for the transitional provisions. Clause 56 of the Bill provides that every home which, immediately before the commencement of the Act, was registered as a home for elderly person's shall be deemed to be registered as an elderly person's home under this Act, and shall continue to be so licensed for the unexpired period of registration subject to such conditions of registration as may be imposed.
37. **THE FIRST SCHEDULE:** Provides for provisions as to the conduct of the business and affairs of the Council.
38. **THE SECOND SCHEDULE:** Provides for procedure for dealing with offences against elderly persons.

CHAPTER 3

PART III

3.0 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

39. Article 118(1) (b) of the Constitution and Standing Order 127(3) require Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees. In compliance with the foregoing, the Committee, through the placement of adverts in the print media on 16th February 2023 (Annex 3), invited the public and interested stakeholders to submit memoranda on the Bill. Two submissions were received from the Ministry of Labour and Social Protection and the National Gender and Equality Commission. (Annex 4).
40. The Committee held a meeting with the Principal Secretary, State Department for Social Protection and Senior Citizens and the National Gender and Equality Commission on 5th April, 2023.
41. The analysis of the submissions made by the Principal Secretary, State Department for Social Protection and Senior Citizens and the National Gender and Equality Commission are contained hereunder.
42. The Committee further held a meeting on 25th April, 2023 with the sponsor of the Bill, Hon. Gathoni Wamuchomba. The Member's submissions are contained hereunder.

3.1 SUBMISSIONS BY THE PRINCIPAL SECRETARY, STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR CITIZENS

43. The Principal Secretary, State Department for Social Protection and Senior Citizens submitted as follows on the Geriatric Bill, 2022:

S/N o.	CLAUSES IN THE PROPOSED BILL	PROPOSED AMENDMENT	JUSTIFICATION
1.	Long title: Geriatric Bill.	The Ministry proposes the name to be changed to read as " Older Persons Bill ".	The current long title is narrow and leaves out the social issues affecting Older Persons, care and protection of Older Persons, economic and contribution of Older

			Persons towards national development
2.	The Enacting Formula of the Bill.	Delete the Enacting Formula in the Proposed bill and insert the following new Enacting Formula as follows: - “A Bill for an Act of Parliament to give effect to Article 57 of the Constitution; to provide for the care, protection and empowerment of Older Members of Society; to provide for the maintenance of the well-being, safety and security of Older Members of Society, and connected purposes.	This is consistent with the Ministry’s comments to have the proposed Council removed from the entire body of the Bill.
3.	Clause 1	Amend the short title to read the “Older Persons Act, 2023” in place the “Geriatric Act, 2022”.	As above.
4.	Clause 2	(a) Delete the definition of the word “abuse” and substitute therefore the following new definition in its proper alphabetical sequence – “elder abuse” means any intentional action that harms or creates the risk of harm to a vulnerable older adult. (b) Insert the following new definition in its proper alphabetical sequence “Secretary” means the Secretary responsible for matters relating to Older Persons appointed under this Act.	The new definition is in tandem with the National Policy on Older Persons and Ageing, 2018 and the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa, ratified and deposited by Kenya with the African Union Commission (AUC) on 22 nd February 2022 This is also consistent with the WHO definition
5.	Clause 3	Delete Paragraph (a) in Clause 3.	More budgetary support should be given to the Directorate of Social Development to enable it function optimally and more efficiently instead of creating new bodies whose roles duplicate each other and contrary to Public Policy. Unless the new body envisaged will not require fu

			nding from the Exchequer
6.	Clauses 6 – 22	Delete Clauses 6 – 22 in Part II of the Bill	<p>a) Article 57 of the Constitution does not provide for the establishment of a Council but mandates the State to Care and Protect Older Persons</p> <p>b) Executive Order No. 1 of 2023 places the duties and obligations of Older Persons on the Directorate of Social Development under the State Department for Social Protection and Senior Citizens Affairs.</p> <p>c) The establishment of the proposed Council to deal with matters of Older Persons is a duplication and conflicts with the role and mandate of the Directorate of Social Development.</p> <p>d) It is the Government policy that the creation of more institutions and structures that are not aligned to the Constitution 2010, is no longer feasible within the social, economic and political pillars in Kenya.</p> <p>e) It is a Money Bill and an unnecessary burden to the tax payers.</p>

7.	New Clauses.	<p>Insert the following new part immediately after Part I of the Proposed bill.</p> <p>PART II – ADMINISTRATION OF THE ACT</p> <p>Secretary for Social Development.</p> <p>6 (1). There shall be a Secretary for Social Development appointed in accordance with the Public Service Commission Act.</p> <p>(2). The Secretary shall be responsible for—</p> <ul style="list-style-type: none"> (a) the registration and regulation of institutions providing care and support to Older Persons; (b) creating awareness and promoting access to information on the care and protection of Older Persons; (c) the establishment and maintenance of information management system for Older Persons; (d) inspection of Older Persons institutions; (e) developing and implementing programmes and policies for the advancement of Older Persons (f) investigating and taking any action necessary to protect 	<p>The Office of the Secretary is a structure in Public Service on matters of Social Development.</p> <p>The creation of a Council is an unnecessary duplication and a huge charge to the Exchequer.</p> <p>It is prudent to have the Office of the Secretary strengthened by allocating more resources and manpower to efficiently perform its functions.</p>
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		<p>Older Persons from abuse, whether at home or in an institution; and</p> <p>(g) coordinating and collaborating with various State and Non-State Actors working with Older Persons and undertaking referral of Older Persons to various service providers; and</p> <p>(h) resource mobilization.</p> <p>(3). The Secretary may, in writing, delegate to a Social Development Officer such powers or duties as may be specified in the instrument of delegation, which officer shall for such purposes, have all the powers, privileges and authority of the Secretary under this Act.</p> <p>Appointment of Social Development Officers.</p> <p>7. (1) The Public Service Commission may appoint such number of social development officers to assist the Secretary in the performance and exercise of the Secretary's functions and powers under this Act.</p> <p>(2) In performing their duties and exercising their powers, the Social Development Officers are subject to the direction and supervision of the "Secretary".</p>	
8.	Delete Part III	Delete Part III of the Proposed Bill and substitute therefor the following new Part –	The rights under this Part have been lifted from the Bill of Rights under the Constitution and are mere ordinary rights not unique to

		<p>PART III—RIGHTS OF OLDER PERSONS</p> <p>Prohibition of elder abuse. 8. (1) A person shall not abuse or subject an older person to any form of physical or mental abuse.</p> <p>(2) Any conduct or lack of appropriate action occurring within a relationship in which there is an expectation of trust which causes harm or distress or is likely to cause harm or distress to an older person constitutes abuse under subsection (1).</p> <p>(3) For the purposes of subsection (1) and (2), "elder abuse" includes—</p> <ul style="list-style-type: none"> (a) physical abuse which means any act or threat of physical violence towards an Older Person; (b) any conduct that violates the sexual integrity of an Older Person; (c) psychological abuse which means any pattern of degrading or humiliating conduct towards an Older Person, including— <ul style="list-style-type: none"> (i) insults, ridicule or name calling; (ii) threats to cause emotional pain; and (iii) repeated invasion of an Older Person's privacy, liberty, integrity or 	<p>Older Persons.</p> <p>There are no additional rights outside the Bill of Rights on the emerging issues touching Older Persons.</p>
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		<p>security;</p> <p>(d)economic abuse including—</p> <p>(i) the deprivation of economic and financial resources to which an Older Person is entitled under any law; or</p> <p>(ii) the disposal of household effects or other property that belongs to the Older Person without the older person's consent.</p> <p>(4) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding one million or to both such fine and imprisonment.</p> <p>situations of risk and humanitarian emergencies.</p> <p>9 (1) An older person has the right to protection and safety in situations of risk including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.</p> <p>(2) Every institution involved in situations contemplated under subsection (1) whether public or private shall maintain an inventory of all Older Persons and submit such inventory to the national and county authorities and any</p>	
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		<p>other agency responsible for national disasters.</p> <p>Education for Older Persons. 10. (1) The national and county governments shall ensure Older Persons have access to educational, cultural, spiritual and recreational resources within the communities.</p> <p>(2) The Ministry responsible for education shall develop education and training programmes for Older Persons to ensure their personal development.</p> <p>Right to health. 11. (1) The national and county governments shall take appropriate measures to ensure every Older Person not covered under any other existing medical scheme is provided with affordable, accessible, and quality medical care.</p> <p>(2) Medical assessment for Older Persons including for purposes of registration, employment, or compensation shall be done free of charge in public health institutions.</p> <p>(3) An older person shall not be compelled to undergo any testing as a pre-condition to or for continued enjoyment of provision of health cover.</p> <p>Access to justice. 12. (1) The Government shall ensure access to justice for Older Persons by—</p> <p style="padding-left: 40px;">(a) providing appropriate training for persons working in the field of administration of justice including the police and the prison</p>	
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		<p>staff;</p> <p>(b) taking into special consideration age on arrest, detention, trial or confinement of an older person;</p> <p>(c) expeditious disposal of cases involving older persons having due regard to their circumstances;</p> <p>(d) offering free legal services to Older Persons with respect to –</p> <p>(i) matters affecting the violation of their rights or deprivation of property;</p> <p>(ii) matters of violence against Older Persons;</p> <p>(iii) such other matters as may be prescribed in the regulations or under any other written law.</p> <p>(2) The Chief Justice may make rules providing for the exemption of an older person, category or categories of Older Persons from the payment of court fees as the Chief Justice determines fit.</p> <p>(3) An Older Person who has been accused of an offence and is denied bail shall be entitled to be held in custody in facilities appropriate to his or her circumstances.</p>	
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9.	Clause 41	<p>(a) Delete the word “Council” in subsection (1) and substitute therefor with the word “Secretary”;</p> <p>(b) Delete the word “Council” in paragraph (a) of subsection (4) and substitute therefor with the word “Secretary”; and</p> <p>(c) Delete the word “Council” in subsection (7) and substitute therefor with the word “Secretary”</p>	
10.	Clause 43	Delete the word “Council” and substitute therefor with the word “Secretary”.	
11.	Clause 45 in Part V	Delete Clause 45	It is a duplication since the subject matter is adequately covered in item No. 8.
12.	Clause 46	<p>In Clause 46 –</p> <p>(a) In sub clause (1) delete the word “Council” and substitute therefor with the word “Secretary” and also delete the words “Director of Medical Services” and substitute therefor with the words “Director-General for Health”.</p> <p>(b) Delete the words “Director of Medical Services” in Sub clause (2) and substitute therefor with the words “Director-General for Health”.</p> <p>(c) In sub clause (3) delete the word “Director” and substitute therefor with the word “Director General for Health” wherever it appears;</p> <p>(d) In sub clause (4)-</p> <p style="padding-left: 40px;">(i) delete the words “Director of Medical Services” in the main Sub clause and</p>	

		<p>substitute therefor with the words “Director General for Health”;</p> <p>(ii) Delete the word “Council” in the main Sub clause and substitute therefor with the “Secretary”;</p> <p>(iii) Delete the word “Director” in paragraph (a) and substitute therefor with the words “Director General for Health”.</p>	
13.	Clause 47	<p>In Clause 47-</p> <p>(a) Delete the word “Council” in subsection (1) and substitute therefor with the word “Secretary”;</p> <p>(b) Delete-</p> <p>(i) the word “Council” in subsection (2) and substitute therefor with the word “Secretary”;</p> <p>(ii) the word “Council” in Paragraph (f) of Sub clause (2);</p> <p>(c) Re-number the existing Sub Clause (2) as Sub clause (3).</p>	
14.	Clauses 48 – 51 in Part VI	Delete.	<p>The role of the proposed Council will be adequately covered by the Office of the Secretary for Social Development, which will not impact on the wage bill contrary to the proposal to create the proposed Council.</p>

15.	Clause 5 in Part VI	Delete	In view of the policy direction by the Ministry, Clause 53 has been rendered <i>otiose</i>
16.	Clause 55	Delete the words “in consultation with the Council” in Sub Clause (1).	In view of the fact that the position of the Council is no longer tenable, then the words “in consultation with the Council” is a needless variant.
17.	The First Schedule	Delete.	The First schedule in the proposed Bill is in respect of the proposed Council and is inconsistent with the position taken by the Ministry.

