 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 NOV 2024	DAY Wednesday
TABLED	Hon. Kusya Kibani (Chairperson)
FILE:	honale



PARLIAMENT
OF KENYA
LIBRARY

REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

REPORT ON:
 THE CONSIDERATION OF
 THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL, 2024 (NATIONAL
 ASSEMBLY BILLS NO. 15 OF 2024)

CLERK'S CHAMBERS
 DIRECTORATE OF DEPARTMENTAL COMMITTEES
 PARLIAMENT BUILDINGS
 NAIROBI

NOVEMBER 2024

TABLE OF CONTENTS

TABLE OF CONTENTS	i
LIST OF ABBREVIATION	viii
ANNEXURES	viii
CHAIRPERSON'S FOREWORD.....	x
CHAPTER ONE	11
1.0 PREFACE	11
1.1 ESTABLISHMENT OF THE COMMITTEE.....	11
1.2 MANDATE OF THE COMMITTEE.....	11
1.3 COMMITTEE MEMBERSHIP	12
1.4 COMMITTEE SECRETARIAT.....	13
CHAPTER TWO	14
2.0 OVERVIEW OF THE UNCLAIMED FINANCIAL ASSET (AMENDMENT) BILL, 2024 (National Assembly Bills No. 15 of 2024)	14
2.1 BACKGROUND	14
2.2 SUMMARY OF LEGAL PROVISIONS.....	14
2.3 OVERVIEW OF THE BILL.....	14
CHAPTER THREE	16
3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL.....	16
3.1 LEGAL FRAMEWORK ON PUBLIC PARTICIPATION	16
3.2 MEMORANDA RECEIVED ON THE BILL	16
3.2.1 Unclaimed Financial Assets Authority	16
3.2.2 Law Society of Kenya	16
3.2.3 Clause by Clause Submission	17
CHAPTER FOUR	20
4.0 COMMITTEE OBSERVATIONS	20
CHAPTER FIVE	21
5.0 COMMITTEE RECOMMENDATION	21

LIST OF ABBREVIATION

AG	-	Attorney General
COK	-	Constitution of Kenya
LSK	-	Law Society of Kenya
MP	-	Member of Parliament
ODM	-	Orange Democratic Movement
UDA	-	United Democratic Alliance
UFAA	-	Unclaimed Financial Asset Authority

ANNEXURES

Annexure 1: Adoption Schedule

Annexure 2: Minutes

Annexure 3: The Unclaimed Financial Asset Authority (Amendment) Bill, 2024
(National Assembly Bills No. 15 of 2024)

Annexure 5: Advertisement inviting the public to submit memoranda on the Bill

Annexure 6: Letter from the Clerk of the National Assembly inviting relevant stakeholders to attend the public participation forum

Annexure 7: Copies of Memoranda by stakeholders

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Finance and National Planning on the consideration of the Unclaimed Assets (Amendment) Bill, 2024 (National Assembly Bills No. 15 of 2024), sponsored by the Honorable Kimani Ichungw'ah, EGH, M.P, the Leader of the Majority Party. The Bill was published on 8th March 2024, read a First Time on 23rd April 2024 and was committed to the Committee for consideration and reporting to the House pursuant to Standing Order 127.

The Bill principal object of the Bill is to amend sections 28 and 45 of the Unclaimed Financial Assets Act, No. 40 of 2011, ("the principal Act") to give a claimant owner the power to designate the payment of a claim to another person.

In compliance with Article 118(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly placed an advertisement in the print media on 4th May 2024, inviting the public to submit memoranda by way of both oral and written submissions on the Bill.

In addition, the Clerk of the National Assembly vide letter Ref.No.NA/DDC/F&NP/2024(121) dated 6th November 2024, invited key stakeholders to submit views on the Bill and attend a public participation forum on Wednesday, 13th November 2024. The memoranda were to be received on or before Friday 17th May 2024 at 5.00 pm (East African Time). By the close of the submission deadline, the Committee had received three (3) submissions.

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the Bill.

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

I am pleased to report that the Committee has considered the Unclaimed Financial Assets (Amendment) Bill 2024 (National Assembly Bills No. 15 of 2024) and wishes to report to this August House with the recommendation that the House approves the Bill with amendments.

HON. (CPA) KURIA KIMANI, M.P.

CHAIRPERSON, DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

CHAPTER ONE

1.0 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

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

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider, public finance, monetary policies, public debt, financial institutions (excluding those in securities exchange), investment and divestiture policies, pricing policies, banking, insurance, population revenue policies including taxation and national planning and development.
3. In executing its mandate, the Committee oversees the following government Ministries and Departments:
 - i. The National Treasury;
 - ii. State Department for Economic Planning;
 - iii. Commission on Revenue Allocation; and
 - iv. Office of the Controller of Budget.

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Finance and National Planning comprises of the following Members:

Chairperson

Hon. CPA Kuria Kimani, MP

Molo Constituency

UDA Party

Vice-Chairperson

Hon. (Amb). Benjamin Langat, CBS, MP

Ainamoi Constituency

UDA Party

Hon. Dr. Adan Keynan, MP

Eldas Constituency

Jubilee Party

Hon. Andrew Okuome, MP

Karachuonyo Constituency

ODM Party

Hon. David Mwalika Mboni, MP

Kitui Rural Constituency

Wiper Party

Hon. CPA. Joseph Oyula, MP

Butula Constituency

ODM Party

Hon. Joseph K. Makilap, MP

Baringo North Constituency

UDA Party

Hon. Umul Ker Kassim, MP

Mandera County

UDA Party

Hon. CPA Julius Rutto, MP

Kesses Constituency

UDA Party

Hon. (Dr.) Shadrack Ithinji, MP

South Imenti Constituency

Jubilee Party

Hon. Paul K. Biego, MP

Chesumei Constituency

UDA Party

Hon. Joseph Munyoro, MP

Kigumo Constituency

UDA Party

Hon. (Dr.) John Ariko Namoit, MP

Turkana South Constituency

ODM Party

Hon. Mohamed S. Machele, MP

Mvita Constituency

ODM Party

Hon. George Sunkuyia, MP

Kajiado West Constituency

UDA Party

1.4 COMMITTEE SECRETARIAT

5. The following staff facilitated the Committee:

Mr. Benjamin Magut
Principal Clerk Assistant /Head of Secretariat

Ms. Jennifer Ndeto
D/Director, Legal Services

Mr. Salem Lorot
Legal Counsel I

Mr. James M. Macharia
Media Relations Officer I

Mr. Benson Kamande
Clerk Assistant III

Ms. Winfred Kambua
Clerk Assistant III

Mr. George Ndenjeshe
Fiscal Analyst III

Mr. Mwangi Muchiri
Audio Officer

Ms. Nelly W.N Ondieki
Research Officer III

Mr. Benson Muthuri
Serjeant-At-Arms

Ms. Joyce Wachera
Hansard Officer III

Mr. Allan Ngugi
Intern

CHAPTER TWO

2.0 OVERVIEW OF THE UNCLAIMED FINANCIAL ASSET (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILLS NO. 15 OF 2024)

2.1 BACKGROUND

6. The Unclaimed Financial Assets (Amendment) Bill, 2024 (National Assembly Bills No. 15 of 2024), sponsored by the Leader of the Majority Party, was published on 8th March 2024. It was read for the first time on 23rd April 2024 and was then committed to the Committee for consideration and tabling of reporting to the House pursuant to Standing Order 127.

2.2 SUMMARY OF LEGAL PROVISIONS

7. The Bill principal object of the Bill is to amend sections 28 and 45 of the Unclaimed Financial Assets Act, No. 40 of 2011, ("the principal Act") to give a claimant owner the power to designate the payment of a claim to another person.

