

REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT- SECOND SESSION

REPORT OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS
AND HOUSING

ON

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) (No.2) BILL, 2018

(NATIONAL ASSEMBLY BILLS NO. 13 OF 2018)

DIRECTORATE OF COMMITTEE SERVICES
THE NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

JUNE 2018

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A. PREFACE

Chairperson's Foreword

The Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 and The Statute law (Miscellaneous Amendments) Bill, 2018 was published on the 10th April, 2018 by the Hon. Aden Duale, MP and consequently the Bill underwent the First Reading on 18th April, 2018 in the National Assembly. The Bill was thereafter committed to the Departmental Committee on Transport Public Works and Housing as provided for in the National Assembly Standing Order 127(1).

The Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 seeks to make amendments to various statutes. The Committee on Transport, Public Works and Housing was tasked with scrutinizing amendment to the Bill with respect to the proposed amendments to the Urban Areas and Cities Act, 2011 (Act No. 13 of 2011).

The Committee while considering the Bill pursuant to Article 118(b) and Standing Order 127(3), invited the public to submit representation/comments they might have on the Bill. This invitation was done through, a notification which was placed in the mainstream print media on 26th April, 2018.

While considering the Bill, the Committee received memoranda/submissions from the Ministry of Transport, Infrastructure, Housing and Urban Development.

B. Mandate and Membership of the Committee

a) Mandate

The Departmental Committee on Transport, Public Works and Housing is established under Standing Order 216(1) whose mandate, pursuant to the Standing Order 216 (5), is as follows;

- a. investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;
- b. study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;
- c. study and review all legislation referred to it;
- d. study, assess and analyze the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;
- e. 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;
- f. to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (*Committee on Appointments*);

- g. examine treaties, agreements and conventions;
- h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- i. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
- j. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
- k. examine any questions raised by Members on a matter within its mandate.

Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to the following subjects:-

- a) Transport;
- b) Roads;
- c) Public works;
- d) Construction and maintenance of roads, rails and buildings;
- e) Air and seaports; and
- f) Housing.

In executing this mandate, the Committee oversees various State Departments, namely:

- i. The State Department of Transport;
- ii. The State Department of Infrastructure;
- iii. The State Department of Housing and Urban Development;
- iv. The State Department of Public Works; and
- v. The State Department of Shipping and Maritime Affairs.

b) Committee Membership

1. Hon. David Pkosing, M.P.
2. Hon. Moses Kuria, M.P.
3. Hon. Johnson Many Naicca, M.P.
4. Hon. David Njuguna Kiaraho, M.P.
5. Hon. Peris Pesi Tobiko, M.P.
6. Hon. Savula Ayub Angatia, M.P.
7. Hon. Samuel Arama, M.P.
8. Hon. Suleiman Dori Ramadhani, M.P.
9. Hon. Rigathi Gachagua, M.P.
10. Hon. Ahmed Bashane Gaal, M.P.
11. Hon. Ahmed Abdisalan Ibrahim, M.P.
12. Hon. Dominic Kipkoech Koskei, M.P.
13. Hon. Gideon Mutemi Mulyungi, M.P.
14. Hon. Kulow Maalim Hassan, M.P.
15. Hon. Mugambi Murwithania Rindikiri, M.P.
16. Hon. Rehema Dida Jaldesa, M.P.
17. Hon. Shadrack John Mose, M.P.
18. Hon. Tom Mboya Odege, M.P.
19. Hon. Vincent Kemosi Mogaka, M.P.

Chairperson

Vice Chairperson

c) Committee Secretariat

- | | |
|-----------------------------|---|
| 1) Ms. Chelagat Tungo Aaron | Second Clerk Assistant; (Committee Lead Clerk) |
| 2) Mr. Ahmed Salim Abdalla | Third Clerk Assistant |
| 3) Ms. Mercy Wanyonyi | Legal Counsel |
| 4) Mr. James Muguna | Research Officer |
| 5) Mr. Eugene Luteshi | Audio Officer |
| 6) Mr. Abdinasir Moge Yusuf | Fiscal Analyst |
| 7) Ms. Zainabu Wario | Sergeant at Arms |

C. Consideration of the Statute law (Miscellaneous Amendments) (No.2) Bill, 2018

Hon. Chair,

The Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 underwent the First reading on 18th April, 2018 and thereafter committed to the Departmental Committee on Transport Public Works and Housing as provided for in the Standing order 127(1) for deliberation.