3.2 SUBMISSIONS BY THE NATIONAL GENDER AND EQUALITY COMMISSION

44. The Chief Executive Officer of the National Gender and Equality Commission submitted as follows on the Geriatric Bill, 2022:

S/NO.	PROVISION	PROPOSALS FOR AMENDMENT	JUSTIFICATION/RATIONALE
1.	Short Title The Geriatric Bill, 2022	To substitute the word ‘Geriatric’ with ‘Older Members of Society’	To align the title with the interpretation of the Constitution in Article 260 which refers to an older member of Society.
2.	Preamble An Act of Parliament to give effect to Article 57 of the Constitution	Amend by inserting after the word ‘Constitution’ the following ‘and other regional and international Treaties’	The Act needs to give effect to other regional and international instruments ratified by the state which member states are encouraged to adopt including the United Nations Principles on older persons as recognized in page 1 of the National Policy on Older Persons and Ageing Kenya.
3.	Interpretations ‘assistive device’ means an implement or tool provided to an older member of society to enable the older member of society to carry on	Amend the term ‘assistive device’ by inserting after the word ‘activities’ the following words ‘including activator poles, Buttoning Aid Hook, Freedom Grip	Give specifics on the assistive devices that the older member of society may require.

	their day-to-day activities.	Bed Handle, Long Reach Comfort Wipe, up lift seat assist, etc.	
	'Elderly Person' means a person who has attained the age of sixty years.	Amend the term 'Elderly person' wherever it appears in the entire Bill by substituting it with 'Older member of society'	To align with the definition in the Constitution
	Proposed new interpretations i. Family	Interpret the term 'family' as follows; - 'Family' is a societal group that is related by blood (kinship), adoption, foster care or the ties of marriage (civil, customary or religious) of two people of opposite sex and includes sons, daughters, sons in law, daughters in law, adopted sons and daughters including their spouses.	The proposed interpretation is derived from the National policy for family promotion and protection. Clause 23 of the Bill introduces obligations of family but the term 'family' is not interpreted. The interpretation shall ensure that the duty of care for older persons by family is attached to specific enumerated persons. Definition of 'Family' is stated in Article 45 but it not clear while Article 57(d) states older persons have a right to receive reasonable care and assistance from their family and the State.
	ii. Geriatrics	Insert and interpret a new term ' Geriatrics ' and interpret as follows; - Geriatrics is the branch of medicine dealing with the diseases, debilities, and care of Older Persons.	The terms have been applied in the proposed Bill in Clause 34(6)
	iii. Gerontology	Insert and interpret a new term ' Gerontology ' and interpret as follows; - Gerontology means the study of the process of ageing.	

4.	Clause 3 Object and purpose of the Act	Amend by including an additional object as follows; - To give effect to the provisions of regional and international instruments.	The regional and International instruments provide for a wide array of rights for older persons (Older Members of Society-OMOS) which are not explicitly enumerated in Article 57 of the Constitution.
5.	Clause 7 Functions of the council	Amend by deleting the sub clause (p) without any placement.	This function of preparation of wills is beyond the mandate of the council.
6.	Clause 8 Powers of the Council The Council shall have all powers necessary for the performance of its functions under the constitution, this Act or any other written law, including the power to -; b) conduct accessibility and assessment audits; and c) Issue adjustments or compliance orders.	The commission proposes to amend the Clause by inserting after the word 'Council' the following words 'in collaboration with the national Council of Persons with disability and the relevant Regulatory Bodies'	The National Council of Persons with Disability (NCPWD) already has this mandate but it is however unable to implement it for lack of enforcement powers. The proposed Council established in this Law does not have enforcement powers hence the need to collaborate with an already existing body with the backing of regulatory bodies e.g. NTSA, NCA, KURA, KeNHA which have enforcement powers.
7.	Clause 9 Composition of the Council; 9 b) the Principal Secretary of the department responsible for matters relating to the older members of Society or a representative designated in writing; 9 c) the Principal secretary of the department responsible for finance or a representative designated in writing; and	Amend Clause 9 by inserting additional sub-Clauses (d), (e), (f) as follows-; (d) The Principal Secretary of the departments responsible for geriatrics in the Ministry of Health. (e) The Principal Secretary in the Ministry of Interior and National Government. (f) A representative nominated by the Council of Governors. Re-number the original (d) accordingly.	The Ministry of Health, the Ministry of Interior and Coordination, and the Council of Governors need to be represented on the council as a crucial stakeholder. Council of Governors is crucial because the beneficiaries of the proposed law reside in the Counties and Clause 56 of the proposed Bill also obligates County Governments with the function of registering homes for the older members of society. Health function is also under the devolved government as recognized in clause 34 of the proposed Bill. The Bill also makes reference to wide range of functions under the County Governments (including in clauses 40-43 on community based

			<p>programs and clause 44 on Access to justice).</p> <p>The <i>Mwongozo</i> code of Governance provides for 7-9 directors. The Membership in 9(d) is further proposed to be amended as below.</p>
	9(1) (d) (i) two persons nominated by the most representative organization of older members of Society.	Amend Clause 9(1) (d)(i) by substituting the entire provision with the following-; "Three older members of society representing disability and marginalized and minority communities nominated by organizations of older members of society to be facilitated by the ministry responsible for older members of society"	<p>All organizations of older persons need to be facilitated by the Ministry responsible for their affairs to meet and nominate four persons to avoid allegations of favoritism and discrimination of smaller organizations.</p> <p>Final Membership as proposed by the Commission is therefore: The chairperson, 4 Principal secretaries, Council of Governors and 3 older members of society -Totals 9 members.</p>
	9(1) (d) (ii) two older members of society representing special interests;	Amend by deleting the entire 9(1)(d)(ii) without replacement.	Older members are already a special interest group as prescribed in Article 27(4) of the Constitution. The aspect of multiple vulnerabilities representing has been captured in the proposed amendments to Clause 9(1)(d)(i) above
	9(2) Members nominated under section 9(1)(d)(i) and (ii) shall represent different categories of older members of society.	Amend by deleting the provision without replacement.	The aspect of multiple vulnerabilities has been addressed in the proposed amendments to 9(1)(d). Older persons do not have categories like categories of disability.
8.	<p>Clause 10</p> <p>Qualifications of Chairperson and members of the Council.</p> <p>2) A person shall be qualified for appointment as a member of the Council, if the person- (a) is a Kenyan citizen; (b)</p>	<p>Amend by inserting a new sub clause 3 on the qualifications of older members of society as follows-;</p> <p>3) An older member of society shall qualify for appointment as a</p>	<p>The qualifications on education and meeting requirements of chapter 6 may be unrealistic for the category of older members.</p> <p>The criteria can be reduced to literacy since most of them have life experience. Literacy refers to the ability to read and write.</p>

	<p>holds at least a diploma from an institution recognized in Kenya in any of the following fields- (i) social studies and development; (ii) public administration; (iii) human rights; (iv) law; (v) economics; (vi) corporate governance and management; (vii) gerontology; or (viii) geriatrics</p> <p>(c) has knowledge and at least seven years' experience, three of which should be in matters relating to older members of society; and</p> <p>d) meets the requirements of Chapter six of the Constitution.</p>	<p>member of the Council, if the person-;</p> <p>a. is Literate</p> <p>b. has knowledge of at least seven years and experience in matters relating to older members of society;</p>	
9.	<p>Proposed new clauses on Governance structures</p> <p>a) County coordinating Committees</p>	<p>GOVERNANCE STRUCTURES</p> <p>The Commission proposes amendments to the Bill by introducing additional institutional Governance structures at the County and sub county Levels.</p> <p>At the county level to be chaired by the County Social Development officers comprising of -;</p> <p>1. Officers from the National Government representing the relevant Ministries represented in the Council</p> <p>2. CEC's from relevant County</p>	<p>The proposed Bill does not propose any coordination Governance structures at the county level.</p> <p>The target beneficiaries reside at the county and sub county levels. A number of County governments already have complementary programs on older persons including social assistance.</p> <p>Governance structures at the county level will be necessary for implementation of policies and programs by the National Government.</p> <p>The proposal aligns the provisions of this bill with the National ageing and older person's policy that provides for County Governments within the institutional framework.</p>

		<p>Ministries</p> <p>3. Representatives from Civil Society Organizations (CSO's) and umbrella organisations of the older persons.</p> <p>Functions(among others)</p> <p>1. implement the policies and programs of the National Government at the County Level</p> <p>2. To oversee complementary programs at the County level including establishment of safe houses</p> <p>3. To submit reports to the Council and receive reports from the Sub- county Committees.</p>	
	b) Sub Counties Coordinating Committees	<p>At the county level to be chaired by the County Social Development officers comprising of -;</p> <p>1. Officers from the National Government representing the relevant Ministries represented in the Council</p> <p>2. CEC's from relevant County Ministries</p> <p>3. Representatives from Civil Society Organizations (CSO's) and umbrella</p>	

		<p>organizations of the older persons</p> <p>Functions (among others)</p> <ol style="list-style-type: none"> 1. implement the policies and programs of the National Government at the County Level 2. To oversee complementary programs at the County level including establishment of safe houses 3. To submit reports to the Council and receive reports from the Sub-county Committees. 	
	<p>PART III- RIGHTS AND OBLIGATIONS OF THE FAMILY AND THE STATE IN CARING FOR OLDER MEMBERS OF SOCIETY</p>	<p>The Commission proposes to separate rights and obligations of the family, older members of society, national government and county governments.</p>	<p>The provisions are all lumped together in the Bill. Specifically, Clause 38 has mixed obligations. The Law should be an easy read for easier implementation</p>
10.	<p>Obligations of the family of older members of society</p> <p>23. (1) The older members of society shall be cared for mainly by their families.</p> <p>(2) The family of an older member of society in need of medical care shall - (a) facilitate the medical expenses of the older member of Society; and</p>	<p>Amend Clause 23 (2)(a) by deleting the entire sub clause and substituting with the following;</p> <p>(a) Ensure that the older member of the society is presented to an appropriate health facility for treatment. Amend by creating offences under the offences section and the penalties.</p>	<p>23(2) The Universal Health Care should be comprehensive enough to be able to cater for the medical expenses.</p> <p>The state has an obligation under Article 43 which include right to health care services, social security etc and cannot abdicate it. However, it is the obligation of the family to ensure that the member gets treatment.</p> <p>The proposed bill does not prescribe offences for failure by the family to take care of the older members of Society and seizing their property as enumerated in clause 23(4). There is need to create specific</p>

			offences in a separate part under clause 54 and prescribe penalties otherwise that obligation will remain a statement without any consequences for non-compliance.
	Proposed new Clause- Obligations of older members of society	Amend by introducing a new clause on obligations of the older member of society as below-; i) To take care of themselves. ii) To be law abiding citizens iii) To leave in harmony with the community and family	The Policy provides for obligations of older person and it is in order for all right holders to also uphold their obligations as duty bearers to execute their mandate.
11.	Obligations of the State. 24. (1) The Cabinet Secretary may in consultation with the Council, prescribe the age or any other criteria that may be used in identifying older members of society eligible for social assistance from the state.	Amend by substituting the term "state" with "National government." Amend clause 24 (1) by deleting the words "prescribe the age or any other criteria that may be used in identifying " and substitute it with "identify" Amend by inserting additional obligations including-; a. establishment of residential institutions b. Introduction of compulsory geriatrics and gerontology in all medical courses. c. Ensure that the UN Principles for older persons are	Clause 55- has regulations on establishment of homes and the interpretations of "home for the older members of society" means any building or premises maintained and used for the reception, protection, and temporary care of older members of society in need of care and protection. The Protocol to The African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa has outlined a number of obligations which need to be included and United Nations Principles for older persons

		<p>implemented</p> <p>d. Ensure there is elimination of discrimination against older persons</p> <p>e. Ensure Access to justice and equal protection of the law</p> <p>f. Create a new part IV to contain provisions on obligations of the National and county Governments.</p>	
12.	Clause 25 Employment for the elderly	<p>The Commission proposes to delete the entire provisions of clause 25 and substitute it with the following as lifted from the AU Protocol on older persons</p> <p>Clause 25 Protection against discrimination in employment</p> <p>The Government shall</p> <p>1. Take measures to eliminate workplace discrimination against older members of society</p> <p>2. Ensure appropriate work opportunities for older persons</p> <p>Allow older persons the opportunity to at what time they wish to withdraw from work - UN Principles)</p>	<p>This is a policy issue that needs wider consultation and considering the retirement age is 60 years. The usual process of policy formulation will need be complied with.</p> <p>This is a national county Government obligation may be considered in other legislation or Regulations on employment in the public sector.</p>

RIGHTS OF OLDER MEMBERS OF SOCIETY – Proposed to be captured under a separate Part from Obligations.