2.3 OVERVIEW OF THE BILL

8. Clause 2 of the Bill seeks to amend section 8 of the principal Act by deleting subsection (2) and substituting a new subsection providing as follows—

“(2) A holder of unclaimed assets described in subsection (1) shall file an initial one-time report of unclaimed demutualization proceeds not later than six months after this Act comes into force.”
9. The current section 8(2) is similar to what is proposed in the Bill except for the correction of “section” to “subsection”. It provides as follows—

8. (2) A holder of unclaimed assets described in s section (1) shall file an initial one-time report of unclaimed demutualization proceeds not later than six months after this Act comes into force.
10. Clause 3 of the Bill seeks to empower claimants to designate an alternative recipient for the payment of claims, should the claimant themselves be unavailable. It seeks to amend section 28(5) of the principal Act to insert the words “or such other person as the claimant may designate”.
11. Clause 4 of the Bill proposes amendments to section 45 of the Act. This section previously conferred exclusive rights and privileges to the claimant for receiving the asset. The proposed amendments seek to allow claimants to designate another individual of their choice for payment of claims. The Bill seeks to amend section 45 of the principal Act—
 - i) by deleting subsection (1) and substituting with the following—
 - i. Where the Authority is satisfied that a person is the owner of all or part of the assets that became unclaimed assets and paid into the Fund, the Authority may pay out of the Fund to the owner **or such other**

person as the owner may designate an amount equal to the value of those assets or part of those assets as the case may be.

ii) in subsection (2) by inserting the words "or such other person as the claimant may designate".

12. Unclaimed assets are those assets that have been presumed abandoned and have become unclaimed assets under the Act; have been transferred to the Unclaimed Assets as unclaimed assets under the Act; have been deemed under any other law to be unclaimed assets and payable to the Authority, and include all income, dividend or interest but excludes any lawful charges.

CHAPTER THREE

3.0 PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT ON THE BILL

3.1 LEGAL FRAMEWORK ON PUBLIC PARTICIPATION

13. Article 118 (1)(b) of the Constitution provides that:
"Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees."
14. The National Assembly Standing Order 127 (3) and (3A) stipulates that:
*"(3) The Departmental Committee to which a Bill is committed shall **facilitate public participation on the Bill** through an appropriate mechanism including-*
(a) inviting submission of memoranda;
(b) holding public hearings;
(c) consulting relevant stakeholders in a sector; and
(d) consulting experts on technical subjects.
(3A) The Departmental Committee shall take into account the views and recommendations of the public under paragraph (3) in its report to the House."

3.2 MEMORANDA RECEIVED ON THE BILL

15. Pursuant to the aforementioned provisions of law, the Clerk of the National Assembly placed an advertisement in the print media on 4th May 2024, inviting the public to submit memoranda through written statements on the Bill. Further, the Clerk of the National Assembly vide letter Ref. No. NA/DDC/F&NP/2024(121) dated 6th November 2024 invited stakeholders to submit views on the Bill and attend a public participation forum on 13th November 2024.
16. The Committee received memoranda from the UFAA, who submitted orally and written submissions from three (3) entities, namely LSK, AG, and ICPAK. The memoranda are annexed to this report as Annexure 7.

3.2.1 Unclaimed Financial Assets Authority

17. UFAA appeared before the Committee and submitted that as an authority they were not aware of the amendment and therefore the authority does not support the amendment due to implementation challenges.

3.2.2 Law Society of Kenya

18. **LSK** noted that while the Bill aims to enhance the rights of claimants, it raises significant issues that may undermine the transparency and integrity of asset recovery processes. The Unclaimed Financial Assets Act of 2011 intends to safeguard unclaimed assets while ensuring a structured, accessible process for rightful owners to claim these assets. However, this Bill seeks to grant claimants the right to designate third parties to recover assets on their behalf, introducing

a level of flexibility but potentially increasing the risks of fraud and coercion in asset transfers.

19. They highlighted that the proposals in the Bill appear to challenge the governance principles by expanding the UFAA's duties without clearly addressing procedural safeguards to uphold claimant rights and protect against potential abuses.

3.2.3 Clause by Clause Submission

Clause 1

20. **LSK** proposed deletion of the clause and retaining the current status. They submitted that the Act already mandates a one-time reporting requirement within six months of commencement. Adding further requirements could result in redundancy and administrative burden without significantly enhancing compliance or accountability. Maintaining the existing provision ensures clarity and aligns with the original reporting framework.

Clause 2

21. **LSK** recommended the inclusion of specific safeguards around the designation process. They noted that while the provision appears to facilitate flexibility in asset recovery, it risks undermining the verification process established to ensure that only rightful claimants receive unclaimed assets. Safeguards should be included to prevent fraud or misuse by ensuring that the designee's identity and authorization are properly verified.
22. **The AG noted that the provision is similar to the provision that is currently in the Act, which provides, "A holder of unclaimed assets described in subsection (1) shall file an initial one-time report of unclaimed demutualization process not later than six months after this Act comes to force".** They recommended that this amendment is unnecessary as it proposes an amendment similar to the current provision.

Clause 3

23. **LSK** submitted that the right to claim assets is inherently personal and should be strictly limited to the claimant. Allowing assignments of such rights could open avenues for fraud and potentially dilute the protections the Act initially intended to afford. They proposed amending the clause to include additional verification measures.
24. **The AG** supported the regularization of the proposal, noting that the amendment was introduced in the finance bill 2023, which constitutionally was challenged in court and declared unconstitutional.

25. **ICPAK** noted that the lack of extensive requirements needed in the documentation from both the claimant and third party, may potentially complicate the verification process and also disbursing funds to the designated third party. They recommended introducing the requirements of the claimant and third party to provide clear identification and necessary documentation. This ensures that the Authority can verify the information to prevent fraud. They proposed amending the clause to read;

(3) (i) Where a claimant designates a third party to receive the payment, such designation must be made in writing. The designation may be included in the claim form or submitted as a separate written request to the Authority.

(ii) To verify the request, to designate to a third party the claimant must provide sufficient documentation including:

a) Claimant government-issued ID or passport if applicable, to confirm claimant's identity.

b) A signed authorization or power of attorney, to confirm the third party's authorization to receive the payment.

c) Proof of Relationship or Affiliation (if applicable), including and not limited to birth certificate, marriage certificate, or legal documentation that establishes the relationship between the claimant.

d) Third-Party Identification inform of National ID, passport, or other valid government-issued ID

e) Proof of Address for both the claimant and the designated third party in form of bank statements, or government-issued document

f) Bank account details including account number, bank name, and branch, to facilitate accurate and timely payment.

(iii) The designated third party must provide identification as referred to subsection (7) and any other required documentation, as determined by the Authority, to receive the payment.

(iv) The Authority shall not be liable for any claims or disputes arising between the claimant and the designated third party regarding the payment.

New proposals

26. **LSK** noted that the Bill does not clearly address the legal implications for both claimants and the UFAA if disputes arise from third-party designations. The absence of clear provisions on third-party designations creates legal risks for both the UFAA and claimants, especially in cases of disputed designations due to fraud, undue influence, or lack of capacity. This could lead to legal disputes and delays in asset distribution. They proposed incorporating specific legal

provisions that clarify the liability of both the UFAA and claimants in cases of disputed third-party designations.

27. **Additionally, LSK** noted that the amendment lacks a clear process for claimants to revoke or update their third-party designations, which may result in situations where claimants cannot modify their instructions if circumstances change. This omission could infringe on claimants' rights and lead to unintended asset distribution. They emphasized that The lack of a clear process for revoking or updating third-party designations undermines claimants' rights and may lead to unintended asset distribution, especially if circumstances change. A straightforward revocation process, such as submitting a written notice to the UFAA, ensures claimants maintain control over their assets and intentions.

Committee Observation

The Committee agreed with the stakeholder.

Clause 4

28. **The AG** proposed amending the definition of the term "owner" and substituting with a new definition as follows;

"owner" means a person having a legal or equitable interest in assets subject to this Act and includes such other person as the claimant may designate;

29. **ICPAK** noted that there is a lack of a clear, accountable process that ensures commitment to the transparency of payment of unclaimed asset funds. They proposed amending the clause by including a new subclause to protect against fraudulent claims and disputes, ensuring that the Authority can process payments efficiently while minimizing the risk of errors and financial loss. The clause should read as follows:

(4) (i) The Authority will assume the position of an escrow service for the payment of claims designated to a third party.

(ii) The payment would be temporarily held in a secure account managed by the Authority until both the claimant and the third party confirm the payment's receipt, at which point the funds would be released.

Committee Observation

The Committee agreed with the stakeholder.

CHAPTER FOUR

4.0 COMMITTEE OBSERVATIONS

30. The Committee, having considered the Unclaimed Financial Asset (Amendment) Bill, 2024 (National Assembly Bills No. 14 of 2024) observed that:-

- I. The principal object of the Bill is to amend sections 28 and 45 of the Unclaimed Financial Assets Act, No. 40 of 2011, to give a claimant owner the power to designate the payment of a claim to another person.
- II. Whereas the amendments in the Bill seek to simplify and enhance the process of claiming unclaimed financial assets, the absence of explicit provisions on third-party designations creates legal risks for both the UFAA and claimants, especially in cases of disputed designations due to fraud, undue influence, or lack of capacity.
- III. The stakeholders have raised pertinent issues which require careful reconsideration.

