

REPUBLIC OF KENYA



KENYA NATIONAL ASSEMBLY

TWELFTH PARLIAMENT - SECOND SESSION



THE DEPARTMENTAL COMMITTEE ON
LABOUR AND SOCIAL WELFARE

REPORT ON THE CONSIDERATION OF
THE STATUE LAW (MISCELLANEOUS AMENDMENTS) (NO. 12) BILL, 2018

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBER
PARLIAMENT BUILDINGS
NAIROBI JUNE, 2018

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1.0 CHAIRPERSON'S FOREWORD

The Statute Law (Miscellaneous Amendments) (No.1³) Bill, 2018 is a Bill sponsored by Hon. Aden Duale, Leader of the Majority Party, and it seeks to amend The National Employment Authority Act.

The Committee was expected to deal with the amendments to the laws above that fell within its mandate and submit what it resolved to the Departmental Committee of Trade, Industry and Cooperatives.

The nature of the Bill is one in which minor amendments are made which do not merit the publication of separate Bills and consolidating them into one Bill. In other words, instead of having several separate Bills seeking to make minor amendments, there would be one Bill in which all those are housed under one Bill.

In the Memorandum of Objects and Reasons of the Bill, the Leader of Majority Party had indicated that the Bill sought to amend the following law for the reasons he stated below:

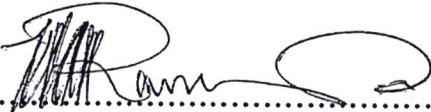
i) The National Employment Authority

The bill proposes to establish the National Employment Authority; to provide for a comprehensive institutional framework for employment management; to enhance employment promotion interventions; to enhance access to employment for youth, minorities and marginalized groups and the citizens of Kenya and for connected purposes.

The Committee considered the amendments to the National Employment Authority Act, for submission to the Departmental Committee on Trade, Industry and Cooperatives.

The Committee is thankful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sitting. Further, I wish to express my appreciation to the Committee Members for the immense contributions towards the preparation and production of the report.

It is therefore my pleasant duty and privilege, on behalf of the Departmental Committee on Labour and Social Welfare, to submit its report on the consideration of the Statute Law (Miscellaneous Amendment) (No. 2) Bill, 2018 for consideration Pursuant to Standing Order 127.

Signed..........Date.....^{fg} 26 June 2018.....

HON. ALI WARIO, MP
CHAIRPERSON,
DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE

2.0 EXECUTIVE SUMMARY

On 18th April, 2018, the Statute Law (Miscellaneous Amendments) (No. 13) Bill, 2018 was read a First Time and thereafter committed to the various Departmental Committees for consideration pursuant to Standing Order No. 127. The Departmental Committee on Labour and Social Welfare held one meeting to consider the Bill.

On 7th May, 2018, the National Assembly placed advertisements on the Local Dailies calling for views from the general public on the Bill pursuant to Article 118 of the Constitution. The Committee received submissions from the Ministry of Labour and Social Protection and the Council of Governors.

The Committee observed that the proposed amendment to the National Employment Authority Act is important to address the issues of labour migrations which currently are not regulated under any law. They seek to set out the functions of the Authority which include inter-alia to advise the Cabinet Secretary on all labour migrations matters. There are further amendments that seek to align with the requirements of appointment of the chief executive officer of the Authority with other State Corporations.

The Committee having considered the proposed amendments to the National Employment Authority Act under its purview and the views from all the stakeholders, resolved that the amendments to be passed by the House as proposed in the Statute Law (Miscellaneous Amendment) No. 2 Bill, 2018.

2.1 Establishment of the Committee

The Departmental Committee Labour and Social Welfare is one of the fifteen (15) Departmental Committees of the National Assembly established under *Standing Order 216* whose mandates, pursuant to the *Standing Order 216 (5)*, are as follows:

- i) To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;

- ii) To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;
- iii) To study and review all the legislation referred to it;
- iv) To study, access and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- v) To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;
- vi) To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order No.204 (Committee on appointments);
- vii) To examine treaties, agreements and conventions;
- viii) To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- ix) To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- x) To examine any questions raised by Members on a matter within its mandate.

2.2 Mandate of the Committee

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

- i) Labour,
- ii) Labour relations,
- iii) Manpower or Human resource Planning,
- iv) Gender,
- v) Youth,
- vi) Social Welfare and Security,
- vii) Children`s Welfare,
- viii) And Persons Living With Disabilities.

In executing its mandate, the Committee oversees the following government Ministries, departments and or agencies, namely:

- i) Ministry of Labour
- ii) The State Department for Social Security and services
- iii) The State Department for Gender
- iv) The State Department for Youth

2.3 Committee Membership

The Committee on Labour and Social Welfare was constituted by the House in December, 2017 and comprises of the following Members: -

- i) **The Hon. Ali Wario, M.P.** **Chairperson**
- ii) **The Hon. Joyce Korir, M.P.** **Vice Chairperson**
- iii) The Hon. Gladys Wanga, M.P.
- iv) The Hon. Janet MaraniaTeyiaa, M.P.
- v) The Hon. Janet NangaboWanyama, M.P.
- vi) The Hon. Ronald KiprotichTunoi, M.P.
- vii) The Hon. James OnyangoKoyoo, M.P.
- viii) The Hon. Rose Museo, M.P.
- ix) The Hon. Alfred KiptooKeter, M.P.
- x) The Hon. Charles KanyiNjagua, M.P.
- xi) The Hon. Catherine Wambilyanga, M.P.
- xii) The Hon. Fabian KyuleMuli, M.P.
- xiii) The Hon. Ole Sankok David, M.P.
- xiv) The Hon. AbdiMude Ibrahim, M.P.
- xv) The Hon. Michael MwangiMuchira, M.P.
- xvi) The Hon. Safia Sheikh Adan, M.P.
- xvii) The Hon. Tom Odege, M.P.
- xviii) The Hon. Wilson Sossion, M.P.
- xix) The Hon. OmbokoMilemba, M.P.