13.	<p>Right to legal capacity 28(1) An older member of society has right to legal capacity and the right to be facilitated to access</p> <p>2) An older member of society shall not be denied the right to legal capacity on the basis of an express or implied disqualification on the grounds of age only.</p>	<p>Amend by including the following additional rights</p> <p>i. Right to access social protection</p> <p>Older persons who retire from their employment are entitled to adequate pensions and other forms of social security;</p> <p>ii. Older persons who did not have the opportunity to contribute to any social security provisions are entitled to social protection.</p> <p>iii. Prohibition from abuse and harmful traditional practices.</p> <p>Older persons have a right to be protected against harmful traditional practices targeted at them.</p> <p>iv. Protection of Older women</p> <p>Older women are entitled to protection from violence, sexual abuse and</p>	<p>The additional rights have been derived from the AU Protocol on the Rights of older persons which has been Ratified and the instruments deposited but not yet in force.</p> <p>However, the rights are also enshrined in the Bill of rights in the constitution as follows-;</p> <p>Article 28- Right to dignity Article 26- right to life Article 27- Right to Equality and Non-Discrimination. Article 43- Right to social Security Article 54- Rights of Persons with disability</p>
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		<p>discrimination based on gender;</p> <p>v. Protection of older persons with disabilities</p> <p>Older persons with disabilities have right of access to assistive devices and specialized care, which respond to their needs within their communities.</p>	
14.	<p>Right to Health</p> <p>34. (1) The Council shall in collaboration with the National Government and county governments facilitate the development of programmes to address the healthcare needs of older members of society.</p> <p>(2) The National Government and county governments shall take measures to ensure that each older member of society is provided with a subsidized comprehensive post-retirement medical cover.</p> <p>(3) Public health facilities shall not charge any fees for issuance of medical assessment reports to older members of society.</p> <p>(4) An older member of society shall not be compelled to undergo any medical or other</p>	<p>Propose to amend by moving clause 34(1), (2), (3), (5) and (6) from the part on Rights of older members of society to the new Part IV on the obligations of the National and County Government.</p> <p>Amend by inserting the following new sub clause -;</p> <p>An older member of Society has the right to the highest attainable standard of health.</p>	<p>The provisions in the clauses form part of obligations of the two governments.</p>

	<p>form of testing as a precondition for continued provision of health insurance or other form of insurance cover.</p> <p>(5) The National Government and county governments shall provide free annual medical check-ups for older members of society.</p> <p>(6) The National Government and county governments shall develop special medical programmes for older members of society, including programmes on-</p> <p>(a) access to geriatric care and services; (b) inpatient and outpatient care;</p> <p>(c) access to nursing care in all counties;</p> <p>(d) geriatric friendly hospital facilities for use by older members of society; (e) priority access for older members of society in accessing medical treatment; and</p> <p>(f) community based public health programmes relevant to older members of society;</p>		
15.	<p>Clause 38</p> <p>Obligations of the National Government with respect to the rights of older members of society.</p> <p>(1) The National Government and county governments shall to the</p>	Propose to amend by moving clause 38 from the part on Rights of older members of society to the new Part IV on the obligations of the National and County Government.	The Clause has been placed in the part of rights

	<p>extent of their constitutional mandate, promote the care, maintenance, and protection of older members of society in Kenya. (2) In ensuring that the National Government and county governments fulfil their obligations under subsection (1), the Council shall - (a) adopt a national strategy to promote the realization of the rights of the older members of society as set out under Article 57 of the Constitution. (b) collaborate with county governments in the development of infrastructure for the care, rehabilitation, and provision of basic services to older members of society;</p>		
16.	<p>Prohibition of abuse of an older member of society</p> <p>45. (1) A person shall not subject on older member of society to any form of physical or mental abuse.</p>	<p>Amend Clause 45 by inserting a new Sub clause as follows (4) The process of identification, reporting and consequences of abuse of older members of society shall be as outlined in the second schedule.</p> <p>Alternatively the Commission most effective proposes to delete the second schedule and has proposed that the Attorney General</p>	<p>The order of identifying and reporting abuse needs to be structured otherwise the prevailing status of under reporting will continue given that most of the cases of abuse are perpetrated by care givers and the victims cannot report because of dependency on them. The guidelines on the procedure for dealing with offences against older members are in the second schedule of the proposed Bill. The provisions in Clause 46 and second schedule should be aligned</p>

		should be tasked to make regulations in serial no 19 below	
17.	<p>Notification of abuse of an older member of society</p> <p>46 (1) A medical practitioner, social worker or any person who examines, attends to, or deals with an older member of society suspects that the older member of society has been abused, shall notify the Council and the Director of medical services of such abuse or injury.</p>	Amend clause 46 (1) by inserting after the word 'Council' the following -; "through the county Coordinating Committee."	
18.	<p>Clause 56 Existing homes</p>	Amend by introducing a new part VIII with sections 57-63 on the registration of new homes/residential facilities by the County Government and the right of older members in those homes.	<p>Clause 55(2) on Regulation gives power to the Cabinet Secretary to make Regulations for the registration of homes and the standards thereto.</p> <p>Clause 7(c) recognizes one of the functions of the council is to regulate the establishment and management of the institutions of the elderly. The Commission is of the opinion that this particular provision needs to be introduced in the substantive Act and is ready to give its comprehensive provisions on the registration and the rights of the older members in the homes. The proposals are captured at the end of this table starting with Clause 57-63</p>
19.	<p>Second schedule procedure for dealing with offences against elderly persons Paragraph 1</p>	<p>a) Proposal</p> <p>1) Amend by deleting without substitution the</p>	Align paragraph 1 of the second schedule with Clause 46(3) on the prosecutorial powers of police.

	<p>1) A police officer, social development officer, national Government or County Government administrator to whom a report contemplated under this Act has been made shall issue a written notice</p>	<p>following words “social development officer, national Government or County government administrator” after “a police officer”</p>	
	<p>2) Meetings</p>	<p>2) Amend paragraph 2 by deleting the subtitle “meetings” and 2(1) and 2(2)</p> <p>b) Alternative Proposal</p> <p>Delete the entire second schedule without replacement and amend the bill by inserting a new clause as follows</p> <p>47(A) The Attorney General in consultation with the Council and other stake holders shall make regulations providing for matters affecting the violation of the rights of older members of society</p>	<p>The proposed deletion relates to meetings of the Council which are enumerated in schedule one.</p> <p>The basis for the alternative proposal</p> <p>Example is section 38 of the Persons with Disabilities Act 2003</p>

General comments

45. The Commission made recommendations for the enactment of the Bill into law subject to consideration of the comments in the memoranda. The Commission further observed that the

Bill comprehensively covers issues that affect older members of society and is also aligned to the Constitution, the National policy on Ageing and older persons, and the Regional and International instruments on issues of older persons. The Commission further made proposals for amendment of the Bill to include specific proposals:

- (a) defining the rights of older members of society residing in residential facilities;
- (b) defining services that may be provided at residential facilities including a 24-hour care and support services to frail older members of society and older members of society who need special attention and care and supervision services to older members of society who are suffering from dementia and related diseases;
- (c) providing for prohibition on operation of unregistered residential facilities, and the registration of such facilities;
- (d) providing for compliance with conditions for registration of residential facilities;
- (e) providing for criteria to be used for admitting older members of society to residential facilities;
- (f) providing for monitoring of registered residential facilities by social workers;
- (g) obligating operators of a registered residential facility to within 60 days after the end of the financial year of that residential facility submit to the Council a report covering that financial year in respect of compliance with the prescribed service standards; and the prescribed measures to prevent and combat abuse of older person, among others.

SUBMISSIONS BY THE HON. GATHONI WAMUCHOMBA

46. The Hon. Gathoni Wamuchomba, the sponsor of the Geriatric Bill, 2022 submitted as follows:

47. Geriatrics, or geriatric medicine, is a medical specialty focused on providing care for the unique health needs of older adults. The term geriatrics originates from the Greek *γέρων* *geron* meaning "old man", and *ιατρός* *iatros* meaning "healer". Geriatric bill 2022 seeks to effect article 57 of the constitution of Kenya to ensure provision of proper care and maintenance of the well-being of the elderly people of Kenya.

48. The Geriatrics Bill, 2022 was committed to the Labour and Social Welfare Committee, for consideration and undertakes pre-publication scrutiny and make appropriate recommendations required pursuant Standing Order 114(6).
49. The Bill seeks to give effect to Article 57 of the Constitution; to establish the National Council for the Elderly; to provide for the care of elderly persons; to provide for the empowerment and protection of the elderly and the maintenance of their well-being, safety and security.
50. The objects and purpose of the Bill are as follows: -
- i. Establish the National Council for Elderly Persons;
 - ii. Provide a legal framework that promotes the rights of the elderly as enshrined under Article 57 of the Constitution;
 - iii. Promote and protect the dignity, well-being, safety and security of elderly persons;
 - iv. Provide a framework for the registration of elderly persons, and the establishment and management of residential facilities for the elderly; and
 - v. Prohibit the abuse of elderly persons.
51. World over, a society is measured by how it cares for its elderly citizens. Therefore, as a country we need to prioritize the needs of the elder persons in the society as well as provide budgetary allocations to deliver on such services. It is on this backdrop that the Geriatric Bill was developed with the primary objective of operationalizing Article 57 of the Constitution through the establishment of the National Council for the Elderly.
52. The provisions of the Bill shall apply to all entities providing services to elderly persons and binds both natural and juristic persons to the applicable extent, taking into account the nature of the right and the nature of any duty imposed by that right.
53. Additionally, the Bill seeks to improve the living conditions of older members of society by providing for their rights to dignity, safety and security, education, health and equality and non-discrimination.
54. In the endeavour to realize the objects and purpose of the Bill; government entities and other institutions providing services to the elderly shall be guided by specific principles with common intend to fulfilment of basic human rights, the principles are: -

- a) respect, protection, promotion and fulfilment of the rights of the elderly as enshrined under Article 57 of the Constitution;
- b) fair and equitable treatment of elderly persons;
- c) accountability of duty bearers and transparency in the implementation of this Act;
- d) pursuant to the provisions of Article 27 of the Constitution, ensure the protection of elderly persons from discrimination on any ground including age, health status or disability;
- e) targeted empowerment of the elderly and those involved in the care and protection of the elderly in order to promote their welfare and protection;
- f) preservation of the freedom and dignity of elderly persons;
- g) coordinated public participation in the formulation and implementation of policies related to the care and protection of the elderly;
- h) establishment of monitoring and evaluation mechanisms to ensure transparency in the management of facilities and care of the elderly.

55. Provisions in this Bill will form the basis for enhanced service delivery to the elderly in the Country and will fortify legislative architecture with regard to social issues concerning the elderly in the society.

56. The Bill delegates legislative powers but does not limit any fundamental rights and freedoms. The delegated power is on the development of guidelines and regulations by the Cabinet Secretary responsible for matters relating to the elderly in consultation with other stakeholders for the better carrying out of the provisions of the Act.

57. The Bill concerns County Governments in terms of Article 109 (4) of the Constitution, as it contains provisions that affect the functions and powers of County Government set out in the Fourth Schedule. Monetary policy including insurance is a function of the National Government under Paragraph 10 of Part 1 of the Fourth schedule to the Constitution. Additionally, the Bill is a money Bill within the provisions of Article 114 of the Constitution as its enactment may occasion additional expenditure of public funds to be provided for through the annual estimates.

58. The Bill seeks to give effect to Article 57 of the Constitution by establishing a legal framework for the treatment of older members of society.

59. That, through the establishment of the legal framework and operationalization of the Act upon approval and assent, the framework will provide for the establishment of the National Council for the elderly which will be charged with the mandate and responsibility of improving the living conditions of older members of the society by providing for their rights to human dignity, safety and security, education and equality and non-discrimination.
60. In the foregoing, therefore the council as established in Clause 5 of the Bill will be responsible for performing the functions listed in Clause 7 that include but not limited to providing advice to state and non-state actors on promotion of access to essential services by elderly persons and participation in the formulation, review and development of policies and legal framework on elderly persons, including- pension, social assistance, access to quality health care services and health insurance, employment, volunteerism and income security, social protection, disasters, care at institutional, family and community level, education, training and information communication and technology; and data on elderly persons.
61. The Council shall be a body corporate with perpetual succession and common seal, the structure of the council will be headed by chairperson appointed by the president while the secretariat will be under the leadership of the Chief Executive Officer who shall be the Accounting Officer of the Council appointed through a competitive process.
62. Part III of the Bill provides for the rights and obligations of the family and the State in caring for older members of society. This responsibility shall vest in the families of the older person including medical care. Further, shall ensure that the older member of society lives in dignity and receives reasonable care and assistance as necessary.
63. The Bill prescribes the eligibility criteria in Clause 24 for state intervention on matters pension and other related benefits accruing to older persons in society. Other rights include legal representation, family and community care.
64. To ensure optimality in services to the older persons; a robust monitoring and evaluation framework will be inevitable to guarantee access to justice and community- based care and support services.
65. The Bill purpose to provide for the prohibition of abuse of older members of society to any form of physical and mental abuse.

PART IV

4.0 COMMITTEE OBSERVATIONS

66. Having considered the submissions by the Principal Secretary, State Department of Social Protection and Senior Citizens, the National Gender and Equality Commission and the sponsor of the Bill, the Committee observed **THAT**:

PART 1 OF THE BILL-PRELIMINARY PROVISIONS

- (1) The title of the Bill be amended to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.
- (2) The long title of the Bill be amended to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”. The Committee however noted that the proposal to amend the long title to make reference to regional and international treaties was not necessary in light of the provisions of Article 2(6) of the Constitution.
- (3) In light of the proposed amendments to the Title of the Bill, Clause 1 be amended to align with Article 260 of the Constitution.
- (4) The definition of the term abuse as used in Clause 2 of the Bill is exhaustive noting its definition has been applied and extrapolated in clause 45 of the Bill. There is need to amend the definitions of the terms elderly person and elderly person in need of care and protection to align with Article 260 of the Constitution. There is also need to include the definitions of the terms geriatrics and gerontology as they have been applied in clause 10 of the Bill. The proposal to include the definition of the terms assistive devices and family will create ambiguity.