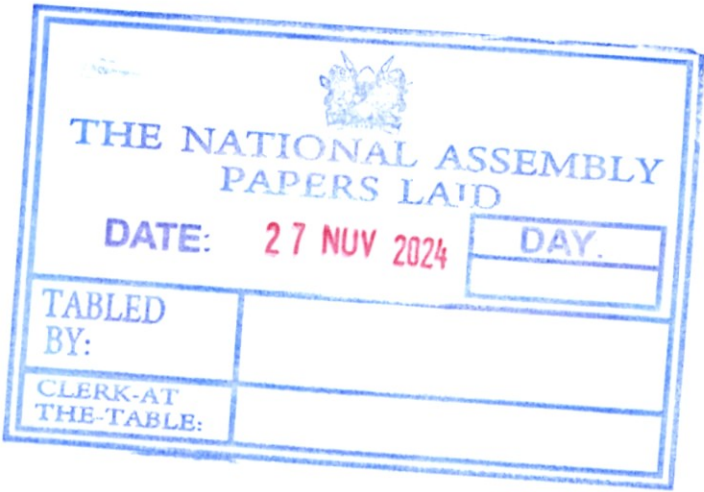
CHAPTER FIVE

5.0 COMMITTEE RECOMMENDATION

31. The Committee, considering the Unclaimed Financial Asset (Amendment) Bill, 2024 (National Assembly Bills No. 15 of 2024), recommends to the House that the **Bill be deleted in its entirety.**

SIGNED..........DATE 27th Nov, 2024

HON. (CPA) KURIA KIMANI, MP
CHAIRPERSON DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL
PLANNING.



MINUTES OF THE 90TH SITTING OF THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING HELD ON WEDNESDAY, 27TH NOVEMBER, 2024 IN KICC AMPHITHEATER AT 2:40 P.M.

PRESENT

- | | | |
|---|---|-------------------|
| 1. Hon. CPA Kuria Kimani, MP | - | Chairperson |
| 2. Hon. (Amb.) Benjamin Kipkirui Langat, MP | - | Vice- Chairperson |
| 3. Hon. (Dr.) Adan Keynan, MP | - | Member |
| 4. Hon. David Mwalika Mboni, MP | - | Member |
| 5. Hon. George Sunkuiya Risa, MP | - | Member |
| 6. Hon. Joseph Makilap Kipkoros, MP | - | Member |
| 7. Hon. CPA Julius Kipletting Rutto, MP | - | Member |
| 8. Hon. Paul Kibichiy Biego, MP | - | Member |
| 9. Hon. (Dr.) John Ariko Namoit, MP | - | Member |
| 10. Hon. Joseph Kamau Munyoro, MP | - | Member |
| 11. Hon. CPA. Joseph Maero Oyula, MP | - | Member |

ABSENT WITH APOLOGY

- | | | |
|--|---|--------|
| 1. Hon. (Dr.) Shadrack Mwiti Ithinji, MP | - | Member |
| 2. Hon. Mohamed Soud Machele, MP | - | Member |
| 3. Hon. Andrew Adipo Okuome, MP | - | Member |
| 4. Hon. Umul Ker Sheikh Kassim, MP | - | Member |

MIN No. NA/F&NP/2024/324:

PRELIMINARIES

The Chairperson called the meeting to order at 2:45 p.m. This was followed by a word of prayer and a round of introduction.

MIN No. NA/F&NP/2024/325:

ADPOTION OF THE AGENDA

The agenda was adopted after being proposed by Hon. Julius Rutto, MP, and seconded by Hon. Paul Biego, MP, as listed below-

1. Prayer;
2. Introductions;
3. Adoption of the Agenda;
4. Confirmation of Minutes;
5. Matters arising from the previous Sitting;
6. **Consideration and adoption of the Reports on;**
The Unclaimed Financial Assets (Amendment) Bill, (National Assembly Bill No. 15 of 2024); and
The Kenya Revenue Authority (Amendment) (No. 2) Bill, (National Assembly Bill No. 35 of 2024)
7. Any Other Business; and
8. Adjournment.

MIN No. NA/F&NP/2024/326:

CONFIRMATION OF MINUTES

Confirmation of Minutes of the previous sittings were differed to the next sitting.

MIN No. NA/F&NP/2024/327:

**CONSIDERATION OF THE REPORT
ON THE UNCLAIMED FINANCIAL
ASSETS (AMENDMENT) BILL,
(NATIONAL ASSEMBLY BILL NO.
15 OF 2024)**

The Committee considered the draft report and noted that the Acting Chief Executive Officer of The Unclaimed Financial Assets Authority was not aware of the proposed amendments in the Bill therefore raising suspicion on the amendments.

After the consideration of the said report, the Committee came to a conclusion that the Bill be deleted in its entirety. The Committee thereafter unanimously adopted the report having been proposed by Hon. David Mboni, MP, and seconded by Hon. Joseph Oyula, MP.

MIN No. NA/F&NP/2024/328:

**ADOPTION OF THE REPORT ON
THE CONSIDERATION OF THE
KENYA REVENUE AUTHORITY
(AMENDMENT) (NO 2) (NATIONAL
ASSEMBLY BILL NO. 35 OF 2024)**

The meeting deliberated in length and recommended that the House approves the Bill with amendments as contained in Chapter Five of the Report on the consideration of the Kenya Revenue Authority (Amendment) (No 2) (National Assembly Bill No. 35 Of 2024) Bill. The report was thereafter adopted having been proposed by Hon. (Amb) Benjamin Langat, MP and seconded by Hon. David Mboni, MP.

MIN No. NA/F&NP/2024/329:

ADJOURNMENT

There being no other business, the meeting adjourned at 3:15 p.m.

Signed.....

Hon. CPA. Kuria Kimani, MP
Chairperson

Date.....



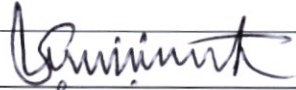
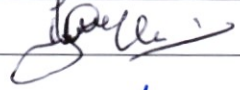
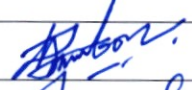






THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION - 2024

DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING.
ADOPTION LIST

REPORT ON THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILLS NO. 15 OF 2024)

We, the Members of the Departmental Committee on Finance and National Planning have pursuant to Standing Order 199, adopted this Report and affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today, Wednesday, 27th November, 2024.

S/NO.	NAME	SIGNATURE
1.	HON. (CPA). KURIA KIMANI, MP - CHAIRPERSON	
2.	HON. (AMB). BENJAMIN KIPKIRUI LANGAT, MP – VICE CHAIRPERSON	
3.	HON. DR. ADAN KEYNAN WEHLIYE, MP	
4.	HON. GEORGE SUNKUYIA RISA, MP	
5.	HON. (CPA) JOSEPH MAERO OYULA, MP	
6.	HON. ANDREW ADIPO OKUOME, MP	
7.	HON. DAVID MWALIKA MBONI, MP	
8.	HON. JOSEPH MAKILAP KIPKOROS, MP	
9.	HON. JOSEPH KAMAU MUNYORO, MP	
10.	HON. (CPA) JULIUS KIPLETING RUTTO, MP	
11.	HON. PAUL KIBICHIY BIEGO, MP	
12.	HON. UMUL KER SHEIKH KASSIM, MP	
13.	HON. DR. SHADRACK MWITI ITHINJI, MP	
14.	HON. DR. JOHN ARIKO NAMOIT, MP	
15.	HON. MOHAMED SOUD MACHELE, MP	



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/DDC/F&NP/2024/121

6th November 2024

Dr. Chris K. Kiptoo, CBS
Principal Secretary
National Treasury
Treasury Buildings
NAIROBI

FCPA Nancy Gathungu, CBS
Auditor-General
3rd Floor, Anniversary Towers,
University Way,
NAIROBI

Hon Shadrack J. Mose
Solicitor General,
State Law Office
Sheria House, Harambee Avenue
NAIROBI

Mrs. Caroline Chirchir
Ag. CEO and Managing Trustee
Unclaimed Financial Assets Authority
Pacis Centre, 2nd Floor,
Westlands
NAIROBI

CPA Dr. Grace Kamau Ph.D
Chief Executive Officer
Institute of Chartered Public Accountants of Kenya (ICPACK)
CPA Center, Ruaraka, Thika road.
NAIROBI.