Pursuant to Article 118(b) and Standing Order 127(3), which require public participation and involvement in the legislative and other business of Parliament and its Committees, a notification was placed in the mainstream print media on 26th April, 2018 informing the public that the Committee was considering the Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 and invited them to submit any representation they might have on the Bill.


Hon. Chair,

The Committee held meetings to consider pertinent issues that the Bill was seeking to address. It is worth noting that the Committee received oral submission from the Ministry only regarding the Bill.

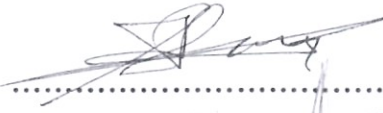
D. Adoption of the Report


We the members of the Departmental Committee on Transport, Public Works and Housing have pursuant to Standing Order 199 adopted this Report on the consideration of the Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 and the Statute law (Miscellaneous Amendments) Bill, 2018. We affix our signatures to affirm our approval and confirm its accuracy, validity and authenticity today Tuesday 19th June, 2018:-


1. Hon. David Pkosing, M.P.
Chairperson
2. Hon. Moses Kuria, M.P.
Vice Chairperson
3. Hon. Samuel Arama, M.P.
4. Hon. David Njuguna Kiaraho, M.P.
5. Hon. Johnson Many Naicca, M.P.
6. Hon. Rigathi Gachagua, M.P.
7. Hon. Peris Pesi Tobiko, M.P.
8. Hon. Suleiman Dori Ramadhani, M.P.
9. Hon. Savula Ayub Angatia, M.P.
10. Hon. Ahmed Abdisalan Ibrahim, M.P.
11. Hon. Ahmed Bashane Gaal, M.P.
12. Hon. Dominic Kipkoech Koskei, M.P.
13. Hon. Gideon Mutemi Mulyungi, M.P.
14. Hon. Kulow Maalim Hassan, M.P.
15. Hon. Mugambi M. Rindikiri, M.P.
16. Hon. Rehema Dida Jaldesa, M.P.
17. Hon. Shadrack John Mose, M.P.
18. Hon. Tom Mboya Odege, M.P.
19. Hon. Vincent Kemosi Mogaka, M.P.

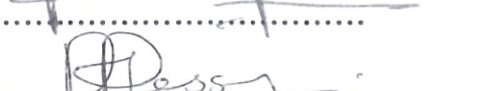

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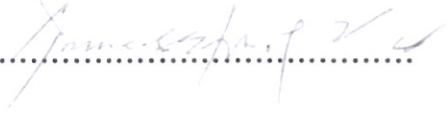

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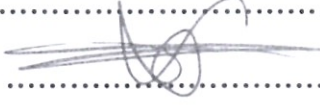

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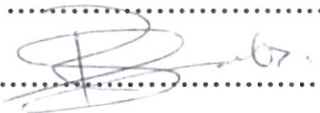

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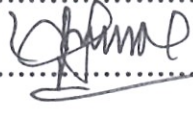

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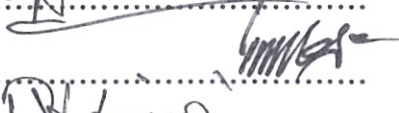
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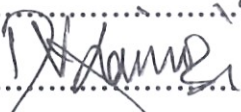
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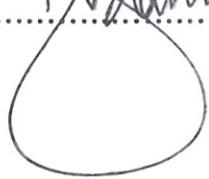

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E. Acknowledgments

Hon. Chair,

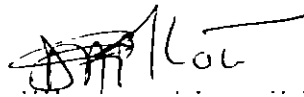
The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support and services extended to the Members to enable the Committee complete this report within the given timelines

I am grateful for the Members of the Committee whose support enabled the Committee to accomplish this task. Special thanks to the Secretariat for their technical support during the compilation of the report

On behalf of the Committee, and pursuant to Standing Order No 127 (4) of the National Assembly, it is my honor and privilege to present the to the House for consideration and adoption the Committee Report on the consideration of the Statute law (Miscellaneous Amendments) (No 2) Bill, 2018 that seeks to make amendments to the Urban Areas and Cities Act, 2011

Thank you

SIGNED



HON. DAVID PKOSING, CBS, M.P

CHAIRPERSON,

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING

1. Background

I. Committal of the Statute law (Miscellaneous Amendments) (No.2) Bill, 2018

The Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 underwent first reading on 18th April, 2018 and thereafter committed to the Departmental Committee on Transport Public Works and Housing as provided for in the Standing order 127(1).