- (5) The proposal to amend clause 3 to include the object of implementing regional and international instruments is an overkill provision in light of the provisions of Article 2(6) of the Constitution.

PART II OF THE BILL-ESTABLISHMENT OF THE NATIONAL COUNCIL FOR THE ELDERLY

- (6) Clause 6 and 7 of the Bill establishes the National Council for the elderly and is conferred with a broad mandate for advising state and non-state actors on promotion of access to essential services by elderly persons, among other functions. The Council consists of among other persons four members representing the interests of the older members of society. In this regard, the National Council is the appropriate body for performing the powers and functions conferred upon the Council. It also ensures that the older members of society participate in making decisions on matters relating to the older members of society.
- (7) Whereas the funds of the Council shall consist of funds appropriated by the National Assembly, there exit no duplication of functions and conflict with the role and mandate of the Directorate of Social Development. Consequently, the creation of the office of the Secretary for Social Development was unnecessary.
- (8) The proposals to include representatives of Council of Governors in the Council does not align with the functions of the Council and further the proposals to establish county committees and sub-county committees may violate the provisions of Standing Order 133(5). The Bill in clause 38 also create obligations for the national and county governments to mandate, promote the care and protection of older members of society.
- (9) The nature of the functions of the Council requires the membership of the Council to have the requisite qualifications to perform the functions effectively and hence there is need for the older members of society in the Council to have the basic qualifications to perform the respective functions accordingly.

- (10) The role of facilitating preparation of wills for elderly persons at no cost to the elderly person or on such other terms as the Council may determine does not fall within the regulatory functions of the Council.
- (11) The powers of the Council as enshrined in clause 8 of the Bill include the powers to consult various relevant bodies in performing its functions and hence there is no need to create a specific power for the Council to consult other relevant bodies including the body relating to persons with disabilities.

PART III OF THE BILL-RIGHTS AND OBLIGATIONS OF THE FAMILY AND THE STATE IN CARING FOR THE ELDERLY PERSONS

- (12) The Part defines with specificity the rights and obligations of the family and the state in caring for the older members of society. In this regard, the proposal to delete the Part on the grounds that the Part has rights lifted from the Bill of Rights under the Constitution shall create generalities and fail to address with clarity on the rights and obligations of the family and the state in caring for the older members of society.
- (13) The proposals to amend the provisions relating to the rights and obligations of the family and the state in caring for the older members of society are overkill provisions which are already provided for in the Bill. Further, the proposals have the effect of negating the rights and obligations as already provided for in the Bill in particular the obligations of the family to an older member of society to medical attention.
- (14) The Universal Health Care is not in place and does not presently cater for the medical expenses for the older members of society. In this regard, there is need to expressly obligate the family to facilitate the medical expenses of older members of society in addition to the obligations of the state as provided for in clauses 23 and 34 of the Bill.

- (15) The proposal to prescribe the obligations of the older members of society does not align with the provisions of Article 57 of the Constitution.
- (16) The proposal to amend clause 24 to provide that the Cabinet Secretary shall identify elderly persons who may be eligible to receive social assistance from the national government instead of prescribing the age of elderly persons and any other criteria to be used in identifying an elderly person who may be eligible to receive social assistance does not accord with Article 10 of the Constitution.

PART V-PROHIBITION OF ABUSE OF ELDERLY PERSONS

- (17) Whereas clause 45 of the Bill seeks to prohibit abuse of an elderly person which may include harmful traditional practices targeted at them, there is need to enhance the penalty to a fine not exceeding ten million shillings and term not exceeding 10 years or to both, to act a deterrent against abuse of elderly persons.
- (18) Clause 46 of the Bill should be amended to make reference to the Director-General for Health as provided for in the Health Act, 2017, to be the person who shall be notified in case a medical practitioner, social worker or any other person who examines, attends to, or deals with an elderly person, suspects that an elderly person has been abused.
- (19) The proposal to amend clause 55 of the Bill to give the Cabinet Secretary power to make regulations for the registration of homes and the standards thereto is already covered in clause 55(2)(a) and (b).

FIRST SCHEDULE TO THE BILL

- (20) The First Schedule to the Bill should be amended to delete reference to the Board and substitute with the Council.

SECOND SCHEDULE TO THE BILL

- (21) The proposal to amend paragraph 1(1) by deleting the words “social development officer, national Government or County government administrator” after “a police officer” limits the scope of the persons to whom the notice of abuse may be made to.
- (22) Paragraph 2 of the Second Schedule to the Bill should be deleted as it is erroneously placed.
- (23) The proposals for amendment of the Bill to include specific proposals:
- (a) defining the rights of older members of society residing in residential facilities;
 - (b) defining services that may be provided at residential facilities including a 24-hour care and support services to frail older members of society and older members of society who need special attention and care and supervision services to older members of society who are suffering from dementia and related diseases;
 - (c) providing for prohibition on operation of unregistered residential facilities, and the registration of such facilities;
 - (d) providing for compliance with conditions for registration of residential facilities;
 - (e) providing for criteria to be used for admitting older members of society to residential facilities;
 - (f) providing for monitoring of registered residential facilities by social workers;
 - (g) obligating operators of a registered residential facility to within 60 days after the end of the financial year of that residential facility submit to the Council a report covering that financial year in respect of compliance with the prescribed service standards; and the prescribed measures to prevent and combat abuse of older person, among others; are matters that may be provided and prescribed in regulations.

PART V

5.0 COMMITTEE RECOMMENDATIONS

67. Pursuant to Standing Order 127, the Committee recommends that the Bill proceeds for Second Reading subject to the following amendments—

TITLE

THAT, the title of the Bill be amended by deleting the word “Geriatric” and substituting therefor the words “Older Members of Society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

LONG TITLE

THAT, the long title of the Bill be deleted and substituted therefor the following new long title—

AN ACT of Parliament to give effect to Article 57 of the Constitution; to establish the National Council for the older members of society; to provide for the care of older members of society; to provide for the empowerment and protection of the older members of society and the maintenance of their well-being, safety, and security, and for connected purposes.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 1.

THAT, clause 1 of the Bill be amended by deleting the word “Geriatric” and substituting therefor the words “Older Members of Society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 2

THAT, clause 2 of the Bill be amended by—

- (a) deleting the words “elderly persons” appearing in the definition of the term “assistive devices” and substituting therefor the words “older members of society”;
- (b) deleting the words “elderly persons” appearing in the definition of the term “Cabinet Secretary” and substituting therefor the words “older members of society”;
- (c) deleting the words “elderly person” wherever they appear in the definition of the term “care” and substituting therefor the words “older member of society”;
- (d) deleting the word “elderly” appearing in the definition of the term “caregiver” and substituting therefor the words “older members of society”;
- (e) deleting the words “elderly persons” appearing in the definition of the term “Department” and substituting therefor the words “older members of society”;
- (f) deleting the definition of the term “home for the elderly” and substituting therefor the following new definition—

“home for the older members of society” means any building or premises maintained and used for the reception, protection, and temporary care of older members of society in need of care and protection;
- (g) deleting the definition of the term “home-based care” and substituting therefor the following new definition—

“home-based care” means care provided or services rendered at a place where older members of society reside, excluding at a residential facility, by a care giver in order to ensure that the older member of society is maintained at a maximum level of comfort;
- (h) deleting the words “elderly person” appearing in the definition of the term “elderly person” and substituting therefor the words “older member of society”;
- (i) deleting the words “elderly person” appearing in the definition of the term “elderly person in need of care and protection” and substituting therefor the words “older member of society in need of care and protection”;
- (j) deleting the words “elderly person” appearing in the definition of the term “rehabilitation” and substituting therefor the words “older member of society”;

(k) deleting the definition of the term “respite care” and substituting therefor the following new definition—

“respite care” means a service offered specifically to an older member of society aimed at the provision of temporary care and relief to the older members of society;

(l) deleting the words “elderly persons” appearing in the definition of the term “Secretary” and substituting therefor the words “older members of society”;

(m) deleting the words “elderly persons” appearing in the definition of the term “service provider” and substituting therefor the words “older members of society”; and

(n) inserting the following new definitions in their proper alphabetical sequence—

“geriatrics” means the branch of medicine dealing with the diseases, debilities, and care of older members of society; and

“gerontology” means the study of the process of ageing.

Justifications

(1) The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

(2) The amendments seek to introduce the new definitions in the Bill for complex words that have been used in the Bill without being defined. These are the terms “geriatrics” and “gerontology”.

CLAUSE 3

THAT, clause 3 of the Bill be amended by—

(a) deleting words “elder persons” wherever they appear and substituting therefor the words “older members of society”;

(b) deleting word “elderly” wherever it appears and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 4

THAT, clause 4 of the Bill be amended—

- (a) by deleting the word “elderly” wherever it appears and substituting therefor the words “older members of society”;
- (b) by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”;
- (c) in sub-clause (3)(b) by deleting the words “elder person’s” and substituting therefor the words “older member’s of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 5.

THAT, clause 5 of the Bill be amended by deleting words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

PART II

THAT, the heading of Part II of the Bill be amended by deleting word “elderly” and substituting therefor the words “older members of society” .

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 6

THAT, clause 6 of the Bill be amended in sub-clause (1) by deleting word “elderly” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 7

THAT, clause 7 of the Bill be amended—

- (a) by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”;
- (b) by deleting the word “elderly” wherever it appears and substituting therefor the words “older member of society”; and
- (c) in sub-clause (1) by deleting paragraph (p).

Justifications

- (1) The amendments seek to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.
- (2) The amendments also delete the role of facilitating preparation of wills for elderly persons at no cost to the elderly person or on such other terms by the Council, as this function does not fall within the regulatory functions of the Council.

CLAUSE 9

THAT, clause 9 of the Bill be amended—

- (a) in sub-clause (1)(b), by deleting the word “elderly” and substituting therefor the words “older members of society”; and
- (b) by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 10.

THAT, clause 10 of the Bill be amended in sub clause (2)(c) by deleting the words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 22.

THAT, clause 22 of the Bill be amended in sub clause (3) by deleting the word “elderly” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

PART III

THAT, the heading of Part III of the Bill be amended by deleting words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 23

THAT, clause 23 of the Bill be amended by—

- (a) deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”; and
- (b) deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 24.

THAT, clause 24 of the Bill be amended—

- (a) by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”;
- (b) in sub-clause (2) by inserting the word “assistance” immediately after the word “social”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”;

(1) The amendment also seeks to correct a typographical error.

CLAUSE 25.

THAT, clause 25 of the Bill be amended by deleting the words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 26

THAT, clause 26 of the Bill be amended—

- (a) by deleting the word “elderly person” appearing in the opening statement and substituting therefor the words “older member of society”;
- (b) in paragraph (c), by deleting the words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 27

THAT, clause 27 of the Bill be amended by deleting the words “elderly person” appearing in the opening statement and substituting therefor the words “older member of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 28

THAT, clause 28 of the Bill be amended by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 29

THAT, clause 29 of the Bill be amended—

- (a) by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”;
- (b) in sub-clause (2), by deleting the words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 30

THAT, clause 30 of the Bill be amended by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”.

CLAUSE 31

THAT, clause 31 of the Bill be amended by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 32

THAT, clause 32 of the Bill be amended in—

- (a) subclause (1), by deleting the words “elderly person” and substituting therefor the words “older member of society”;
- (b) sub-clause (2) by deleting the words “elderly persons” and substituting therefor the words “older members of society”; and
- (c) sub-clause (4) by deleting the word “elderly” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 33

THAT, clause 33 of the Bill be amended by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 34.

THAT, clause 34 of the Bill be amended by—

- (a) deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”; and
- (b) deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 35

THAT, clause 35 of the Bill be amended in sub-clause (2) by deleting the words “elderly person” and substituting therefor the words “older member of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 36

THAT, clause 36 of the Bill be amended by—

- (a) deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”; and
- (b) deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 37

THAT, clause 37 of the Bill be amended in —

- (a) sub-clause (1) by deleting the words “elderly person” and substituting therefor the words “older member of society”;
- (b) sub-clause (2) by deleting the words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 38

THAT, clause 38 of the Bill be amended—

- (a) by deleting the word “elderly” wherever it appears and substituting therefor the words “older member of society”;
- (b) in sub-clause (2)(d) by deleting the words “elderly person” and substituting therefor the words “older member of society”; and
- (c) by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

PART IV

THAT, the heading of Part IV of the Bill be amended by deleting word “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 39

THAT, clause 39 of the Bill be amended by deleting the words “elderly person” appearing in the opening statement and substituting therefor the words “older member of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 40

THAT, clause 40 of the Bill be amended—

- (a) by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”;
- (b) in sub-clause (2) by deleting paragraph (i) and substituting therefor the following new paragraph. —
 - “(i)protect the rights of older members of society who are women to freedom from violence, sexual abuse and discrimination based on gender, and abuses in relation to property and land rights;”
- (c) in sub-clause (3) by deleting paragraph (d) and substituting therefor the following new paragraph. —
- (d) protection of the rights of older members of society who are women to freedom from violence, sexual abuse and discrimination based on gender, and abuses in relation to property and land rights.”