Ms. Faith Mony Odhiambo
President, Law Society of Kenya
Lavington, Opposite Valley Arcade,
Gitanga Road
NAIROBI

Mr. Raimond Molenje
Ag. Chief Executive Officer.
Kenya Bankers Association.
13th Floor, International House.
Mama Ngina Street,
NAIROBI

Dear *Dr. Kiptoo*

RE: STAKEHOLDER ENGAGEMENT ON THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 15 OF 2024) BY THE DEPARTMENTAL COMMITTEE ON FINANCE AND NATIONAL PLANNING

The Departmental Committee on Finance and National Planning is established pursuant to National Assembly Standing Order 216 which mandates it *inter alia*, to **study and review all the legislation referred to it.**

The Unclaimed Financial Assets (Amendment) Bill, 2024 (National Assembly Bill No. 15 of 2024), underwent the First Reading pursuant to Standing Order 127(3) on **Tuesday, 23rd April, 2024** and was committed to the Departmental Committee on Finance and National Planning for consideration and reporting back to the House. The principal object of the Bill is to amend sections 28 and 45 of the Unclaimed Financial Assets Act, No. 40 of 2011 ("the principal Act") to give a claimant owner the power to designate the payment of a claim to another person.

Pursuant to the provisions of Article 118(1) (b) of the Constitution of Kenya and Standing Order 127 (3), the Committee hereby invites you for a meeting to hear your submission and comments on the said Bill. The meeting will be held on **Wednesday, 13th November 2024, at Committee Room 21, 5th Floor, Bunge Tower**, as per the attached schedule.

You are requested to prepare a comprehensive submission on any representations you may have on the Bill and email a soft copy to cna@parliament.go.ke on or before the day of the meeting. 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 Committee's Liaison Officers for the meeting are **Mr. Benjamin Magut**, who may be contacted on Tel. No. 0712974966 or email address: benjamin.magut@parliament.go.ke; **Mr. Benson Kamande** of telephone number 0789459387 or email address: benson.kamande@parliament.go.ke or **Ms. Winfred Kambua** on Tel. No 0720571777 or email address winfred.kilonzo@parliament.go.ke.

Yours



JEREMIAH W. NDOMBI, MBS
For: CLERK OF THE NATIONAL ASSEMBLY

Copy to: **Hon. CPA John Mbadi Ng'ongo, EGH**
Cabinet Secretary
Ministry of National Treasury and Economic Planning
Treasury Buildings
NAIROBI

Hon. Dorcas Oduor

Change of guard Military bosses urged to be professional and promote accountability

Ruto told the military chiefs none of them was appointed to serve his or her community, religion

BY CHARLES WASONGA

President William Ruto yesterday asked new Chief of Defence Forces (CDF) General Charles Miriu Kahariri, Vice CDF Lt-Gen John Mugaravai Omenda and other promoted military officers to serve responsibly and with accountability.

After witnessing the swearing-in of Gen Kahariri and other officers at State House, Nairobi, Dr Ruto urged them to uphold professionalism when discharging their duties.

"This is a mission to serve the Republic and the people of Kenya. It is a solemn responsibility. You will be exercising authority that comes with responsibility and accountability," the President said.

"The Kenya Defence Forces (KDF) has a history of professionalism and loyalty; a history that speaks of many good things aimed at protecting Kenya's sovereignty. I urge you to hold the KDF in high esteem as the people of Kenya do."

Battling floods

Dr Ruto told the military chiefs to serve Kenyans fairly, adding that none of them was appointed to serve his or her community, religion or other partisan interests.

President Ruto said they have a mandate to assist other security agencies in discharging their duties.

In this regard, the President announced that the military would be deployed to assist other government agencies in dealing with the effects of the ravaging floods being experienced in several parts of the country.

The floods have killed tens of Kenyans and displaced thousands more.

"Shortly after this, I will have a meeting with you on how KDF will be deployed to assist other agencies in dealing with the environmental and climate change situation that Kenya is facing,"



Chief of Defence Forces General Charles Miriu Kahariri



Vice CDF Lt-Gen John Mugaravai Omenda



Maj-Gen Fatuma Ahmed, head of the Air Force



Maj-Gen Paul Owuor Otieno, Kenya Navy boss

Ruto swears in new CDF and service commanders

the President told them.

Gen Kahariri replaces Gen Francis Ogolla, who died along with nine other officers in a helicopter crash in Sindar village, Elgeyo Marakwet County, on April 18.

Maj-Gen Fatuma Gaiti Ahmed was sworn in as the head of Kenya Air Force, becoming the first woman service commander in the country.

Before heading the Air Force, Maj-Gen Ahmed was at the National Defence College (NDC) where she was a senior Directing Staff Air, a position she had risen to from her previous role as Assistant Chief of the Defence Forces in charge of Personnel and Logistics. Also sworn in was Kenya Navy Commander, Maj-Gen Paul Otieno, who replaces, Maj-Gen Thomas Ng'ang'a.

More promotions

Maj-Gen Ng'ang'a served as head of the Navy for slightly more than a month.

He has been moved to the National Defence University-Kenya as the Deputy Vice-Chancellor, Administration and Finance.

Maj-Gen Otieno was the inaugural Managing Director of Kenya Shipyards Limited, a State agency mainly designed for ship building.

He has been replaced at Kenya Shipyards by Maj-Gen Said Mohamed Farah.

Brig Peter Nyamu Githinji was promoted to Major General and named Senior Directing Staff, Air at the National Defence College to replace Maj-Gen Ahmed.

Brig Yunis Sheikh Abdi was also promoted to Major General and

made Senior Directing Staff, Navy at the National Defence College.

At the same time, Brig Jattani Kampare Gula was promoted to Maj-Gen and named Managing Director of the Kenya Meat Commission.

Similarly, Brig George Okumu was promoted to Major General

and named the Managing Director of Kenya Ordnance Factories Corporation and Food Processing Factory.

Brig Samuel Kosgej Kipkorir, on the other hand, has been named Deputy Commander of the Kenya Air Force.

newsdesk@ke.nationmedia.com

For Maj (rtd) Ikua and her deputy and close friend Judy Ngaine, the initial days were rough.

"If the first lot of women had not fought it out, many others would have left because it was not easy," the retired KDF major recalls in the military publication.

"We were going into a hostile environment where we were not accepted. We were repeatedly called wanawake (women) and the male soldiers would not salute us even after we became officers. In the Mess, we were the only ones left with the airmen."

After commissioning, she and other female colleagues were posted to Eastleigh Air Base in Nairobi where a camp was specifically put up for them.

Female officers were accommodated at the Officers Mess while the rest went to the barracks.

She admits that it was challenging to convince Army headquarters-based officers that it was not impossible though there was resistance.

"We had no identity. That is what we kept fighting for in order to be recognised as part of the Armed Forces and not as police. We want to support the male officers and service members," she says.

The women sought to have a career development and recognition in the service just like their male colleagues.

"The happiest day of my life was when I got the information that finally women were going to be part of the Army, Air Force and the Navy. I think the women in the military have met my expectations but honestly I am still not fully satisfied with the full integration," the retired major says.

"There are still some careers in the military that women have not got into without limiting themselves. It is good that the training is the same for men and women but I won't rest until there are female generals." Women, she says, need to be dedicated and work hard enough to earn respect and recognition.

newsdesk@ke.nationmedia.com

with Shabaab differently

elements in the broader fight against terrorism."

According to Mr Hassan Alio, a resident of northern Kenya, using donkeys in an attack is cruel against animals.

"This tactic shows a profound disregard for human and animal life. It highlights the reality of terrorist groups exploiting whatever resources they can, no matter how innocent or defenceless, causes harm to communities and animals that have no stake in human rows," Mr Alio said.

Donkeys are ordinarily used to carry water, food and other items to the militants in their hideouts, locals say.

"These donkeys are well-trained. The animals will go to the water source on their own and the jerrycans get filled up by some people at the source," a security source in Mandera told the Saturday Nation on condition of anonymity.

"They then return to the Shabaab camp without a guide," Ms Halima Malow - another

mandera resident - said demand for donkeys has led to an increase in price.