Pursuant to Article 118(b) and Standing Order 127(3), which require public participation and involvement in the legislative and other business of Parliament and its Committees, a notification was placed in the mainstream print media on 26th April, 2018 informing the public that the Committee was considering the Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 which sought to amend the Urban Areas and Cities Act, 2011.

II. Objective of the statute law

The Statute law (Miscellaneous Amendments) (No.2) Bill, 2018 seeks to make various, wide ranging amendments to various statutes. The Departmental Committee on Transport Public Works and Housing was tasked with scrutinizing amendments to one statute.

III. Public Participation

Article 118(1) (b) of the Constitution provides that “Parliament shall facilitate public participation and involvement in the legislation and other business of the Parliament and its Committees.” Standing Order 127(3) of the National Assembly Standing Orders provides that “the Committee to which a Bill is committed shall facilitate public participation and shall take into account the views and recommendations of the public when the committee makes its report to the House.”

Arising from the foregoing the Committee, placed a notification in the two mainstream print media on 26th April 2018 informing the public that the Committee was considering The Statute law (Miscellaneous Amendments) (No.2) Bill, that seeks to make wide-amendments to various statutes. The Committee was tasked with scrutinizing amendments to the Urban Area and Cities Act, 2011 (No. 13 of 2011).

The Committee received oral submissions and written memoranda from the **Ministry of Transport, Infrastructure and Urban Development**, who were agreeable to all the proposed amendments to the Urban Area and Cities Act, No. 13 of 2011.

The Committee held a meeting with the Ministry to deliberate on the proposed amendment to the Urban Area and Cities Act, No. 13 of 2011.

2. Committee Scrutiny of the proposed amendment to the Statute

The Ministry of Transport, Infrastructure and Urban Development was agreeable to all the proposed amendments to the Urban Area and Cities Act, No. 13 of 2011.

The Committee noted that the proposed amendments require the county governments to comply with the National Urban Development Policy prescribed by the Cabinet Secretary. Further, the amendment also seeks to establish the Directorate of Urban Development and Management.

STATUTE	SECTION	PROPOSED AMENDMENT	MEMORANDA FROM THE PUBLIC	COMMENTS	COMMITTEE OBSERVATIONS
<p>The Urban Areas and Cities Act, 2011 (No. 13 of 2011)</p>	<p>s.3</p>	<p>Renumber the existing provision as subsection (1) and insert the following new subsection- (2) In the implementation of this Act, county governments shall comply with the National Urban Development Policy.</p> <p>Insert the following new section immediately after section 3-</p> <p>Establishment of the Directorate of Urban Development and Management.</p> <p>3A. The Cabinet Secretary shall establish a Directorate of Urban Development and Management within the Ministry, whose principal functions shall include —</p>	<p>The Ministry of Transport, Infrastructure and Urban Development was agreeable to all the proposed amendments to the Urban Area and Cities Act, No. 13 of 2011.</p>	<p>The proposed amendments:</p> <p>(a) require the county governments to comply with the National Urban Development Policy prescribed by the Cabinet Secretary;</p> <p>(b) seek to establish the Directorate of Urban Development and Management.</p>	<p>These proposals are in line with paragraphs 20 and 21 of Part 1 of the Fourth Schedule to the Constitution which provides that the housing policy and general principles of land planning and the co-ordination of planning by the counties is a function of the national government.</p> <p>The Proposed amendment was adopted by the Committee</p>

		<p>(a) formulating, implementing and reviewing the National Urban Development Policy;</p> <p>(b) coordinating urban development at national level;</p> <p>(c) convening forums for national urbanization dialogue;</p> <p>(d) organising liaison for urbanisation non-state actors and the urban sector working group;</p> <p>(e) developing and regularly reviewing criteria for the classification, governance and management of urban areas and cities;</p> <p>(f) promoting innovative governance and open and inclusive urban areas and cities;</p> <p>(g) establishing and maintaining a national urbanisation observatory;</p> <p>(h) providing support and technical</p>			
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	<p>backstopping on urbanization to the counties;</p> <p>(i) disseminating research and knowledge on urbanization, urban development and management;</p> <p>(j) monitoring national urbanization trends and performance and advising national and county governments;</p> <p>(k) monitoring urban disaster preparedness and urban safety and security and advising national and county governments;</p> <p>(l) setting national priorities and vision for urban development;</p> <p>(m) building capacity in urban governance, capacity of urban authorities, project management, resource mobilization, monitoring and evaluation;</p> <p>(n) undertaking minimum intervention projects in urban</p>			
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		<p>areas and cities to ensure equity in urban development and services throughout the county, and</p> <p>(o) Performing such other functions as the Cabinet Secretary may direct</p>			
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3. General Observations