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 44

THAT, clause 44 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “elderly” and substituting therefor the words “older members of society”; and
- (b) by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

PART V

THAT, the heading of Part V of the Bill be amended by deleting words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

PART V

THAT, the heading of Part V of the Bill be amended by deleting word “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 45

THAT, clause 45 of the Bill be amended—

- (a) by deleting the words “elderly person” wherever they appear and substitute therefor the words “older member of society”;
- (b) by deleting the words “elderly persons” wherever they appear and substituting therefor the words “older members of society”;
- (c) in sub-clause (4) by deleting the words “five years or to a fine not exceeding one million shillings or to both” and substituting therefor the words “ten years or to a fine not exceeding ten million shillings or to both”.

Justification

- (1) The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

- (2) The amendment seeks to enhance the offence of abuse against older members of society from a fine not exceeding one million shillings or a term not exceeding five years or to both” and substituting therefor a penalty of a term not exceeding ten years or to a fine not exceeding ten million shillings or to both”. The enhanced penalty shall act as a deterrent against abuse of elderly persons.

CLAUSE 46

THAT, clause 46 of the Bill be amended—

- (a) by deleting the words “Director of Medical Services” wherever they appear and substituting therefor the words “Director-General for Health”;
- (b) by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”; and
- (c) in sub-clause (3)(a) by deleting the word “elderly” and substituting therefor the words “older members of society”.

Justification

- (1) The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.
- (2) The amendments further seek to align the Bill with the provisions of the Health Act which establishes the position of the Director-General for Health and not the Director of Medical Services.

CLAUSE 47

THAT, clause 47 of the Bill be amended—

- (a) by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”; and
- (b) in sub-clause (3)(a) by deleting the words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 52

THAT, clause 52 of the Bill be amended by deleting the words “elderly person” appearing in the opening statement and substituting therefor the words “older member of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 55

THAT, clause 55 of the Bill be amended—

- (a) by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”; and
- (b) in sub-clause (2)(b) by deleting the words “elderly persons” and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

CLAUSE 56

THAT, clause 56 of the Bill be amended by—

- (a) deleting the words “elderly person’s” wherever they appear and substituting therefor the words “older members of society”; and
- (b) deleting the words “elderly” wherever they appear and substituting therefor the words “older members of society”

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

FIRST SCHEDULE

THAT, the First Schedule to the Bill be amended by deleting the word “Board” wherever it appears and substituting therefor the word “Council”.

Justification

The amendment seeks to align the Bill with the provisions of clause 6 of the Bill which establishes the National Council for Older Members of Society and not a Board.

SECOND SCHEDULE

THAT, the Second Schedule to the Bill be amended —

- (a) by deleting the words “elderly persons” appearing in the heading and substituting therefor the words “older members of society”;
- (b) by deleting the words “elderly person” wherever they appear and substituting therefor the words “older member of society”; and
- (c) in paragraph 2 by—
 - (i) deleting sub-paragraph (1);
 - (ii) deleting sub-paragraph (2); and
 - (iii) by deleting the words “elderly person’s” appearing in sub-paragraph (6)(c) and substituting therefor the words “older members of society”.

Justification

The amendment seeks to align the Bill with the provisions of Article 260 of the Constitution which makes reference to the term “older member of society”.

The amendments also seek to delete paragraphs 2(1) and (2) which are erroneously placed.

SIGNED:  DATE: 05/10/2023

HON. ALICE NG'ANG'A, M.P.
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION



ANNEX ONE:
REPORT
ADOPTION
SCHEDULE



THE REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
13TH PARLIAMENT – SECOND SESSION – 2023
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

ADOPTION SCHEDULE

ADOPTION OF REPORT ON GERIATRICS BILL, 2022
VENUE: CONTINENTAL HOUSE, BOARDROOM AT 4TH FLOOR

Date: 3RD OCTOBER, 2023

NO.	NAME	SIGNATURE
1	Hon. Alice Wambui Ng'ang'a, MP. – Chairperson	
2	Hon. Kosgei Hilary Kiplangat, MP. – Vice Chairperson	
3	Hon. Wetangula Timothy Wanyonyi, MP.	
4	Hon. (Dr.) James Wambura Nyikal, MP.	
5	Hon. Pareyio, Agnes Mantaine, MP.	
6	Hon. Nyenze Edith Vethi, MP.	
7	Hon. (Dr.) Gogo Lilian Achieng', MP.	
8	Hon. Maina Betty Njeri, MP.	
9	Hon. Mark Ogolla Nyamita, MP.	
10	Hon. Linet Chepkorir, MP.	
11	Hon. Suleka Hulbale Harun, MP.	
12	Hon. Wainaina Michael, Wambugu, MP.	
13	Hon. Barre Hussein Abdi, MP.	
14	Hon. Nduyo Susan Ngugi, MP.	
15	Hon. Abdullahi Amina Dika, MP.	

Forwarded by:

Signed: Date: 3/10/2023

Mr. Sakana Saoli
Third Clerk Assistant – Committee Clerk

Approved By:

Sign:..... Date:.....

Mr. Peter K. Chemweno
Director
Directorate of Departmental Committees

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ANNEX TWO:
COMMITTEE
MINUTES



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT-SECOND SESSION-2023

DIRECTORATE OF DEPARTMENTAL COMMITTEES

MINUTES OF THE 62ND SITTING OF THE DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION HELD ON TUESDAY, 3RD OCTOBER, 2023 IN THE BOARDROOM ON FOURTH FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12.00 NOON.

PRESENT

1. Hon. Alice Wambui Ng'ang'a, M.P. - Chairperson
2. Hon. Hilary Kiplang'at Koskei, M.P - Vice - Chairperson
3. Hon. Barre Hussein Abdi, M.P
4. Hon. Agnes Pareyio, M.P
5. Hon. Edith Nyenze, M.P
6. Hon. Susan Ngugi, M.P
7. Hon. Linet Chepkorir, M.P
8. Hon. Suleka Hulbale Harun, M.P
9. Hon. Betty Njeri Maina, M.P

APOLOGIES

1. Hon. Wetangula Timothy Wanyonyi, M.P
2. Hon. (Dr.) James Nyikal, MP
3. Hon. (Dr.) Lilian Gogo, M.P
4. Hon. Mark Ogolla Nyamita, M.P
5. Hon. Michael Wambugu, M.P
6. Hon. Amina Abdullahi Dika, M.P

COMMITTEE SECRETARIAT

1. Ms. Hellen Ekadeli - Clerk Assistant I
2. Mr. Sakana Saoli - Clerk Assistant III
3. Mr. Ahmednoor Hassan - Clerk Assistant III
4. Ms. Jemimah Waigwa - Senior Legal Counsel
5. Ms. Grace Maneno - Research Officer III
6. Mr. Cosmas Akhonya - Audio Officer III

AGENDA

1. Prayers
2. Preliminaries/Introductions
 - a. Adoption of the Agenda
 - b. Remarks by the Chairperson.
3. Confirmation of Minutes/ Matters Arising
4. **Consideration and Adoption of the Report on Geriatric Bill, 2022**
5. **Pending Business (enclosed)**
6. Adjournment /Date of the Next Meeting

MIN. NO. NA/DC-SP/2023/325: PRAYERS/PRELIMINARIES

The Chairperson called the meeting to order with a word of prayer at 12.25 pm.

MIN. NO. NA/DC-SP/2023/326: ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Edith Nyenze, M.P. and seconded by Hon. Barre Hussein, M.P.

MIN. NO. NA/DC-SP/2023/327: CONFIRMATION OF MINUTES

Minutes of the 60th sitting were confirmed as a true reflection of the proceedings having been proposed by Hon. Susan Ngugi, MP and seconded by Hon. Alice Ng'ang'a, MP.

MIN.NO.NA/DC-SP/2023/328: CONSIDERATION AND ADOPTION OF THE REPORT ON GERIATRIC BILL, 2022

The Committee considered the report on the Geriatric Bill, 2022 and made the following Observations;

1. That the title and Clause one be amended by deleting the word "Geriatric" and substituting it therefore with "older member of society." This is to align the provisions with Article 260 of the Constitution.
2. That the proposal by the stakeholders to amend Clause 3 to include implementation of regional and international instruments was unnecessary as this is already covered by Article 2(6) of the Constitution.
3. That the National Council for the Elderly, established under Clause 6 and 7, is the appropriate body for protecting the interests of the elderly persons. This is because the Council ensures that the older members of society participate in making decisions on matters relating to the older members of society.
4. That the proposal to include the representatives of the Council of Governors and also establish county committees and sub-county committees is contrary to Standing Order 133 (5).
5. That the older members of the Society who are members of the Council be required to have the basic qualifications to perform the basic functions.

6. That the Bill outlines the obligation and the state in caring for the elderly persons in Part III.
7. That in addition to the obligations of the state as provided for in clauses 23 and 34 of the Bill, there is need to expressly provide for the obligation of the family to facilitate the medical expenses of older members of society. This was proposed with the consideration that the Universal Healthcare is not yet in place.
8. That the Bill sought to prohibit the abuse of elderly persons as provided for in Clause 45. However, that Committee proposed that the penalty be enhanced to a fine not exceeding ten million and term not exceeding 10 years or to both. The justification for this is that it would serve as a deterrent against abuse of elderly persons.

Committee Resolution

In light of Standing order 127, the Committee recommended that the Bill proceed for Second Reading subject to amendments contained in the report.

MIN. NO. NA/DC-SP/2023/329: ANY OTHER BUSINESS

The Chairperson informed the Committee that there was a letter from the Federal Parliament of Somalia, informing the National Assembly and the Committee of the visit to Parliament of Kenya by the Women Caucus of the Federal Parliament.

The Chairperson directed the Secretariat to schedule a meeting and invite the Women Caucus on Tuesday, 17th October, 2023.

MIN. NO. NA/DC-SP/2023/330: ADJOURNMENT

The meeting was adjourned at 1:05 p.m. and the next meeting will be held on notice.

Signed.......... Date.....3/10/2023.....

HON. ALICE WAMBUI NGÁNGÁ, M.P.

(Chairperson)

MINUTES OF THE 24TH SITTING OF THE DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION HELD ON TUESDAY, 14TH MARCH, 2023 AT 2ND FLOOR, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS AT 12.00 NOON.

PRESENT

1. **Hon. Hilary Kiplang'at Koskei, M.P.** - Vice Chairperson
2. Hon. Agnes Pareyio, M.P.
3. Hon. Suleka Hulbale Harun, M.P.
4. Hon. Michael Wambugu, M.P.
5. Hon. (Dr.) James Nyikal, M.P.
6. Hon. Edith Nyenze, M.P.
7. Hon. Susan Ngugi, M.P.
8. Hon. Barre Hussein Abdi, M.P.

APOLOGIES

1. **Hon. Alice Ng'ang'a Wambui, M.P.** - Chairperson
2. Hon. Linet Chepkorir, M.P.
3. Hon. (Dr.) Lilian Gogo, M.P.
4. Hon. Betty Njeri, M.P.
5. Hon. Amina Abdullahi Dika, M.P.
6. Hon. Timothy Wanyonyi, M.P.
7. Hon. Mark Nyamita, M.P.

COMMITTEE SECRETARIAT

1. Mr. Abdikafar Abdi - Clerk Assistant III
2. Mr. Sakana Saoli - Clerk Assistant III
3. Ms. Jemimah Waigwa - Senior Legal Counsel
4. Ms. Grace Maneno - Research Officer III

AGENDA

1. Prayers
2. Preliminaries
3. Matters Arising
4. **Confirmation of previous minutes**
5. **Brief on the Geriatrics Bill, 2022**
6. Any Other Business
7. Adjournment/Date of the Next Meeting

MIN. NO. NA/DC-SP/2023/115: PRELIMINARIES

The Vice Chairperson called the meeting to order fifteen minutes past twelve o'clock (12.15 p.m.) and prayers said. Thereafter Members and Secretariat introduced themselves.

MIN.NO. NA/DC-SP/2023/116: ADOPTION OF THE AGENDA

The agenda was adopted having been proposed by Hon. Wainaina Wambugu, MP and seconded by Hon. Agnes Pareyio, MP.

MIN.NO.NA/DC-SP/2023/117:

CONFIRMATION OF MINUTES

Minutes of the 17th sitting held on Tuesday, 21st February, 2023 were adopted as a true reflection of the sitting having been proposed by Hon. (Dr.) James Nyikal, M.P. and seconded by Hon. Barre Hussein Abdi, M.P respectively.