The sentiments were supported by Mr Ali Mude, another local.

"A mature donkey now goes for Sh25,000 to Sh30,000. There are people from other parts of the country buying the animals and taking them to Chinese-owned slaughterhouses," Mr Mude said.

"But there are those who buy the animals and take them to Somalia to be used as beasts of burden."



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION
 AND
 IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF—

1. THE INSURANCE PROFESSIONALS BILL (NATIONAL ASSEMBLY BILL NO. 13 OF 2024)
2. THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 15 OF 2024)

INVITATION TO SUBMIT MEMORANDA

WHEREAS, Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS, the Insurance Professionals Bill, 2024 (National Assembly Bills No. 13 of 2024) and The Unclaimed Financial Assets (Amendment) Bill, 2024 (National Assembly Bill No. 15 of 2024), have been read a First Time and thereafter committed to the Departmental Committee on Finance and National Planning for consideration and reporting to the House;

IT IS NOTIFIED that—

1. The Insurance Professionals Bill (National Assembly Bills No. 13 of 2024) is a Bill sponsored by the Hon. Francis Kuria Kimani MP which seeks to provide a legislative framework for the regulation of professionals in the insurance sector to enhance the standards of service in the sector, promote professionalism and address concerns regarding professional misconduct in the insurance industry. The Bill further seeks to establish the Insurance Institute of Kenya as the overall professional organ for insurance professionals that shall regulate professional conduct and maintain the standards of services rendered by Insurance Professionals registered under the Bill. The Bill seeks to promote the recognition of Insurance Professionals.
2. The Unclaimed Financial Assets (Amendment) Bill (National Assembly Bill No. 15 of 2024) is a Bill sponsored by the Leader of the Majority Party which seeks to amend sections 28 and 45 of the Unclaimed Financial Assets Act (Cap. 494) to give a claimant or owner the power to designate the payment of a claim under the Act to another person.

NOW THEREFORE, in compliance with Article 118(1)(b) of the Constitution and Standing Order 127(3) the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the Departmental Committee on Finance and National Planning.

The memoranda may be forwarded 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 cpa@parliament.go.ke to be received on or before Friday, 17th May, 2024 at 5.00 p.m.

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

S. NJOROGE, CBS
 CLERK OF THE NATIONAL ASSEMBLY

4th MAY, 2024

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

For Maj (ret'd) Ikua and her deputy and close friend Judy Ngaine, the initial days were tough.

"If the first lot of women had not fought it out, many others like them would have left because it was not easy," the retired KDF major recalls in the military publication.

"We were going into a hostile environment where we were not accepted. We were repeatedly called wanawake (women) and the male soldiers would not salute us even after we became officers. In the Mess, we were the only ones left with the ainees."

After commissioning, she and other female colleagues were posted to Eastleigh Air Base in Nairobi where a camp was specifically put up for them. Female officers were accommodated at the Officers Mess while the rest went to the barracks.

She admits that it was challenging to convince Army headquarters-based officers that it was not impossible though there was resistance.

"We had no identity. That is what we kept fighting for in order to be recognised as part of the Armed Forces and not as a unit that is called women's support the male officers and service members," she says.

The women sought to have a career development and recognition in the service just like their male colleagues.

"The happiest day of my life was when I got the information that finally women were going to be part of the Army, Air Force and the Navy. I think the women in the military have met my expectations but honestly I am still not fully satisfied with the full integration," the retired major says.

There are still some careers in the military that women have not got into without limiting themselves. It is good that training is the same for men and women but I won't rest until there are female generals," she says.

Women, she says, need to be dedicated and work hard enough to earn respect and recognition.

newsdesk@ke.nationmedia.com

Change of guard Military bosses urged to be professional and promote accountability

Ruto told the military chiefs none of them was appointed to serve his or her community, religion

BY CHARLES WASONGA

President William Ruto yesterday asked new Chief of Defence Forces (CDF) General Charles Miriu Kahariri, Vice CDF Lt-Gen John Mugaravai Omenda and other promoted military officers to serve responsibly and with accountability.

After witnessing the swearing-in of Gen Kahariri and other officers at State House, Nairobi, Dr Ruto urged them to uphold professionalism when discharging their duties.

"This is a mission to serve the Republic and the people of Kenya. It is a solemn responsibility. You will be exercising authority that comes with responsibility and accountability," the President said.

"The Kenya Defence Forces (KDF) has a history of professionalism and loyalty; a history that speaks of many good things aimed at protecting Kenya's sovereignty. I urge you to hold the KDF in high esteem as the people of Kenya do."

Battling floods

Dr Ruto told the military chiefs to serve Kenyans fairly, adding that none of them was appointed to serve his or her community, religion or other partisan interests.

President Ruto said they have a mandate to assist other security agencies in discharging their duties.

In this regard, the President announced that the military would be deployed to assist other government agencies in dealing with the effects of the ravaging floods being experienced in several parts of the country.

The floods have killed tens of Kenyans and displaced thousands more.

"Shortly after this, I will have a meeting with you on how KDF will be deployed to assist other agencies in dealing with the environmental and climate change situation that Kenya is facing."



Chief of Defence Forces General Charles Miriu Kahariri



Vice CDF Lt-Gen John Mugaravai Omenda



Maj-Gen Fatuma Ahmed, head of the Air Force



Maj-Gen Paul Owuor Otieno, Kenya Navy boss

Ruto swears in new CDF and service commanders

the President told them.

Gen Kahariri replaces Gen Francis Ogolla, who died along with nine other officers in a helicopter crash in Sindar village, Elgeyo Marakwet County, on April 18.

Maj-Gen Fatuma Gaiti Ahmed was sworn in as the head of Kenya Air Force, becoming the first woman service commander in the country.

Before heading the Air Force, Maj-Gen Ahmed was at the National Defence College (NDC) where she was a senior Directing Staff Air, a position she had risen to from her previous role as Assistant Chief of the Defence Forces in charge of Personnel and Logistics. Also sworn in was Kenya Navy Commander, Maj-Gen Paul Otieno, who replaces, Maj-Gen Thomas Ng'ang'a.

More promotions

Maj-Gen Ng'ang'a served as head of the Navy for slightly more than a month.

He has been moved to the National Defence University-Kenya as the Deputy Vice-Chancellor, Administration and Finance.

Maj-Gen Otieno was the inaugural Managing Director of Kenya Shipyards Limited, a State agency mainly designed for ship building.

He has been replaced at Kenya Shipyards by Maj-Gen Said Mohamed Farah.

Brig Peter Nyamu Githinji was promoted to Major General and named Senior Directing Staff, Air at the National Defence College to replace Maj-Gen Ahmed.

Brig Yunis Sheikh Abdi was also promoted to Major General and

made Senior Directing Staff, Navy at the National Defence College.

At the same time, Brig Jattani Kampare Gula was promoted to Maj-Gen and named Managing Director of the Kenya Meat Commission.

Similarly, Brig George Okumu was promoted to Major General

and named the Managing Director of Kenya Ordnance Factories Corporation and Food Processing Factory.

Brig Samuel Kosgei Kipkorir, on the other hand, has been named Deputy Commander of the Kenya Air Force.

newsdesk@ke.nationmedia.com

with Shabaab differently

inents in the broader fight against terrorism."

According to Mr Hassan Alio, a resident of northern Kenya, using donkeys in an attack is cruel against animals.

This tactic shows a profound disregard for human and animal life. It highlights the reality of terrorist groups exploiting whatever resources they can, no matter how innocent or defensible, to cause harm to communities and animals that have no stake in human rows," Mr Alio said.

Donkeys are ordinarily used to carry water, food and other items to the militants in their hideouts, locals say.

"These donkeys are well-trained. The animals will go to the water source on their own and the jerrycans get filled up by some people at the source," a security source in Mandera told the Saturday Nation on condition of anonymity.

"They then return to the Shabaab camp without a guide," Ms Halima Malow - another

er Mandera resident - said demand for donkeys has led to an increase in price.

The sentiments were supported by Mr Ali Mude, another local. "A mature donkey now goes for Sh25,000 to Sh30,000. There are people from other parts of the country buying the animals and taking them to Chinese-owned slaughterhouses," Mr Mude said.

"But there are those who buy the animals and take them to Somalia to be used as beasts of burden".