The Committee observed that the proposal to amend the Urban Area and Cities Act, No 13 of 2011 was pursuant to Paragraph 20 and 21 of Part 1 of the Fourth Schedule to the Constitution which provides that housing policy and general principles of land planning and co-ordination of planning by counties is a function of the national government. The Committee further noted that the proposed amendments seek to ensure that county governments comply with the National Urban Development Policy.

4. Committee Recommendations

Having considered the Bill, the Committee recommends that the National Assembly adopts the amendment to the Urban Area and Cities Act, No. 13 of 2011 as proposed in the Bill

JUSTIFICATION FOR THE PROPOSED AMENDMENT TO URBAN AREAS AND CITIES ACT 2011 (CAP 275)

1. Constitutional Provisions.

The proposed amendment is anchored on the Constitutional Provisions of Articles;

1. 184 (1) National legislation shall provide for the governance and management of urban areas and cities and shall

2. Support for county governments in Article;

190. (1) Parliament shall by legislation ensure that county governments have adequate support to enable them to perform their functions

2. County Support

Counties require support and will still need a fallback position on technical assistance, capacity building and limited intervention on programs, projects and issues of cross county or county. There is need therefore for an outfit that is multi-disciplinary and designed specially to respond to these matters.

Currently there are requests from 23 counties already pending at Urban Development Department for consideration and many more are coming.

3. Institutional Backstopping

The Department is currently providing support to counties through the Kenya urban support programme to establish Municipal Management Boards and Town committees as per the Urban Areas and Cities Act. This is a 5-year World Bank Funded programme in 45 counties which will receive urban Institutional Support Grants. The department will need to continue to facilitate and build capacity of the institutions to be able to stand and perform their functions effectively.

MR. CHARLES K'ONYANGO

DIRECTOR URBAN DEVELOPMENT.



4. National Urban Development Policy

- Parliament in 2017 passed the National Urban Development Policy which will guide Kenya's Urbanization Vision, Strategy Norms and Standards. The directorate oversees the implementation of this policy guiding urbanization and acts as regulator on urban development and management standards and norms and advisor to government on urban development and management issues

5. Other National Policies

- Kenya's Big Four Agenda requires a unit whose primary role includes guiding on framework for integrating housing, strategic infrastructure and urban infrastructure and improving national and local governance in the context of urban development. Like many countries around the world, and to provide policy environment that is stable and with the Kenya Vision 2030 envisions. It aims at making Kenya a newly industrializing, "middle income country providing high quality life for all its citizens by the year 2030".
- Best practice examples in the world show that any country that has achieved middle income status has done so on the Basis of effective urbanization. Singapore for example has the urban redevelopment authority and the housing development board guiding the national urbanization and human settlement docket.

5. International Conventions

The Habitat III conference of 2016, noted that Urban areas around the world are facing greater challenges than they did 20 years ago. The persistent urban issues include the growing number of urban residents living in informal settlements and the challenge of providing urban services. The emerging urban issues include climate

change; exclusion and rising inequality and upsurge in migration. This growth is obviously unsustainable.

When well-managed, urbanization fosters social and economic advancement and improved quality of life for all. The current model of urbanization is unsustainable and there is need for an institution that will continuously guide the process through sustained national policy implementation and coordination.

Kenya has subscribed to the new urban agenda 2016 and the agenda 2030 for sustainable development. A directorate is required to advocate, advice and disseminate best practice on the requirements of Kenya's commitment to the agenda so as to effectively address urbanization and human settlement challenges while taking advantage of the opportunities offered by urbanization.

MR. CHARLES O. K'ONYANGO
DIRECTOR, URBAN DEVELOPMENT.