Minutes of the 18th sitting held on Thursday, 23rd February, 2023 were adopted as a true reflection of the sitting having been proposed by Hon. Edith Nyenze, M.P and seconded by Hon. Michael Wambugu, M.P. respectively.

Minutes of the 19th sitting held on Monday, 27th February, 2023 were adopted as a true reflection of the sitting having been proposed by Hon. Suleka Hulbale Harun, M.P. and seconded by Hon. Agnes Pareyio, M.P. respectively.

Minutes of the 20th sitting held on Monday, 27th February, 2023 were adopted as a true reflection of the sitting having been proposed by Hon. Michael Wambugu, M.P. and seconded by Hon. (Dr.) James Nyikal, M.P respectively.

MIN.NO.NA/DC-SP/2023/118:

BRIEF ON GERIATRICS BILL, 2022

The Legal Counsel took the members through the Bill Clause by Clause;

The Committee was informed that the Geriatrics Bill, 2022 is a Bill sponsored by the Hon. Gathoni Wamuchomba. It was noted that the Bill is divided into eight parts and two schedules with a total of 56 clauses.

Part 1 of the Bill is the preliminary provisions and contains the short title, interpretation clause and objects of the Bill;

Clause 2 defines various terms as used in the Bill;

Clause 3 of the Bill provides for the **objects and purposes of the Bill** which includes to:

- Establish the National Council for Elderly Persons;
- Provide a legal framework that promotes the rights of the elderly as enshrined under Article 57 of the Constitution;
- Promote and protect the dignity, well-being, safety, and security of elderly persons;
- Provide a framework for the registration of elderly persons, and the establishment and management of residential facilities for the elderly; and
- Prohibit the abuse of elderly persons.

Clause 4 of the Bill provides for the guiding principles of the Bill;

Clause 5 of the Bill provides for the application of the Bill;

Clause 6 provides for the establishment of the Council as a body corporate;

Clause 7 of the Bill provides for the functions of the Council;

Clause 8 of the Bill provides for the powers of the Council;

Clause 9 of the Bill provides for the composition of the Council;

Clause 10 of the Bill provides for the qualifications for appointment of the Chairperson and Members of the Council;

Clauses 12 and 14 of the Bill provide for the appointment of the Chief Executive Office and Staff of the Council. Clause 18 of the Bill provides that the Chairperson and members of the Council shall hold office for a term of three years;

Clause 23 of the Bill provides for the obligations of the family of an elderly person. Clause 24 of the Bill provides for the obligations of the State for elderly persons;

Clause 25 of the Bill provides for employment of elderly persons on scaled hours basis;

Clauses 26 provides for the Rights of elderly persons. Clause 27 provides for the Right to family and community care. Clause 28 provides for the right to legal capacity;

Clause 29 the right to equality and non-discrimination;

Clause 30 provides for right to documents of registration. Clause 31 provides for the right to privacy. Clause 32 provides for the right to protection and safety against risk and humanitarian emergencies. Clause 33 provides for the right to education; and Clause 34 provides for the right to health which provides that the national Government and county governments. Clause 39 of the Bill provides that an elderly person receiving community-based care and support services;

Clause 40 of the Bill provides for Community Based Programmes. Clause 41 of the Bill provides for the registration of community-based care and support services by the Council in the prescribed manner. Clause 44 of the Bill further provides that the national Government and each county government shall ensure access to justice for elderly persons;

Clause 45 of the Bill provides that a person shall not subject an elderly person to any form of physical or mental abuse;

Clause 56 of the Bill provides that every home which, immediately before the commencement of the Act, was registered as a home for elderly person's shall be deemed to be registered as an elderly person's home under this Act, and shall continue to be so licensed for the unexpired period of registration subject to such conditions of registration as may be imposed; and

FIRST SCHEDULE: Provides for provisions as to the conduct of the business and affairs of the Council. SECOND SCHEDULE: Provides for procedure for dealing with offences against elderly persons.

MIN. NO. NA/DC-SP/2023/119: COMMITTEE OBSERVATIONS

The Members unanimously agreed to support the Geriatrics Bill but however, the members noted that changing the name of the Bill to Elder Persons Bill was a more accurate title and that the Bill was quite necessary and the general Principle of the Bill was good.

MIN. NO. NA/DC-SP/2023/120: ANY OTHER BUSINESS

The Vice Chairperson informed members that a meeting with the Zambian members of Parliament will take place on Tuesday 21st March, 2023. He emphasized the importance of attending that meeting to share experiences with the Zambian delegation.

The Vice Chairperson also informed the members that he appeared before the Budget and Appropriations Committee to table and defend the Committee's observations and recommendations on the Report of the Budget Policy Statement FY 2023/2024.

MIN. NO. NA/DC-SP/2023/121: ADJOURNMENT

There being no other business the meeting was adjourned at twenty minutes past one o'clock (1:20 PM).

Signed.......... Date 30/05/2023

HON. ALICE WAMBUI NGÁNGÁ, M.P.
(Chairperson)

ANNEX THREE:
NEWSPAPER
ADVERTISEMENT
ON PUBLIC
PARTICIPATION



SUPPLIER PREQUALIFICATION NOTICE 2023-2025

Kenya Women Microfinance Bank invites applications from interested, competent and eligible firms for pre-qualification for the under listed categories of goods, services and works for the period 2023 -2025.

NO	CATEGORY DESCRIPTION	NO	CATEGORY DESCRIPTION
GENERAL			
1	Supply of printed stationery	48	Provision of hotel accommodation services
2	Supply of rubber stamps and seals	49	Provision of general investigative services, security training and due diligence
3	Supply of non-printed stationery	50	Provision of real estate agents' services
4	Supply of branded promotional materials (mail bags, branded t-shirts etc.)	51	Provision of insurance brokerage services
5	Supply of staff uniform	52	Provision of insurance services (underwriters only)
6	Supply, installation and maintenance of signage and branding	53	Provision of payroll services
7	Supply of furniture, fittings and furnishings	54	Provision of outsourced labour services
8	Supply and maintenance of potted plants and flowers	55	Provision of towing services
9	Supply and delivery of office consumables	56	Provision of security printing services (e.g. ATM card, cheque books)
10	Supply of newspapers, periodicals and magazines	57	Provision of financial audit/tax services
11	Supply of drinking water and water dispensers	58	Provision of car hire services including taxis, buses and minibuses
FACILITIES MANAGEMENT			
12	Supply of hardware tools and equipment	59	Provision of OSHA audit services
13	Supply and maintenance of firefighting equipment and fire suppression systems	60	Provision of energy audit services
14	Supply and maintenance of generators	61	Provisions of customer service survey services
15	Supply, installation and maintenance of ATM machines	62	Provision of translation services
16	Supply and maintenance of safes, fire resistant cabinets and strong room doors.	63	Provision for lease of motor vehicles
17	Supply of note and coin counters, fake note detectors/UV lights and shredders	ICT EQUIPMENT AND RELATED SERVICES	
18	Supply of tyres and tubes	64	Supply of toners and computer consumables
19	Supply of LPG, fuel cards and diesel	65	Supply and maintenance of ICT equipment (computers, laptops, routers etc.)
20	Supply, installation and maintenance of air conditioning, refrigeration services and data centre cooling services	66	Supply and installation of software licenses e.g. antivirus
21	Provision of office cleaning and sanitary services	67	Supply and installation of access control systems, intruder alarm, CCTV system and electric fencing
22	Provision of fumigation and pest control services	68	Provision for lease and maintenance of access control systems, intruder alarm and CCTV system and electric fencing
23	Provision of vehicle storage	69	Supply and maintenance of power back-up systems ups, and power stabilizers
24	Provision of garbage disposal services	70	Supply and maintenance of telecommunication equipment (routers, PABX etc.)
25	Provision of asset tagging services	71	Provision of structured cabling works and networks maintenance services
26	Provision of garage for repair and maintenance of bank vehicles	72	Provision of leased printers and copiers
PROFESSIONAL SERVICES			
27	Provision of major building construction works	73	Provision of software development services
28	Provision of major drainage and plumbing works	74	Provision of IT consultancy services
29	Provision of major electrical installation, repair and maintenance works	75	Provision of website development and maintenance services
30	Provision of minor construction works, repairs and partitioning	76	Provision for lease of office equipment e.g. laptops, computers
31	Provision and maintenance of mechanical ventilation system	77	Provision of ICT audit and cybersecurity assessment services
32	Provision of architectural services	MARKETING	
33	Provision of interior design services	78	Provision of digital marketing services
34	Provision of mechanical engineering consultancy services	79	Provision of outdoor advertising services
35	Provision of electrical engineering consultancy services	80	Provision of print/media advertising services
36	Provision of civil structural engineers - consortium	81	Provision of PR & creatives services
37	Provision of quantity surveyor (QS) services	82	Provision of experiential marketing, communication and promotion services
38	Provision of air travel agency services (IATA registered)	83	Provision of research services
39	Provision of vehicle valuation services	HR SERVICES	
40	Provision of property and land valuation services	84	Provision of pre-employment screening and background check services
41	Provision of international and local courier services	85	Provision of recruitment services
42	Provision of security guard services	86	Provision of HR consultancy services
43	Provision of cash-in-transit and offsite ATM management services	87	Provision of staff training Services
44	Provision of event management services	88	Provision of team building services
45	Provision of catering services	89	Provision of debt collection services
46	Provision of car tracking services	90	Provision of legal services (Kisili, Migori, Kisumu, Kakamega, Kitale, Eldoret, Nakuru, Kericho, Machakos, Embu, Meru, Thika, Nairobi)
47	Provision of photography and videography services	91	Provision of legal services (Kisili, Migori, Kisumu, Kakamega, Kitale, Eldoret, Nakuru, Kericho, Machakos, Embu, Meru, Thika, Nairobi)

The supplier prequalification exercise will be conducted online via:



Tendersure™ platform is secure, transparent and provides an efficient prequalification process. Interested suppliers may access and register on www.tendersure.co.ke under the "Available Jobs" tab. Access to the prequalification will be granted upon payment of a non-refundable fee of KES 3,000.00 per category. All payments will be made via an online payment platform during the application process. Available payment methods include M-PESA, Visa Card and MasterCard amongst others. The online prequalification exercise closes on 17th March 2023 at 10pm EAT.

In case of any inquiry kindly contact us at help@tendersure.co.ke or +254 709 557 000.

All existing suppliers are required to participate alongside prospective suppliers in order to be evaluated and considered.

All participants who duly complete the prequalification process online will be notified of the outcome. Prequalification is not a guarantee for business opportunity, bidders will be invited to submit their quotations on need basis based on the opportunities available. Kenya Women Microfinance Bank reserves the right to accept or reject any bid in whole or in part at its discretion.

Kenya Women Microfinance Bank is licensed and regulated by the Central Bank of Kenya (CBK).



REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

13TH PARLIAMENT - SECOND SESSION - 2023

In the matter of consideration by the National Assembly of:-

1. The Land (Amendment) (No.2) (National Assembly Bill No. 40 of 2022)
2. The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022)
3. The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)
4. The Cancer Prevention & Control (Amendment) (National Assembly Bill No. 45 of 2022)
5. The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)
6. The Geriatric Bill, (National Assembly Bill No. 50) of 2022.

PUBLIC PARTICIPATION (SUBMISSION OF MEMORANDA)

Pursuant to Article 118(1) (b) of the Constitution and Standing Order 127(3) of the National Assembly Standing Orders, the Clerk of the National Assembly hereby invites members of the public and relevant stakeholders to submit memoranda on the following Bills:

The Land (Amendment) Bill (National Assembly Bill No. 40 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal objective of the Bill is to amend the Land Act, No. 6 of 2012 to provide for registration of public land and land set aside for public purpose.

The National Transport & Safety Authority (Amendment) (National Assembly Bill No. 43 of 2022) sponsored by Hon. Simon King'ara, MP.

The principal objective of the Bill is to amend the National Transport & Safety Act, No. 33 of 2012 to assign additional functions to the Authority to include the establishment of systems and procedures for the registration and licensing of two and three wheeled public motorcycle taxis.

The Pensions (Amendment) (National Assembly Bill No. 44 of 2022) sponsored by Hon. Abdul Dawood, MP.

The principal objective of the Bill is to amend the Pensions Act, Cap. 189 to provide for a timeline within which pension shall be payable to an officer.

The Cancer Prevention & Control (Amendment) (No. 2) (National Assembly Bill No. 45 of 2022) sponsored by Hon. Didmus Barasa, MP.

The principal objective of the Bill is to amend the Cancer Prevention & Control Act, 2012 to provide for training of health cadres in the specialized medical field of oncology, to include cancer treatment as part of the provision of primary healthcare and incorporate the use of e-health and telemedicine.

The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022) sponsored by Hon. Abdul Dawood, M.P.

The principal objective of the Bill is to amend the Public Service (Values and Principles) Act, 2015 to require all state organs in the national and county governments and state corporations to submit annual reports on details of human resource in constitutional commissions, independent offices and County Public Service Boards and County Assembly Service Boards.