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT - THIRD SESSION (2024)

IN THE MATTER OF ARTICLE 118 (1)(b) OF THE CONSTITUTION
AND
IN THE MATTER OF CONSIDERATION BY THE NATIONAL ASSEMBLY OF—

1. THE INSURANCE PROFESSIONALS BILL (NATIONAL ASSEMBLY BILL NO. 13 OF 2024)
2. THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 15 OF 2024)

INVITATION TO SUBMIT MEMORANDA

WHEREAS Article 118(1)(b) of the Constitution requires Parliament to facilitate public participation and involvement in the legislative and other business of Parliament and its Committees and Standing Order 127(3) of the National Assembly Standing Orders requires House Committees considering Bills to facilitate public participation;

AND WHEREAS the Insurance Professionals Bill, 2024 (National Assembly Bill No. 13 of 2024) and The Unclaimed Financial Assets (Amendment) Bill, 2024 (National Assembly Bill No. 15 of 2024) have been read a First Time and thereafter committed to the Departmental Committee on Finance and National Planning for consideration and reporting to the House;

IT IS NOTIFIED that—

1. The Insurance Professionals Bill (National Assembly Bills No. 13 of 2024) is a Bill sponsored by the Hon. Francis Kuria Kimani MP which seeks to provide a legislative framework for the regulation of professionals in the insurance sector to enhance the standards of service in the sector, promote professionalism and address concerns regarding professional misconduct in the insurance industry. The Bill further seeks to establish the Insurance Institute of Kenya as the overall professional regulator for insurance professionals that shall regulate professional conduct and maintain the standards of services rendered by insurance professionals registered under the Bill. The Bill seeks to promote the recognition of insurance professionals.
2. The Unclaimed Financial Assets (Amendment) Bill (National Assembly Bill No. 15 of 2024) is a Bill sponsored by the Leader of the Majority Party which seeks to amend sections 28 and 45 of the Unclaimed Financial Assets Act (Cap. 494) to give a claimant or owner the powers to designate the payment of a claim under the Act to another person.

NOW THEREFORE in compliance with Article 118(1)(b) of the Constitution and Standing Order 127(3), the Clerk of the National Assembly hereby invites the public and stakeholders to submit memoranda on the Bills to the Departmental Committee on Finance and National Planning.

The memoranda may be forwarded 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 chair@parliament.go.ke to be received on or before Friday, 17th May, 2024 at 5:00 p.m.

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

S. NJOROGE, CBS
CLERK OF THE NATIONAL ASSEMBLY

4th MAY, 2024

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



The Institute of Certified Public Accountants of Kenya

ICPAK SUBMISSIONS

ON

UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL, 2024

November 2024

INTRODUCTION

The Institute of Certified Public Accountants of Kenya (ICPAK) is a statutory body of accountants established under by the Accountants Act of 1978, and as repealed under the Accountants Act Number 15 of 2008, mandated to develop and regulate the Accountancy Profession in Kenya. It is a member of the International Federation of Accountants (IFAC), the umbrella body for the global accountancy profession.

Pursuant to the provision of Article 118(1)(b) of the constitution of Kenya and Standing Order 127(3), the Departmental Committee on Finance and National Planning invited submissions on Sections 28 and 45 of The Unclaimed Financial Assets Act, no 40 of 2011, to give a claimant owner the power to designate the payment of claim to another person. With mandate to this, The Institute has reviewed the Unclaimed Financial Assets Act and submits as follows;

The Table below is a summary to highlight key proposals for amendments to the unclaimed financial assets act, no 40 of 2011, on Section 28 and 45 aimed at improving **transparency**, and accountability.

Table 1: Summary of the proposals on Unclaimed Financial Asset proposed Amendments.

Clause	Issue of Concern	ICPAK submission	JUSTIFICATION
Clause 3	Lack of extensive requirements needed in the documentation from both the claimant and third party, which may potentially complicate the verification process and also disbursing funds to the designated third party.	Amend Clause 3 to read; (3) (i) Where a claimant designates a third party to receive the payment, such designation must be made in writing. The designation may be included in the claim form or	Introduces the requirements of the claimant and third party to provide clear identification and necessary documentation. This ensures that the Authority can verify the information to prevent fraud.

Clause	Issue of Concern	ICPAK submission	JUSTIFICATION
		<p>submitted as a separate written request to the Authority.</p> <p>(ii) To verify the request, to designate to a third party the claimant must provide sufficient documentation including:</p> <ul style="list-style-type: none"> a) Claimant government-issued ID or passport if applicable, to confirm claimant's identity. b) A signed authorization or power of attorney, to confirm the third party's authorization to receive the payment. c) Proof of Relationship or Affiliation (if applicable), including and not limited to birth certificate, marriage certificate, or legal documentation that establishes the relationship between the claimant. d) Third-Party Identification inform of National ID, passport, or 	

UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL 2024

Clause	Issue of Concern	ICPAK submission	JUSTIFICATION
		<p>other valid government-issued ID</p> <p>e) Proof of Address for both the claimant and the designated third party in form of bank statements, or government-issued document</p> <p>f) Bank account details including account number, bank name, and branch, to facilitate accurate and timely payment.</p> <p>(iii) The designated third party must provide identification as referred to subsection (7) and any other required documentation, as determined by the Authority, to receive the payment.</p> <p>(iv) The Authority shall not be liable for any claims or disputes arising between the claimant and the designated third party regarding the payment.</p>	

Clause	Issue of Concern	ICPAK submission	JUSTIFICATION
Clause 4	Lack of a clear, accountable process that ensure commitment to the transparency of payment of unclaimed asset funds.	<p>Add a new sub section in clause (4) to read:</p> <p>(4) (i) The Authority will assume the position of an escrow service for the payment of claims designated to a third party.</p> <p>(ii) The payment would be temporarily held in a secure account managed by the Authority until both the claimant and the third party confirm the payment's receipt, at which point the funds would be released.</p>	This helps protect against fraudulent claims and disputes, ensuring that the Authority can process payments efficiently while minimizing the risk of errors and financial loss.

ICPAK Conclusions

1. Streamline Payment Process by allowing claimants to designate a third party for payment facilitates more flexible access to funds, particularly for individuals who may not be able to claim the payment personally due to location or other constraints.
2. Ensure clear Legal Framework through formalizing the process of third-party designation, including necessary documentation and verification, the system provides clarity and legal certainty, ensuring that both the claimant and third party understand their rights and responsibilities.
3. Reduce Administrative Burden in the introduction of measures such as an escrow service and third-party verification helps protect against fraudulent claims and disputes, ensuring that the Authority can process payments efficiently while minimizing the risk of errors and financial loss.



LAW SOCIETY OF KENYA
Lavington, Opposite Valley Arcade
Gitanga Road
P.O. Box 72219-00200
NAIROBI
Tel. +254 111 045 300

MEMORANDUM

TO

THE CLERK OF THE NATIONAL ASSEMBLY

ON

THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL, 2024

NOVEMBER, 2024

Faith Mony Odhiambo, President Law Society of Kenya

Lavington, opp Valley Arcade,

Gitanga Road P.O Box 72219 - 00200 Nairobi | Kenya

Tel: +254 111 045 300

Email: president@lsk.or.ke

Website: www.lsk.or.ke

Introduction

The Law Society of Kenya is a professional statutory body established under the Law Society of Kenya Act, No. 21 of 2014 with a mandatory membership of all Advocates in Kenya.

The organs of the Society are the General Membership, the Council, the Branches and the Secretariat. The Council is the governing body of the Law Society of Kenya. It comprises a President, a Vice- President and eleven other members, all of whom must be members of the Law Society of Kenya. Council members are elected every two years by the members of the Society by means of a secret ballot conducted in accordance with the Law Society of Kenya Act.

Currently, the Council is comprised of The President, The Vice-president and 11 Council members namely:

- President, Faith Mony Odhiambo
- Vice President, Mwaura Kabata
- General Membership Representatives, Tom K'opere, Teresia Wavinya, Hosea Manwa
- Nairobi Representatives, Gloria Kimani, Irene Otto, Stephen Mbugua
- Up-country Representatives, Vincent Githaiga, Linda Kiome, Hezekiah Areso, Zulfa Roble
- Coast Representative, Elizabeth Wanjeri
- Secretary/CEO, Florence W. Muturi

One of the Law Society of Kenya statutory objects as provided in section 4(a) of the Act is to assist the Government and the courts in all matters affecting legislation and the administration and practice of law in Kenya. Pursuant to this statutory mandate, the Law Society of Kenya makes a presentation on the Unclaimed Financial Assets (Amendment) Bill, 2024.

