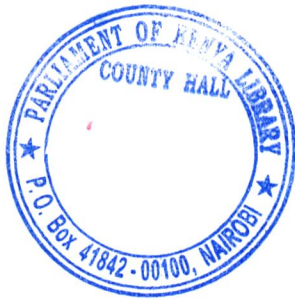


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REPUBLIC OF KENYA



PARLIAMENT OF KENYA
Speaker N.A.
Deputy Speaker
Clerk N.A.
Bill Clerk
P.C.A.

KENYA NATIONAL ASSEMBLY

TENTH PARLIAMENT – FOURTH SESSION - 2011

REPORT OF THE
DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND
NATIONAL SECURITY ON THE KENYA CITIZENSHIP AND
IMMIGRATION BILL, 2011.

CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

AUGUST, 2011

PREFACE

Mr. Speaker, Sir,

Mandate

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

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

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

Mr. Speaker,

Subjects

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

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

The Committee oversees the following Ministries and Departments:

- (i) Office of the President (Cabinet Office & State House)
- (ii) Office of the Vice President and Ministry of Home Affairs
- (iii) Ministry of Provincial Administration & Internal Security

- (iv) Office of the Prime Minister
- (v) Ministry of State for Public Service
- (vi) The Public Service Commission
- (vii) Ministry of State for Immigration & Registration of Persons

Mr. Speaker, Sir,

Committee Membership

The following are the Members of the Committee:

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

*(The Member whose name is marked with an asterix * has never participated in any Committee deliberations and so he is not part of the observations, findings, conclusions and recommendations contained in this report).*

Mr. Speaker,

Committee Sitings

The Kenya Citizenship and Immigration Bill, 2011, was published and forwarded to National Assembly for deliberation and passage. The Bill was read a First Time on 24th August 2011, but the Committee on Administration and National Security, being the Committee that oversees matters on Immigration, had undertaken to examine the Bill

in accordance with the requirements of Standing order 111 earlier on in the same day. The Committee held one meeting on Wednesday 24th August, 2011, at 9 am.

Mr. Speaker, Sir,

Stakeholders

In examining the Bill, the Committee invited the Minister of State for Immigration and Registration of Persons to give his views on the proposals. The Minister, having initiated the drafting of the Bill was optimistic that issues touching on Kenyan Citizens, whether resident in the country or abroad, had been addressed and articulated properly in the proposed legislation.

Mr. Speaker,

The Constitution

Issues on rights of citizens were not adequately addressed in the former Constitution. The quest for dual citizenship was a subject matter to many Kenyans before the promulgation of the new Constitution. Chapter three of the Constitution deals with matters of Citizenship. The passage of this Bill shall bring into reality some inalienable rights which many Kenyans have yearned for in a long time.

Mr. Speaker, Sir,

Procedural motion

Though there was a procedural motion to reduce the number of days of publication of the Bill, from fourteen to two, pursuant to Standing Order 107, and again to waive the Bill from being referred to the

relevant Departmental Committee, the Committee on Administration and National Security resolved to examine the Bill and present a report to the House.

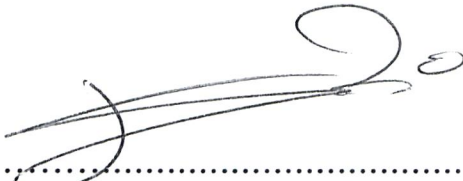
Mr. Speaker, Sir,

Acknowledgements

The Committee takes wishes to thank the Office of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to the Committee during its Sitting. The Committee is also thankful to the Minister of State for Immigration and Registration of Persons for the honouring the request to meet the Committee on short notice and for the fruitful discussions held between the Ministry and the Committee during the meeting on Wednesday 24 August, 2011.

Mr. Speaker, Sir,

On behalf of the Committee, and pursuant to Standing Order 111 (2), it is my pleasant duty to table in the House the Report of the Departmental Committee on Administration and National Security on the Kenya Citizenship and Immigration Bill, 2011.

Signed.......... Date...24/08/011.....

Hon. Fred Kapondi, MP
Vice-Chairman, Departmental Committee on Administration and
National Security

THE COMMITTEE'S DELIBERATION ON THE KENYA CITIZENSHIP AND IMMIGRATION BILL, 2011

The Committee deliberated on the Bill as follows;

- Clause 1 - Clause 9 - Agreed to
- Clause 10 - Proposed amendment
- Clause 11 - Clause 30 - Agreed to
- Clause 31 - Proposed amendment
- Clause 32 - Agreed to
- Clause 33 - Proposed amendment
- Clause 34 - Clause 39 - Agreed to
- Clause 40 - Proposed amendment
- Clause 41 - Clause 48 - Agreed to
- Clause 49 - Proposed amendment
- Clause 50 - Clause 52 - Agreed to
- Clause 53 - Proposed amendment
- Clause 54 - Clause 63 - Agreed to

PROPOSED AMENDMENTS

The Committee proposes the following amendments to the Kenya Citizenship and Immigration Bill, 2011.

PART III – CITIZENSHIP

1. Clause 10

THAT Clause 10 of the Bill be amended in sub-clause (1) by deleting the words “before the effective date of the Constitution”.

PART V – PASSPORTS AND OTHER TRAVEL DOCUMENTS

2. Clause 31

THAT Clause 31 of the Bill be amended in sub-clause (5) by deleting the word “withdraw” and substituting therefor the words “suspend or confiscate”.