2.4 Committee Secretariat

- 1. Mr. Adan Gindicha - Lead Clerk
- 2. Mr. John Mugoma - Third Clerk Assistant

3.0 BACKGROUND

The Statute Law (Miscellaneous Amendments) (No.2) Bill, 2018 is a Bill sponsored by Hon. Aden Duale, Leader of the Majority Party, and it seeks to amend The National Employment Authority Act.

The Committee was expected to deal with the amendments to the laws that fell within its mandate and submit what it resolved to the Departmental Committee of Trade, Industry and Cooperatives.

The nature of the Bill is one in which minor amendments are made which do not merit the publication of separate Bills and consolidating them into one Bill. In other words, instead of having several separate Bills seeking to make minor amendments, there would be one Bill in which all those are housed under one Bill.

In the Memorandum of Objects and Reasons of the Bill, the Leader of Majority Party had indicated that the Bill sought to amend the following laws for the reasons he stated below:

i) The National Employment Authority

The bill proposes to establish the National Employment Authority; to provide for a comprehensive institutional framework for employment management; to enhance employment promotion interventions; to enhance access to employment for youth, minorities and marginalized groups and the citizens of Kenya and for connected purposes.

The Committee considered the amendments to the National Employment Authority Act, for submission to the Departmental Committee on Trade, Industry and Cooperatives.

On 7th May, 2018, the National Assembly placed advertisements on the Local Dailies calling for views from the general public on the Bill pursuant to Article 118 of the Constitution. The Committee received submissions from the Council of Governors.

4.0 ANALYSIS OF THE BILL

STATUTE LAW (MISCELLANEOUS AMENDMENTS) (NO. 2) BILL, 2018

Law that are to be considered for amendment by the Labour and Social Welfare Committee is as follow:-

i) **The National Employment Authority**

The bill proposes to establish the National Employment Authority; to provide for a comprehensive institutional framework for employment management; to enhance employment promotion interventions; to enhance access to employment for youth, minorities and marginalized groups and the citizens of Kenya and for connected purposes.

5.0 SUBMISSION FROM THE STAKEHOLDERS (PUBLIC PARTICIPATION)

The Committee received memoranda from the Ministry of Labour and Social Protection and the Council of Governors.

PROPOSED AMENDMENTS TO THE NATIONAL EMPLOYMENT AUTHORITY ACT, NO 3 OF 2016

CLAUSE TO BE AMENDED	PROVISION IN THE PARENT ACT	PROPOSED AMENDMENTS	STAKEHOLDER PROPOSALS	COMMITTEE OBSERVATIONS
s.2 Interpretation	“ Authority ” means the National Youth Employment Authority” established by section 6;	Delete the words “youth” from the definition of the word authority	Ministry of Labour and Social Protection made its submission supporting the proposed amendment. The Council of Governors agreed with the proposed amendments.	The Committee agreed with the proposed amendment.
Section 8				
	8. Functions of the Authority The functions of the Authority shall be to— (a) advise on formulation of employment policies and strategies for national and county governments; (b) advise both the national and county governments on any policy matter concerning employment; (c) develop methodologies for employment	Delete paragraph (m) and substitute therefor the following new paragraph— (m) co-ordinate the implementation of policies and programmes on employment.		

<p>measurement, management and promotion;</p> <p>(d) conduct periodic surveys on labour market skills requirements and advice training institutions and job seekers appropriately to ensure that training and skills match the job market requirements;</p> <p>(e) monitor implementation of employment policies and programmes;</p> <p>(f) facilitate cooperation with the national government, the private sector, the informal sector and foreign governments and institutions to promote and increase access to employment;</p> <p>(g) facilitate, continuous training and other activities of Kenyans to improve of their chances of employment and work skills;</p> <p>(h) register persons seeking employment;</p> <p>(i) maintain an integrated and up-to-date database of all persons seeking employment;</p>			
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	<p>(j) facilitate the employment and placement of job seekers in formal and informal or any other form of employment, locally and internationally;</p> <p>(k) circulate in a timely manner job vacancies advertised to job seekers throughout Kenya through appropriate means including use of social media, internet, and published materials;</p> <p>(l) provide counseling to the unemployed and undertake activities to promote employment;</p> <p>(m) facilitate the implementation of national policies on employment;</p> <p>(n) take necessary steps to encourage equal opportunity employment practices for the benefit of the unemployed; and</p> <p>(o) perform such other function as may be assigned to it by any other written law.</p>			
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	the benefit of the unemployed; and (o) perform such other function as may be assigned to it by any other written law.			
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5.0 COMMITTEE OBSERVATIONS

While the Committee deliberated on the Bill, it made the following general observation:-

- i) The committee agreed with the proposed amendments.
- ii) The Committee observed that the Board of the authority did not have representatives of the employers and proposed that the largest employer organization should be included in the board.

6.0 COMMITTEE RECOMMENDATIONS

While the Committee deliberated on the Bill, it made the following general recommendation:-

- i) The proposed amendment be passed as proposed.
- ii) The Committee further proposed a further amendment to section 10 of the Act by making provision of inclusion to the Board of the largest employer organization as follows—

SCHEDULE

THAT the Schedule to the Bill be amended —

- (1) in the proposed amendments to the **National Employment Authority Act, No. 3 of 2016** by inserting the following new amendment immediately after the proposed new s.8A-

s10. Insert the following new paragraph immediately after paragraph f—

(fa) a person appointed by the Cabinet Secretary from the largest representative organization of workers”



Hon Ali Wario