GENERAL COMMENTS

The Law Society of Kenya is in receipt of the Unclaimed Financial Assets (Amendment) Bill, 2024, which, as proposed, seeks to:

- The Bill proposes amending Section 8 of the Unclaimed Financial Assets Act, 2011, to require holders of unclaimed demutualization proceeds to file a one-time report within six months of the Act's commencement.
- Amend Section 28 of the Unclaimed Financial Assets Act, 2011, to allow claimants to designate an alternative recipient for their unclaimed assets. Specifically, the Bill proposes to insert the words "or such other person as the claimant may designate" immediately after "claimant," enabling claimants to choose another individual to receive the recovered assets on their behalf if they are unavailable.
- Amend Section 45 of the Act to allow claimants to assign their right to receive unclaimed assets to another designated individual. Previously, the Act reserved exclusive rights for claimants themselves to collect these assets. The proposed amendment allows claimants to exercise greater flexibility by choosing a representative, provided such a designation complies with legal requirements.
- Grant broader authority to the Unclaimed Financial Assets Authority (UFAA) to release unclaimed assets to a designated individual identified by the claimant. This amendment allows the UFAA to pay out of the Fund to either the owner or the person designated by the owner, thereby expanding the Authority's role to accommodate third-party claimants.
- Enhance claimant rights to determine the transfer process of unclaimed assets held within the Unclaimed Financial Assets Trust Fund. Currently, the Act restricts payouts to claimants themselves, but this Bill would enable claimants to empower others, such as family members or representatives, to access these funds.

After careful consideration of the Unclaimed Financial Assets (Amendment) Bill, 2024, the Law Society notes with great concern that, while the Bill aims to enhance the rights of claimants, it raises significant issues that may undermine the transparency and

integrity of asset recovery processes. At the core of the Unclaimed Financial Assets Act of 2011 was the intent to safeguard unclaimed assets while ensuring a structured, accessible process for rightful owners to claim these assets. The Act established the Unclaimed Financial Assets Authority (UFAA) and the Unclaimed Financial Assets Trust Fund to manage unclaimed assets responsibly and reunite them with their owners in a fair, accountable manner.

In the context of financial management and claimant rights, the current Act was designed to balance claimant access with stringent oversight, preventing abuse or exploitation of unclaimed assets. However, the 2024 Amendment Bill seeks to grant claimants the right to designate third parties to recover assets on their behalf, introducing a level of flexibility but potentially increasing the risks of fraud and coercion in asset transfers. Effective governance and transparency in financial management are foundational to Kenya's broader economic development. The proposals in the Amendment Bill appear to challenge these governance principles by expanding the UFAA's duties without clearly addressing procedural safeguards to uphold claimant rights and protect against potential abuses.

These concerns reflect the need to carefully balance claimant empowerment with adequate oversight measures. Without additional safeguards, the proposed amendments risk compromising the integrity of the unclaimed assets process and creating administrative challenges that could dilute the effectiveness of the UFAA's mandate. The Law Society respectfully urges the National Assembly to consider refining the Bill to include essential protections that maintain accountability while addressing claimants' needs in a secure and effective manner.

SPECIFIC COMMENTS

NO.	Provision	Proposal	Justification
Clause 1	The Bill proposes amending Section 8 of the Unclaimed Financial Assets Act, 2011, to require a one-time report of unclaimed demutualization proceeds to be filed within six	We propose retaining the existing provision without the added reporting requirement.	The Act already mandates a one-time reporting requirement within six months of commencement. Adding further requirements could result in redundancy and administrative burden

	months of the Act's commencement.		without significantly enhancing compliance or accountability. Maintaining the existing provision ensures clarity and aligns with the original reporting framework.
Clause 2	The Bill proposes an amendment to Section 28 of the Unclaimed Financial Assets Act, 2011, to allow claimants to designate an alternative individual to receive the unclaimed financial assets on their behalf.	<p>This proposal should be reviewed with caution.</p> <p>It is recommended that the Bill include specific safeguards around the designation process. For example, a formal, witnessed declaration could be required for any third-party designation, thereby verifying the claimant's intent and reducing the potential for fraudulent claims.</p> <p>Alternatively, the introduction of standardized designation forms that require UFAA approval would strengthen accountability.</p>	While the provision appears to facilitate flexibility in asset recovery, it risks undermining the verification process established to ensure that only rightful claimants receive unclaimed assets. Safeguards should be included to prevent fraud or misuse by ensuring that the designee's identity and authorization are properly verified.
Clause 3	<p>The Bill seeks to amend Section 45 of the Act to allow claimants to assign their rights to recover unclaimed assets to designated persons.</p> <p>The proposed amendment also introduces additional responsibilities for the UFAA, including verifying third-party</p>	<p>This proposal should be revised to include additional verification measures.</p> <p>It is recommended that the Bill provide for additional resources or funding for the UFAA to</p>	The right to claim assets is inherently personal and should be strictly limited to the claimant. Allowing assignments of such rights could open avenues for fraud and potentially dilute the protections that the Act was initially designed to afford.

	<p>designations and updating administrative procedures. This additional burden may strain the Authority's resources, leading to delays or lapses in service delivery, and ultimately impacting the efficiency of asset reunification efforts.</p>	<p>manage these expanded duties. Furthermore, explicit timelines should be established within the amendment to ensure claimants and designated recipients can access assets promptly, thus preventing procedural bottlenecks and ensuring that the Authority can fulfill its mandate effectively.</p>	
	<p>The Bill, as drafted, does not clearly address the legal implications for both claimants and the UFAA if disputes arise from third-party designations. For example, issues may arise where a claimant's designation is challenged due to conflicting claims of fraud, undue influence, or lack of capacity. This lack of clarity may expose the UFAA to liability and cause prolonged legal disputes.</p>	<p>The Bill should incorporate specific legal provisions that clarify the liability of both the UFAA and claimants in cases of disputed third-party designations. One option could be to include a rebuttable presumption of validity for designations made through a legally recognized process, such as notarization. Furthermore, it would be prudent to establish a mechanism by which claimants can amend or rescind designations to accommodate any changes in their intentions or circumstances.</p>	<p>The absence of clear provisions on third-party designations creates legal risks for both the UFAA and claimants, especially in cases of disputed designations due to fraud, undue influence, or lack of capacity. This could lead to legal disputes and delays in asset distribution. By introducing a rebuttable presumption of validity for legally recognized designations (e.g., commissioning of documents/notarization), the Bill would reduce these risks and ensure smoother processing of claims. Allowing claimants to amend or rescind designations would also provide flexibility and fairness, safeguarding claimants' interests and minimizing the potential for disputes.</p>
	<p>By permitting third-party designations, the Bill increases the risk of fraud or undue influence, particularly in cases</p>	<p>The Bill should mandate additional protections for vulnerable claimants, such as requiring</p>	<p>Allowing third-party designations without adequate safeguards exposes vulnerable claimants, such as</p>

	<p>involving elderly or vulnerable claimants. Without clear procedural safeguards, the amendment may unintentionally enable exploitation.</p>	<p>independent legal advice or a certification of understanding for claimants making third-party designations. Additionally, the amendment should establish penalties for fraudulent or coercive third-party claims to deter potential abuse.</p>	<p>the elderly, to the risk of fraud and undue influence. To prevent exploitation, it is crucial to require independent legal advice or certification of understanding for such claimants. Introducing penalties for fraudulent or coercive designations would act as a deterrent against abuse, ensuring the integrity of the process while protecting the rights of vulnerable individuals. This would promote fairness and accountability, aligning with the principles of justice and safeguarding the interests of all parties involved.</p>
	<p>The amendment lacks a clear process for claimants to revoke or update their third-party designations, which may result in situations where claimants are unable to modify their instructions if circumstances change. This omission could infringe on claimants' rights and lead to unintended asset distribution.</p>	<p>The Bill should specify a straightforward revocation process, enabling claimants to change their designated recipients if desired. A clause allowing revocation through a simple, verifiable written notice to the UFAA would provide flexibility for claimants, while reducing potential disputes and administrative challenges.</p>	<p>The lack of a clear process for revoking or updating third-party designations undermines claimants' rights and may lead to unintended asset distribution, especially if circumstances change. A straightforward revocation process, such as submitting a written notice to the UFAA, ensures claimants maintain control over their assets and intentions. This approach provides flexibility, reduces the likelihood of disputes, and minimizes administrative challenges, while safeguarding the claimant's ability to make informed decisions throughout the process.</p>