MINUTES OF THE THIRTY SEVENTH (37TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON TUESDAY, 19TH JUNE 2018 AT 9.30 A.M. IN 11TH FLOOR BOARDROOM, PROTECTION HOUSE, PARLIAMENT BUILDINGS

MEMBERS PRESENT

1. Hon. David Pkosing - Chairperson
2. Hon. Samuel Arama
3. Hon. Suleiman Dori Ramadhani
4. Hon. Ahmed Abdisalan Ibrahim
5. Hon. Kulow Maalim Hassan
6. Hon. Mugambi Murwithania Rindikiri
7. Hon. Peris Pesi Tobiko
8. Hon. Rehema Dida Jaldesa
9. Hon. Shadrack John Mose
10. Hon. Tom Mboya Odege
11. Hon. Vincent Kemosi Mogaka
12. Hon. Dominic Kipkoech Koskei
13. Hon. Rigathi Gachagua
14. Hon. David Njuguna Kiaraho
15. Hon. Johnson Manya Naicca

MEMBERS ABSENT WITH APOLOGY

1. Hon. Moses Kuria - Vice Chairperson
2. Hon. Ahmed Bashane Gaal
3. Hon. Gideon Mutemi Mulyungi

MEMBERS ABSENT WITHOUT APOLOGY

1. Hon. Savula Ayub Angatia

FRIEND OF THE COMMITTEE

- 1 Hon. Chris Wamalwa - Member for Kimilili

SECRETARIAT

- 1 Ms. Chelagat Aaron Tungo - Clerk Assistant II
2 Mr. Ahmed Salim A - Clerk Assistant III
3 Ms Mercy Wanyonyi - Legal Counsel II
4 Mr James Muguna - Research Officer
5 Mr Eugene Luteshi - Audio Officer
6 Ms. Zainab Wario - Sergeant at arm
7 Mr. Yezziel Jillo - Sergeant at arm
8 Ms. Noelle Chelagat - Media Relations Officer

IN ATTENDANCE

- 2 Mr. Nicholas Bodo - Ag Director, Air Transport
3 Mr Gilber Kibe - Director General. KCAA
4 Mr. Conrad Mochu - M.D PR Agency
5 Mr Martyn Lunani - Chief Investigator of Aircraft Accidents

MIN No. TPWH 150/2018: PRELIMINARIES

The Chairperson called the meeting to order at forty minutes past nine o'clock, with a prayer from Hon. Sam Arama, MP. The Chairperson informed the Committee that the agenda of the meeting was meeting with Kenya Civil Aviation Authority on the statement by Hon. Chris Wamalwa on the aircraft crash of 5th June 2018 and adoption of reports on the Statute Law (Miscellaneous Amendments) Bill, 2018, the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2018, the Building Surveyors Bill, 2017 and three delegation reports for visits undertaken in Malaysia, Senegal and South Africa.

MIN No. TPWH 151/2018: CONFIRMATION OF MINUTES OF THE PREVIOUS SITTINGS

The confirmation of the pending minutes of the previous sittings was deferred to Tuesday, 26th June 2018.

MIN No. TPWH 152/2018: **MEETING WITH THE KENYA CIVIL AVIATION
AUTHORITY (KCAA) ON THE AIRCRAFT CRASH
OF 5TH JUNE 2018**

Mr. Nicholas Bodo, who accompanied the Director General of KCAA, read to the Committee a statement signed by the Cabinet Secretary for Transport, explaining the sequence of events since the occurrence of the aircraft crash of the flight Reg. 5Y-CAC en route from Kitale to Nairobi, which was operated by Fly SAX company.

In the statement, the Cabinet Secretary informed the Committee that investigations were ongoing, and added that the Emergency Locator Transmitter (ELT) was found and was being examined. It was further reported that the aircraft last underwent an inspection and received a Certificate of Release into Service (CRS) on 14th May 2018 and was therefore airworthy. In addition, the aircraft was fitted with a Ground Proximity Warning System (GPWS) and Weather Radar. The Ministry undertook to update the Committee with more information as and when it becomes available.