The Geriatric Bill (National Assembly Bill No. 50 of 2022) sponsored by Hon. Gathoni Wamuchomba, M.P.

The principal objective of the Bill is to give effect to Article 57 of the Constitution by establishing a legal framework for the treatment of elderly persons.

The Bills were Read a First Time on Tuesday, 15th and Wednesday, 16th February, 2023 and, pursuant to Standing Order 127(1) of the National Assembly Standing Orders, committed to Departmental Committees of the National Assembly as set out in the schedule hereunder:

NO	BILL	COMMITTEE
1.	The Land (Amendment) (No.2) (National Assembly Bill No.40 of 2022)	Lands
2.	The National Transport & Safety Authority (Amendment) (National Assembly Bill No.43 of 2022)	Transport & Infrastructure
3.	The Pensions (Amendment) (National Assembly Bill No. 44 of 2022)	Finance & National Planning
4.	The Cancer Prevention & Control (Amendment) (No.2) (National Assembly Bill No. 45 of 2022)	Health
5.	The Public Service (Values and Principles) (Amendment) Bill (National Assembly Bill No. 46 of 2022)	Labour
6.	The Geriatric Bill (National Assembly Bill No.50 of 2022)	Social Protection

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

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 cna@parliament.go.ke; to be received on or before Wednesday, 8th March, 2023 at 5.00 p.m.

SAMUEL NJORGE
CLERK OF THE NATIONAL ASSEMBLY

23rd February, 2023

"For the Welfare of Society and the Just Government of the People"

ANNEX FOUR:
LETTERS SEEKING
STAKEHOLDERS'
SUBMISSIONS



**THE NATIONAL ASSEMBLY
OFFICE OF THE CLERK**

P. O. Box 41842-00100
Nairobi, Kenya
Main Parliament Buildings

Telephone: +254202848000 ext. 3300
Email: cna@parliament.go.ke
www.parliament.go.ke/the-national-assembly

When replying, please quote

REF: NA/DC-SP/BILL/2023/007

5th April, 2023

Hon. Justin B. N. Muturi, E.G.H.
Attorney General of the Republic of Kenya
Office of the Attorney General and Department of Justice
Sheria House
Harambee Avenue
NAIROBI

Dr. Korir Singóci, PHD., EBS
Principal Secretary
State Department for Foreign Affairs
Old treasury Building
Harambee Avenue
P.O. Box 30551 – 00100
NAIROBI

Mr. Joseph Mogosi Motari, MBS
Principal Secretary
State Department for Social Protection and Senior Citizens Affairs
Ministry of Labour and Social Protection
Social Security House
NAIROBI

Ms. Betty Sungura, MBS
Chief Executive Officer
National Gender and Equality Commission
1st Floor, Solution Tech Place
Upper Hill
NAIROBI

Hon. Gathoni Wamuchomba, HSC, MP
Githunguri Constituency
Parliament Buildings
NAIROBI

Dear *Hon. Muturi,*

**RE: INVITATION FOR A RETREAT TO CONSIDER BUSINESS BEFORE THE
COMMITTEE FROM 13TH TO 16TH APRIL, 2023 IN MACHAKOS COUNTY**

The Departmental Committee on Social Protection is established under Standing Order 216 and is mandated, *inter alia*, "to study and review all legislation referred to it".

Pursuant to the above mandate, the Committee is in the process of considering the following business:-

1. Geriatrics Bill, 2022 (National Assembly Bill, No. 50 of 2022)

The Bill, sponsored by Hon. Gathoni Wamuchomba, MP, seeks to improve the living conditions of elderly persons by providing for their rights to human dignity, safety and security, education, health and equality and non-discrimination. The principal object of this bill is to give effect to Article 57 of the Constitution by establishing a legal framework for the treatment of elderly persons.

2. Ratification, Acceptance and Accession of Hague Conventions on Private International Law of the Memoranda.

The objective of the Memorandum is to seek approval for Kenya's ratification of the following Hague Conventions:

- (i) 25 October 1980 Convention on the Civil Aspects of International Child Abduction (**Hague Abduction Convention**)
- (ii) 19 October 1996 Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in respect of Parental Responsibility and Measures for the Protection of Children or Hague Convention 1996 (**The Hague Convention on parental responsibility and protection of children, or Hague Convention, 1996**).
- (iii) 23 November 2007 Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (**Hague Maintenance Convention**)

In addition, the Committee invites you to a retreat from **Thursday, 13th April to Sunday, 16th April, 2023 in Machakos County**. You are required to submit 20 copies of your written submissions and a soft copy to can@parliament.go.ke. The meeting will be held at a venue to be communicated. A copy of the Programme is hereby attached.

The liaison officers of the Committee are **Ms. Hellen Ekadeli** who may be contacted on Tel No. 0733-132-322 and email address hellen.ekadeli@parliament.go.ke or **Mr. Saoli Sakana** on Tel. No. 0719-646-697 and email address sakana.saoli@parliament.go.ke or **Mr. Abdikafar Sheikh** on Tel No. 0715-456-503 and email address abdikafar.sheikh@parliament.go.ke.

Yours Sincerely,



PETER K. CHEMWENO
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Hon. Florence K. Bore**
Cabinet Secretary
Ministry of Labour and Social Protection
Social Security House
NAIROBI

Hon. Alfred N. Mutua, EGH

Cabinet Secretary

State Department for Foreign Affairs

Old treasury Building

Harambee Avenue

P.O. Box 30551 – 00100

NAIROBI

Dr. Joyce Mwikali Mutinda, PhD, EBS

Chairperson

National Gender and Equality Commission

1st Floor, Solution Tech Place

Upper Hill

NAIROBI



ANNEX FIVE:
SUBMISSIONS BY
STAKEHOLDERS





**MINISTRY OF LABOUR AND SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR CITIZEN
AFFAIRS**

OFFICE OF THE PRINCIPAL SECRETARY

Tel: +254 (0) 2729800/2727980-4
Fax: +254 (0) 2726222/2734417
Email: ps@socialprotection.go.ke
When replying, please quote

Social Security House, Bishops Road
P.O. Box 40326/16936 - 00100
Nairobi
KENYA

*Hellen Ekadele
pls facilitate
2/3/23*

ML & SP/SP/9/24

06th March, 2023

Samuel Njoroge
The Clerk of the National Assembly
Main Parliament Building
P.O.Box 41842 - 00100
NAIROBI

*Dr. Daniel Kombo
for attention of the
Committee of the
Health
27/3/23*

Dear *Clerk*

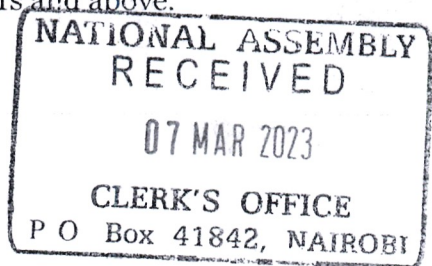
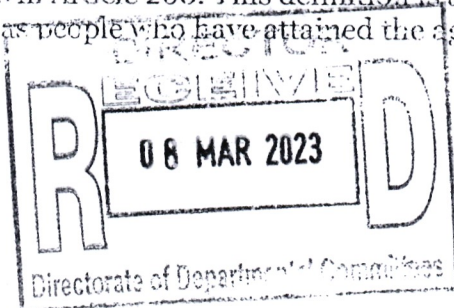
RE: SUBMISSION OF MEMORANDA ON THE GERIATRIC BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2022) TO THE CLERK OF THE NATIONAL ASSEMBLY

Reference is made to the Public Participation (Submission of Memoranda) gazette notice published on 23rd February 2023 requesting the public and relevant stakeholders to submit memoranda on various bills including The Geriatric Bill (National Assembly Bill No. 50 of 2022), a Private Members' Bill sponsored by Hon. Gathoni Wamuchomba, M.P.

Ageing is a process which starts from the time one is born and hence the need to prepare for old age in human development. Kenya is experiencing a demographic transition as the population of Older Persons is increasing drastically that it cannot be ignored. There is increased longevity in life as a great human achievement that comes with opportunities and challenges.

The National Policy on Older Persons and Ageing, 2018 recognizes that Older Persons are an important segment of the National Population whose rights must be recognized, respected, protected and promoted. In addition, it endeavors to strengthen intergeneration solidarity among generations and facilitate interaction, and provides a comprehensive framework to address the unique challenges of long-term care for Older Persons and more population of older women and elder abuse.

The Constitution of Kenya, 2010 defines an "Older Member of Society" as any Kenyan aged sixty (60) years in Article 260. This definition is an affirmation of the 1982 UN definition of Older Persons as people who have attained the age of sixty years and above.



Similarly, the above definition is reflected in the Protocol to the African Charter on Human and People's Rights on the Rights of Older Persons in Africa (2016) and the African Union (AU) Policy Framework and Plan of Action on Ageing, 2002.

The Proposed Bill is out of the realization that without a coherent and comprehensive framework for guiding the different sectors and agencies involved in development issues pertaining to Older Persons, substantial resources and efforts may continue to be wasted.

Under Article 57 of the Constitution, the State is obligated to take measures to ensure Older Persons participation, personal development, dignity, respect and protection from abuse; and together with the family, the obligation to provide care and reasonable assistance to Older Persons.

The Constitution of Kenya, 2010 provides explicit rights, entitlements and privileges for Older Persons with specific obligations to the State and Family. Article 10 (2) (b) of the Constitution underlines the State's obligation to protect Older Persons together with the marginalized groups; Whereas Article 21 (3) of the Constitution obligates State Organs and Public Officers to address the needs of Older Persons and other vulnerable groups.

Article 27 (4) of the Constitution promotes and safeguards equality and non-discrimination of Older Persons based on age, whereas Article 43 (3) of the Constitution obligates the State to provide appropriate Social Security to needy Older Persons.

Other legal frameworks that cater for the concerns of Older Persons include the National Hospital Insurance Fund (NHIF) Act, the Pensions Act, and the National Social Security Fund (NSSF) Act.

The specific Social Protection Programmes implemented by the Government include social assistance, which comes in form of Cash Transfers that target Older Persons, Persons with Severe Disabilities, Orphans and Vulnerable Children. Other forms of assistance include financial assistance in form of grants, food subsidies and bursaries.

The role of the State Department for Social Protection and Senior Citizens Affairs is to coordinate, mainstream and implement Older Persons concerns. It is charged with the responsibility of developing policies to guide in the implementation of the programmes and inclusion of Older Persons in the development process.

It is therefore imperative that a new legislation to anchor the rights of Older Persons as per Article 57 of the Constitution is in line with the Government Policy, to facilitate enjoyment of these rights.

Currently, there is no specific law at National and County levels that comprehensively promotes and protects the rights of Older Persons.

In summary, the following are the Ministry's key concerns and/or proposal that ought to be considered in order to enrich the proposed Bill in terms of the prevailing Government Policy and best practice: -

(a) The Long Title of the Bill, to wit, "The Geriatric Bill, 2022" is narrow if construed in the context of the entire Bill for the simple reason that Geriatric is a technical term referring to a branch of medicine dealing with diseases, debilities and care of Older Persons and titling the Bill in its current name would limit the scope of the Bill by leaving out the social issues affecting Older Persons, care and protection of Older Persons, economic and contribution of Older Persons towards national development.

(b) The establishment of the Council to administer the new Act once enacted by Parliament would render the Directorate of Social Development in the Ministry moribund since the Council is emasculating all the functions of the Directorate of Social Development thus creating an unnecessary functional overlap. Executive Order No. 1 of 2020 places the duties and obligations of Older Persons on the Directorate of Social Development under the State Department for Social Protection, Pensions and Senior Citizen Affairs.

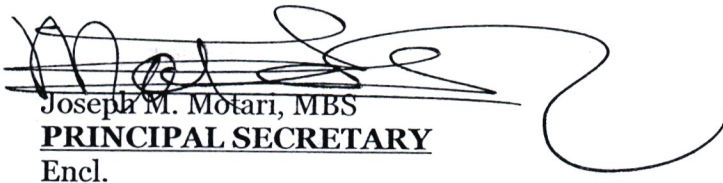
(c) By removing the establishment of a Council in the proposed Bill, this will entrench the Secretary of the Directorate of Social Development, being the highest in the hierarchical arrangement, to perform the duties and functions of the Directorate of Social Development assisted by the numerous social development officers nationwide on all matters of Older Persons without over burdening the wage bill.

(c) The proposal by the ministry intends to capture and alleviate the pain of Older Persons in the realm of elder abuse and not ordinarily the realm of simply, the concept of abuse. Elder abuse is so rampant in Kenya among Older Persons, perpetrated physically, emotionally, sexually through exploitation, neglect and abandonment and significantly affects the well-being of Older Persons. This is in tandem with the National Policy on Older Persons and Ageing, 2018 and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, ratified and deposited with the African Union Commission on 22nd February, 2022.

(d) The Ministry is in the process of developing an older person's bill that comprehensively seeks to promote and protect the rights of Older Persons.