The proposed amendments aim to improve flexibility for claimants in recovering unclaimed assets by allowing them to designate third parties to claim assets on their

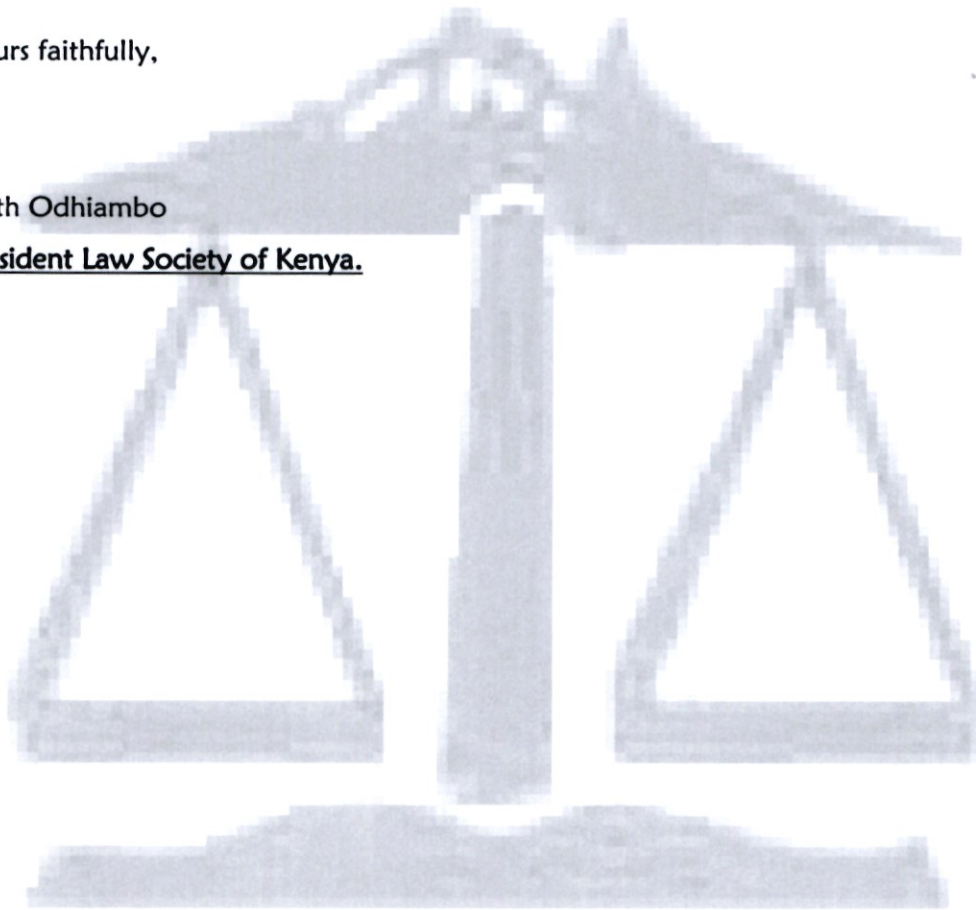
behalf. However, these changes introduce potential challenges concerning oversight, transparency, and the need for rigorous safeguards against unauthorized claims. The Law Society recommends that further procedural protections be added to ensure these amendments do not inadvertently increase fraud risks or reduce accountability in the recovery of unclaimed assets.

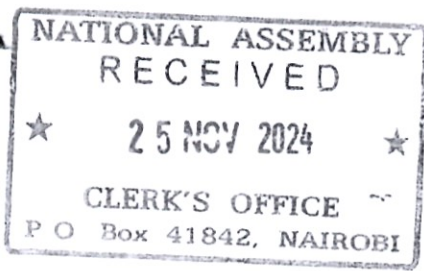
In conclusion, the Law Society of Kenya does not support the proposed Bill in its entirety and submits this memorandum for consideration.

Yours faithfully,

Faith Odhiambo

President Law Society of Kenya.





REPUBLIC OF KENYA

OFFICE OF THE ATTORNEY-GENERAL
&
DEPARTMENT OF JUSTICE

① DDC
26/11/24

Our Ref: AG/LDD/578/1/111

18th November, 2024

Mr. Samuel Njoroge, CBS

The Clerk of the National Assembly

Clerk's Chambers

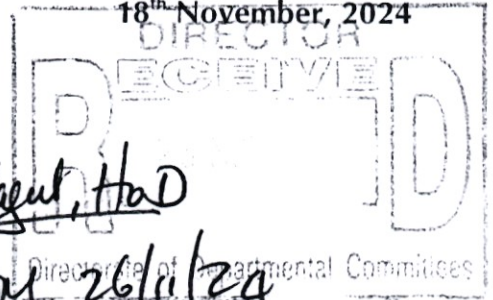
Parliament Buildings

P. O. Box 41842-00100

NAIROBI

② Mr. Benjamin Magut, HOD

Pls deal. Jm 26/11/24



RE: **STAKEHOLDER ENGAGEMENT ON THE UNCLAIMED FINANCIAL ASSETS (AMENDMENT) BILL, 2024**

Reference is made to your letter dated the 6th November, 2024 and referenced NA/DDC/F&NP/2024/121 requesting this Office for submissions on the proposed Unclaimed Financial Assets (Amendment) Bill, 2024, by the Departmental Committee on Finance and National Planning.

We have scrutinized the constitutionality of the proposed Bill and whether it contravenes existing legislation. We note that the Bill does not raise constitutional issues. However, we note the following statutory issues on the proposed legislation—

CLAUSE	COMMENTS
2	<p>Clause 2 of the Bill seeks to amend section 8(2) of the Act by providing "A holder of unclaimed assets described in subsection (1) shall file an initial one-time report of unclaimed demutualization proceeds not later than six months after this Act comes into force." However, we note the proposed amendment is similar to the provision that is currently in the Act which provides "A holder of unclaimed assets described in subsection (1) shall file an initial one-time report of unclaimed demutualization proceeds not later than six months after this Act comes into force."</p> <p>Therefore, the proposed amendment is not necessary as it proposes an amendment that is similar to the current provision of the Act.</p>
3	<p>Clause 3 of the Bill seeks to amend section 28(5) of the Act by inserting the words "or such other person as the claimant may designate".</p> <p>We note that the proposed amendment was first introduced in the Finance Bill, 2023 which constitutionality was challenged in Court. Subsequently, the courts declared the amendment unconstitutional on the grounds that the Finance Bill</p>

SHERIA HOUSE, HARAMBEE AVENUE
P.O. Box 40112-00100, NAIROBI, KENYA. TEL: +254 20 2227461/2251355/07119445555/0732529995
E-MAIL: info.statelawoffice@kenya.go.ke WEBSITE: www.attorney-general.go.ke

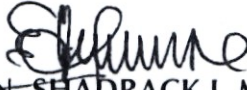
DEPARTMENT OF JUSTICE
CO-OPERATIVE BANK HOUSE, HAILLE SELLASIE AVENUE P.O. Box 56057-00200, Nairobi-Kenya TEL: Nairobi 2224029/ 2240337
E-MAIL: legal@justice.go.ke WEBSITE: www.justice.go.ke

ISO 9001:2008 Certified



	<p>is a money Bill as contemplated under Article 114 of the Constitution and the proposed amendment to the Unclaimed Financial Assets Act fell outside the scope of a money Bill as delineated under Article 114 of the Constitution. We therefore do not object to the regularization of the proposed amendment through the proposed legislation.</p>
4	<p>Clause 4 of the Bill proposes to amend section 45(1), (2) and (3) to give a claimant or owner the power to designate the payment of a claim to another person. Section 2 of the Act defines an owner to mean a person having a legal or equitable interest in assets subject to this Act and includes the legal representative of the owner. In order to harmonize the provisions of the Act in relations to the owner of unclaimed assets, we propose that the definition of the term "owner" be expanded to include "such other person as the claimant may designate".</p> <p>We therefore propose section 2 of the Unclaimed Financial Assets Act be amended by deleting the current definition of the term "owner" and substituting with the following new definition—</p> <p><i>"owner" means a person having a legal or equitable interest in assets subject to this Act and includes such other person as the claimant may designate;</i></p>

We trust that this in order.


HON. SHADRACK J. MOSE
SOLICITOR-GENERAL