Members, including the Hon. Chris Wamalwa, were not satisfied with the information from the Ministry. The Committee noted that the government owed the families of the victims and the country at large a detailed and open explanation on the air crash. While interacting with the Ministry representatives, it was noted that there were ten pending investigations into the causes of different air crashes in Kenya and therefore it was important that the matters be brought to a quick and conclusive closure. The Committee further noted with concern that although the flight was given clearance to fly at 13000 feet, the crew requested to fly at 11000 feet despite the fact that the path might not have been favorable to a lower cruise. The Committee also noted that although the flight was destined for Wilson to Kitale, there was an immediate change to Jomo Kenyatta International Airport reportedly for the pilot to drop three passengers who were late for their connecting flight. This information was however subject to verification from the Fly SAX Company. The Director General of KCAA informed the Committee that change of path is

normal as long as the pilot requested from the air traffic control for any reasons deemed proper by the pilot.

The Committee was further informed that most of the information spread on both the print and the social media on the accident were untrue but that the relevant government and investigatory agencies cannot respond to such because the investigations were ongoing and therefore it needed an extreme level of restraint considering the sensitivity of the matter.

The Ministry officials were asked to send more information and a preliminary report to the Committee by Thursday, 21st June 2018. Further, the KCAA was advised to send a request to aircraft operators to ensure they only use pressurized aircrafts in those routes with bad weather as part of precautionary and safety steps.

MIN No. TPWH 153/2018: **ADOPTION OF THE REPORT ON STATUTE LAW
(MISCELLANEOUS AMENDMENTS) BILL, 2018**

The Report on Statute Law (Miscellaneous Amendments) Bill, 2018 was adopted by the Committee, having been proposed for adoption by Hon. Peris Tobiko and seconded by Hon. Mugambi Rindikiri.

MIN No. TPWH 154/2018: **ADOPTION OF THE REPORT ON STATUTE LAW
(MISCELLANEOUS AMENDMENTS) (NO. 2) BILL,
2018**

The Report on Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2018 was adopted by the Committee, having been proposed for adoption by Hon. Samuel Arama and seconded by Hon. Shadrack Mose.

MIN No. TPWH 155/2018: **ADOPTION OF THE REPORT ON THE BUILDING
SURVEYORS BILL, 2018**

The Report on the Building Surveyors Bill, 2018 was adopted by the Committee, having been proposed for adoption by Hon. David Kiharao and seconded by Hon. Rigathi Gachagua.

MIN No. TPWH 156/2018:

ADOPTION OF THE DELEGATION REPORT ON
THE 9TH WORLD URBAN FORUM (WUF9) HELD IN
KUALA LUMPUR, MALAYSIA

The Delegation Report on the 9TH World Urban Forum (WUF9) held in Kuala Lumpur, Malaysia on February 2018 was adopted by the Committee, having been proposed for adoption by Hon. Tom Odege and seconded by Hon. Dominic Koskei.

MIN No. TPWH 157/2018:

ADOPTION OF THE DELEGATION REPORT ON
THE ICAO REGIONAL FACILITATION (FAL)
SEMINAR HELD IN DAKAR SENEGAL

The Delegation Report on the ICAO Regional Facilitation (FAL) Seminar held in Dakar Senegal on March 2018 was adopted by the Committee, having been proposed for adoption by Hon. Rehema Jaldesa and seconded by Hon. Mugambi Rindikiri.

MIN No. TPWH 158/2018:

ADOPTION OF THE DELEGATION REPORT ON
THE ICAO REGIONAL SEMINAR HELD IN
JOHANNESBURG, SOUTH AFRICA

The Delegation Report on the ICAO Regional Seminar held in Johannesburg, South Africa on April 2018 was adopted by the Committee, having been proposed for adoption by Hon. Samuel Arama and seconded by Hon. Vincent Mogaka.

MIN No. TPWH 159/2018:

ADJOURNMENT

There being no other business, the sitting was adjourned at ten minutes past one o'clock. The next meeting to be held on Thursday, 21st June 2018.

Signed.....

(Chairperson)

Date..... 20/06/2018

MINUTES OF THE THIRTY SIXTH (36TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON THURSDAY, 14TH JUNE 2018 AT 9.30 A.M. IN 2ND FLOOR BOARDROOM, CONTINENTAL HOUSE, PARLIAMENT BUILDINGS

MEMBERS PRESENT

1. Hon. Shadrack John Mose - Session Chairperson
2. Hon. David Njuguna Kiaraho
3. Hon. Ahmed Abdisalan Ibrahim
4. Hon. Dominic Kipkoech Koskei
5. Hon. Gideon Mutemi Mulyungi
6. Hon. Mugambi Murwithania Rindikiri
7. Hon. Peris Pesi Tobiko
8. Hon. Rehema Dida Jaldesa
9. Hon. Tom Mboya Odege
10. Hon. Vincent Kemosi Mogaka