Attached herewith, please find the Ministry's Matrix that enumerates the specific amendments proposed in the Geriatric Bill, 2022, in line with the prevailing Government Policy and in accordance with the International Treaties and Protocols signed and ratified by Kenya.

Yours *Sincerely*


Joseph M. Motari, MBS
PRINCIPAL SECRETARY
Encl.

SUBMISSION OF MEMORANDA ON THE GERIATRIC BILL, 2022 (NATIONAL ASSEMBLY BILL NO. 50 OF 2022) TO THE CLERK OF THE NATIONAL ASSEMBLY.

PRESENTED BY THE STATE DEPARTMENT FOR SOCIAL PROTECTION AND SENIOR CITIZENS AFFAIRS.

S/No.	CLAUSES IN THE PROPOSED BILL	PROPOSED AMENDMENT	JUSTIFICATION
1.	long title: Geriatric Bill.	The Ministry position is to have the long title changed to provide a new name to the Act to read as " Older Persons Bill ".	(a) Geriatrics is a technical term referring to a branch of medicine dealing with diseases, debilities and care of Older Persons. (b) The current long title of the proposed bill is narrow and leaves out the social issues affecting Older Persons, care and protection of Older Persons, economic and contribution of Older Persons towards national development
2.	The Enacting Formula of the proposed bill.	Delete the Enacting Formula in the Proposed bill and insert the following new Enacting Formula as follows: - "A Bill for an Act of Parliament to give effect to	This is consistent with the Ministry's comments to have the proposed Council removed from the

		Article 57 of the Constitution; to provide for the care, protection and empowerment of Older Members of Society; to provide for the maintenance of the well-being, safety and security of Older Members of Society, and connected purposes.	entire body of the Bill given that the substantive provisions in the Bill only deal on the Council as opposed to providing adequately on Older Persons by providing an elaborate mechanism to protect and safeguard their interests as opposed to the creation of an amorphous body that will inexplicably be a great burden to the exchequer oblivious of the needs of Older Persons
3.	Clause 1 in the proposed bill.	Amend the short title to read the “Older Persons Act, 2023” in place the “Geriatric Act, 2022”.	As above.
4.	Clause 2 in the proposed bill.	(a) Delete the definition of the word “abuse” and substitute therefor the following new definition in its proper alphabetical sequence – “elder abuse” means any intentional action that harms or creates the risk of harm to a vulnerable older adult.	Elder abuse is perpetrated physically, emotionally, sexually, through exploitation, neglect and abandonment. Elder abuse is also rampant in society amongst Older Persons and affects their wellbeing. The new definition is in tandem with the National Policy on Older Persons and Ageing, 2018 and the

		<p>(b) Insert the following new definition in its proper alphabetical sequence –</p> <p>“Secretary” means the Secretary responsible for matters relating to Older Persons appointed under this Act.</p>	<p>Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Older Persons in Africa, ratified and deposited by Kenya with the African Union Commission (AUC) on 22nd February 2022</p> <p>This is also consistent with the WHO definition</p>
5.	Clause 3	Delete Paragraph (a) in Clause 3.	<p>The Presidential Taskforce on Parastatal reforms, 2013 proposed for merger of various State Corporations and put a stop on creation of new entities / agencies and other bodies owing to the current wage bill which is not sustainable as a result of many State Corporations whose roles duplicate each other and contrary to Public Policy</p> <p>More budgetary support should be given to the Directorate of Social</p>

			Development to enable it function optimally and more efficiently instead of creating new bodies. Unless the new body envisaged will not require funding from the Exchequer
6.	Clauses 6 – 22 in the proposed bill.	Delete Clauses 6 – 22 in Part II of the proposed bill.	<p>a) Article 57 of the Constitution does not talk about establishing a Council but mandates the State to Care and Protect Older Persons</p> <p>b) Executive Order No. 1 of 2020 places the duties and obligations of Older Persons on the Directorate of Social Development under the State Department for Social Protection, Pensions and Senior Citizens Affairs.</p> <p>c) The establishment of the proposed Council to deal with matters of Older Persons is a duplication and conflicts with the role and mandate of the Directorate of Social Development and is huge burden</p>

			<p>on the wage bill.</p> <p>d) It is the Government policy that the creation of more institutions and structures that are not aligned to the Constitution 2010, is no longer feasible within the social, economic and political pillars in Kenya.</p> <p>e) It is a Money Bill and an unnecessary burden to the tax payers.</p> <p>f) There is a functional overlap between the functions of the Council vis-a-vis the Directorate of Social Development.</p>
7.	New Clauses in the proposed bill.	<p>Insert the following new part immediately after Part I of the Proposed bill.</p> <p>PART II – ADMINISTRATION OF THE ACT</p> <p>Secretary for Social Development. 6 (1). There shall be a Secretary for Social Development appointed in accordance with the Public Service Commission Act.</p> <p>(2). The Secretary shall be responsible for—</p> <p>(a) the registration and regulation of institutions providing care and support to Older Persons;</p> <p>(b) creating awareness and promoting access to information on the care and protection of Older Persons;</p> <p>(c) the establishment and</p>	<p>The Office of the Secretary is a structure in Public Service on matters of Social Development.</p> <p>The creation of a Council is an unnecessary duplication and a huge charge to the Exchequer.</p> <p>It is prudent to have the Office of the Secretary strengthened by</p>

		<p>maintenance of information management system for Older Persons;</p> <p>(d) inspection of Older Persons institutions;</p> <p>(e) developing and implementing programmes and policies for the advancement of Older Persons</p> <p>(f) investigating and taking any action necessary to protect Older Persons from abuse, whether at home or in an institution; and</p> <p>(g) coordinating and collaborating with various State and Non-State Actors working with Older Persons and undertaking referral of Older Persons to various service providers; and</p> <p>(h) resource mobilization.</p> <p>(3). The Secretary may, in writing, delegate to a Social Development Officer such powers or duties as may be specified in the instrument of delegation, which officer shall for such purposes, have all the powers, privileges and authority of the Secretary under this Act.</p> <p>Appointment of Social Development Officers. 7. (1) The Public Service Commission may appoint such number of social development officers to assist the Secretary in the performance and exercise of the Secretary's functions and powers under this Act.</p> <p>(2) In performing their duties and exercising their powers, the Social Development Officers are subject to the direction and supervision of the "Secretary".</p>	<p>allocating more resources and manpower to efficiently perform its functions.</p>
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8.	Delete Part III of the Proposed bill.	<p>Delete Part III of the Proposed bill and substitute therefor the following new Part –</p> <p>PART III—RIGHTS OF OLDER PERSONS</p> <p>Prohibition of elder abuse. 8. (1) A person shall not abuse or subject an older person to any form of physical or mental abuse.</p> <p>(2) Any conduct or lack of appropriate action occurring within a relationship in which there is an expectation of trust which causes harm or distress or is likely to cause harm or distress to an older person constitutes abuse under subsection (1).</p> <p>(3) For the purposes of subsection (1) and (2), "elder abuse" includes—</p> <ul style="list-style-type: none"> (a) physical abuse which means any act or threat of physical violence towards an Older Person; (b) any conduct that violates the sexual integrity of an Older Person; (c) psychological abuse which means any pattern of degrading or humiliating conduct towards an Older Person, including— <ul style="list-style-type: none"> (i) insults, ridicule or name calling; (ii) threats to cause emotional pain; and (iii) repeated invasion of an Older Person's privacy, liberty, integrity or security; (d) economic abuse including— <ul style="list-style-type: none"> (i) the deprivation of economic and financial resources to which an Older Person is entitled under any law; or (ii) the disposal of household effects or other property that belongs to the Older 	<p>The rights under this Part have been lifted from the Bill of Rights under the Constitution and are mere ordinary rights not unique to Older Persons.</p> <p>There are no additional rights outside the Bill of Rights on the emerging issues touching Older Persons.</p>
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		<p style="text-align: center;">Person without the older person's consent.</p> <p>(4) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to imprisonment for a term not exceeding five years or to a fine not exceeding one million or to both such fine and imprisonment.</p> <p>situations of risk and humanitarian emergencies. 9 (1) An older person has the right to protection and safety in situations of risk including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.</p> <p>(2) Every institution involved in situations contemplated under subsection (1) whether public or private shall maintain an inventory of all Older Persons and submit such inventory to the national and county authorities and any other agency responsible for national disasters.</p> <p>Education for Older Persons. 10. (1) The national and county governments shall ensure Older Persons have access to educational, cultural, spiritual and recreational resources within the communities.</p> <p>(2) The Ministry responsible for education shall develop education and training programmes for Older Persons to ensure their personal development.</p> <p>Right to health. 11. (1) The national and county governments shall take appropriate measures to ensure every Older Person not covered under any other existing medical scheme is provided with affordable, accessible, and quality medical care.</p> <p>(2) Medical assessment for Older Persons including for purposes of registration, employment, or compensation shall be done free of charge in public health institutions.</p>	
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	44	<p>(3) An older person shall not be compelled to undergo any testing as a pre-condition to or for continued enjoyment of provision of health cover.</p> <p>Access to justice. 12. (1) The Government shall ensure access to justice for Older Persons by—</p> <ul style="list-style-type: none"> (a) providing appropriate training for persons working in the field of administration of justice including the police and the prison staff; (b) taking into special consideration age on arrest, detention, trial or confinement of an older person; (c) expeditious disposal of cases involving older persons having due regard to their circumstances; (d) offering free legal services to Older Persons with respect to — <ul style="list-style-type: none"> (i) matters affecting the violation of their rights or deprivation of property; (ii) matters of violence against Older Persons; (iii) such other matters as may be prescribed in the regulations or under any other written law. <p>(2) The Chief Justice may make rules providing for the exemption of an older person, category or categories of Older Persons from the payment of court fees as the Chief Justice determines fit.</p> <p>(3) An Older Person who has been accused of an offence and is denied bail shall be entitled to be held in custody in facilities appropriate to his or her circumstances.</p>	
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9.	Clause 41 in the proposed bill.	<p>(a) Delete the word “Council” in subsection (1) and substitute therefor with the word “Secretary”;</p> <p>(b) Delete the word “Council” in paragraph (a) of subsection (4) and substitute therefor with the word “Secretary”; and</p> <p>(c) Delete the word “Council” in subsection (7) and substitute therefor with the word “Secretary”</p>	
10.	Clause 43 in the proposed bill.	Delete the word “Council” and substitute therefor with the word “Secretary”.	
11.	Clause 45 in Part V of the proposed bill.	Delete Clause 45 in the proposed bill.	An obvious duplication since the subject matter is adequately covered in Serial No. 8 above
12.	Clause 46 of the proposed bill.	<p>In Clause 46 –</p> <p>(a) In Sub clause (1) delete the word “Council” and substitute therefor with the word “Secretary” and also delete the words “Director of Medical Services” and substitute therefor with the words “Director-General for Health”.</p> <p>(b) Delete the words “Director of Medical Services” in Sub clause (2) and substitute therefor with the words “Director-General for Health”.</p> <p>(c) In Sub clause (3) delete the word “Director” and substitute therefor with the word “Director General for Health” wherever it appears;</p> <p>(d) In Sub clause (4)-</p> <p style="padding-left: 40px;">(i) delete the words “Director of Medical Services” in the main Sub clause and substitute therefor with the words “Director General for Health”;</p> <p style="padding-left: 40px;">(ii) Delete the word “Council” in the main</p>	

		<p>Sub clause and substitute therefor with the “Secretary”;</p> <p>(iii) Delete the word “Director” in paragraph (a) and substitute therefor with the words “Director General for Health”.</p>	
13.	Clause 47 in the proposed bill.	<p>In Clause 47-</p> <p>(a) Delete the word “Council” in subsection (1) and substitute therefor with the word “Secretary”;</p> <p>(b) Delete-</p> <p>(i) the word “Council” in subsection (2) and substitute therefor with the word “Secretary”;</p> <p>(ii) the word “Council” in Paragraph (f) of Sub clause (2);</p> <p>(c) Re-number the existing Sub Clause (2) as Sub clause (3).</p>	
14.	Clauses 48 – 51 in Part VI of the proposed bill.	Delete.	<p>Financial provisions in an Act of Parliament contemplate the establishment of a body corporate contrary to the departure of the above in view of the policy direction by the Ministry.</p> <p>In this regard, the role of the proposed Council will be adequately covered by the Office of the Secretary for Social Development, which will not impact on the wage bill contrary to the proposal to create the proposed Council.</p>

15.	Clause 5 in Part VI of the proposed bill.	Delete	In view of the policy direction by the Ministry, Clause 53 has been rendered <i>otiose</i>
16.	Clause 55 in the proposed bill.	Delete the words “in consultation with the Council” in Sub Clause (1).	In view of the fact that the position of the Council is no longer tenable, then the words “in consultation with the Council” is a needless variant.
17.	The First Schedule in the proposed bill.	Delete.	The First schedule in the proposed bill is in respect of the proposed Council and is inconsistent with the position taken by the Ministry.