PART VI – IMMIGRATION CONTROLS

3. Clause 33

- THAT Clause 33 of the Bill be amended in sub-clause (2) -
- (a) by renumbering paragraphs (g) and (h) as sub-clauses (3) and (4) , respectively;
 - (b) by renumbering sub-clauses (3), (4), (5) (6) as sub-clauses (5), (6), (7), and (8), respectively.

4. Clause 40

- THAT Clause 40 of the Bill be amended-
- (a) in sub-clause (3) by deleting the word “undesirable” and substituting therefor the word “inadmissible” ;
 - (b) in sub-clause (6) by deleting the words “forty five days” and substituting therefor the words “fourteen days”;

(c) in sub-clause (8) by deleting the words “ninety days” and substituting therefor the words “fourteen days”;

5. Clause 49

THAT Clause 49 of the Bill be amended in sub-clause (5) by deleting the opening statement and substituting therefor the following new statement-

(5) The Court shall not order the release of a permanent resident or a foreign national unless satisfied that the permanent resident or foreign national shall present himself on being required to do so by an immigration officer or a police officer and taking into account the following factors-

6. Clause 53

THAT Clause 53 of the Bill be amended in sub-clause (1) by inserting the words “or inadmissible person” immediately after the words “prohibited immigrant” appearing in paragraph (c).

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MINUTES OF THE 91ST SITTING OF THE DEPARTMENTAL COMMITTEE ON ADMINISTRATION AND NATIONAL SECURITY HELD ON WEDNESDAY 24TH AUGUST, 2011 IN COMMITTEE ROOM NO. 7, PARLIAMENT BUILDINGS, AT 9 AM.

PRESENT

The Hon. Fred Kapondi Chesebe, MP – (Chairman)
The Hon. Peter Kiilu, MP – (Vice Chair)
The Hon. Maison Leshoomo, MP
The Hon. Pollyins Ochieng', MP
The Hon. Raphael Letimalo, MP
The Hon. Joseph Kiuna, MP

ABSENT WITH APOLOGIES

The Hon. Danson Mungatana, MP
The Hon. Mohamed Hussein Ali, MP
The Hon. Cyprian Omollo, MP

ABSENT

The Hon. Nkoidila Ole Lankas, MP

IN ATTENDANCE - KENYA NATIONAL ASSEMBLY

Mr. Daniel Mutunga - Second Clerk Assistant
Mr. Nicholas Emejien - Second Clerk Assistant
Mr. Ahmad Kadhi - Third Clerk Assistant
Mr. Dennis Abisai - Legal Counsel
Mr. Martin Mugambi - Parliamentary Intern

IN ATTENDANCE – MINISTRY OF STATE FOR IMMIGRATION AND REGISTRATION OF PERSONS

The Hon. Otieno Kajwang' EGH, MP – Minister, Immigration
Amb. A. A. Musasya – Director, Immigration
Badu Katelo – Ag. Commissioner for refugees
Reuben M. Kimotho – Director, NRB
Jane W. Mugo – Director, Civil Registration
Joseph K. Keter – Senior Deputy Secretary
Winnie Makotsi – Deputy Secretary
John A. O. Orindi – SAS/PA
Kennedy N. Okondo – Ag Chief Economist
Stephen N. Muthome – Finance Officer
M. Mumo – Taskforce Chairman
James O. Opundo – Principal State Counsel
Ongeri Nicholas – Legal Officer

PRELIMINARY

The Chairman called the meeting to order. After prayers, brief introductions and opening remarks were made. The Chair informed the Minister and his team that the Kenya Citizenship

and Immigration Bill 2011, was already before the House awaiting First Reading. The Committee had resolved to make its input to the Bill despite the waiver of referral of the Bill. He then invited the Minister to make key highlights of areas he thought required amendments.

MIN. NO. 274 /2011 - MEETING WITH THE MINISTER OF STATE FOR IMMIGRATION AND REGISTRATION OF PERSONS

The Minister proceeded with key highlights of the Kenya Citizenship and Immigration Bill, 2011. The Bill was meant to repeal the current Immigration Act with its genesis being article 12, Chapter 3 of the constitution which stipulates over the rights of citizens. Previously the right of citizens to identification cards and passports was not enshrined in the Constitution.

The Committee heard that the notable new features the Bill sought to introduce were;

- Confiscation of ID's and Passports be dealt with only by an Act of Parliament.
- Provision for widows and widowers (section 12).
- Dual citizenship as per article 16 of the Constitution.
- Permanent residency status (section 37).
- Provision for stateless persons and their descendants (section 15 – 17).
- Citizenship of children found in Kenya (section 9).

The Chairperson of the Taskforce on the Bill proposed the following amendments;

- Section 2 on interpretation, in defining “inadmissible person” as a person declared under section 33(2) and not 34(2).
- Section 10, the words “before the effective date of the Constitution” be deleted.
- Section 12, the last subsection (3) be renumbered (4).
- Section 31(3), should refer to subsection (2).
- Section 31(5), the word “withdraws” is replaced by “confiscate”.
- Section 33(2) (g) and (h), are numbered as (3) and (4) respectively and the following subsections are renumbered accordingly.
- Section 40 (1) be deleted.
- Section 49 (5), the word “unless” replaced by “if”.
- Section 53 (1) the words “or inadmissible person” added after the words “prohibited migrant”.

The Chairman thanked the team for having done various consultations on the Bill, including foreign visits, public hearings, and video conferencing with Kenyans in the Diaspora. However the Chair noted that the Committee should have been invited to such forums.

MIN. NO. /2011: ADJOURNMENT

There being no other business, the meeting was adjourned at thirty four minutes past Ten o'clock.

Signed: 

Chairman.....Hon. Fred Kapondi, MP.....Date.....24/08/2011.....