MEMBERS ABSENT WITH APOLOGY

1. Hon. David Pkosing - Chairperson
2. Hon. Moses Kuria - Vice Chairperson
3. Hon. Samuel Arama
4. Hon. Suleiman Dori Ramadhani
5. Hon. Ahmed Bashane Gaal
6. Hon. Johnson Many Naicca
7. Hon. Kulow Maalim Hassan

MEMBERS ABSENT WITHOUT APOLOGY

1. Hon. Rigathi Gachagua
2. Hon. Savula Ayub Angatia

SECRETARIAT

1. Ms Chelagat Aaron Tungo - Clerk Assistant II
2. Mr. Ahmed Salim A. - Clerk Assistant III
3. Ms. Mercy Wanyonyi - Legal Counsel II
4. Mr James Muguna - Research Officer
5. Mr. Eugene Luteshi - Audio Officer
6. Mr Yezziel Jillo - Sergeant at arm
7. Ms. Noelle Chelagat - Media Relations Officer

IN ATTENDANCE

1. Mr Charles Hinga - Principal Secretary, Housing
2. Prof Arch. P. M. Maringa (Ph D) - Principal Secretary, Transport
3. Mr Francis Meja - Director General, NTSA
4. Mr Andrew Saisi - Managing Director, NHC
5. Mr Johnny Anderson - Managing Director, KAA
6. Lt. Gen. (Rtd) J N. Waweru - Board Chairman, NTSA
7. Mr Gitonga M'limbine - Board Member, NTSA
8. Brigut Oyway - Board Member, NTSA
9. Mr John Muya - U S , State Dept of Transport
10. Mr. William Keitany - Ag. Corporate Secretary, NHC
11. Ms. Katherine N. Kisila - Corporation Secretary
12. Mr. Moses A. Nyakiongora, OGW - National Buildings Inspectorate, Nrb
13. Mr Nicholas M. Musuni - Registrar/CEO, Engineers Board
14. Ms Catherine Kinya Mungania - Legal & Corporate Affairs Manager
15. Ms. Grace Kamau - Senior Principal State Counsel, Transport
16. Mr. Charles O. Konyango - Director, Urban Development – U.D.D
17. Mr. Kenneth O. Nyaseda - Senior Physical Planning Officer
18. Mr. Simon Opondo - Dep. Director, State Dept. of Housing
19. Mr. Maurice Akech - Ag Executive Director, NCA
20. Ms. Angelah Rugut - Principal Air Transport Officer, Transport
21. Mr. Robert Ngugi - Senior Dep. Director, Legal, NTSA

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| 22. Mr. Patrick Tilotei | - | P.A. to D.G., NTSA |
| 23. Eng. R. Karani Raymond | - | Manager, Reg. & Compliance, NCA |
| 24. Ms. Yvonne Getugi | - | Senior Legal Officer, NCA |
| 25. Ms. Victoria Mulwa | - | Senior Legal Officer, Kenya Railways |
| 26. Mr. Daniel Moss | - | Legal Assistant, Kenya Airports Authority |

MIN No. TPWH 147/2018: **PRELIMINARIES**

The Chairperson called the meeting to order at thirty five minutes past nine o'clock, with a prayer from Hon. Tom Odege, MP. The Chairperson informed the Committee that the agenda of the meeting was meeting with different stakeholders on to receive submissions on the Statute Law (Miscellaneous Amendments) Bill, 2018 and the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2018.

MIN No. TPWH 148/2018: **SUBMISSIONS FROM STAKEHOLDERS ON THE
STATUTE LAW (MISCELLANEOUS
AMENDMENTS) BILL, 2018 AND THE STATUTE
LAW (MISCELLANEOUS AMENDMENTS) (NO. 2)
BILL, 2018**

The stakeholders present were welcomed into the meeting. Oral submissions on the Statute Law (Miscellaneous Amendments) Bill, 2018 were received from the Kenya Airports Authority (KAA), from the Engineers Board of Kenya (EBK), from the National Construction Authority (NCA), from the National Transport and Safety Authority (NTSA), from the National Housing Corporation, and from the Ministry through the State Department for Housing & Urban Development and through the State Department for Transport. In their various submissions, the stakeholders largely agreed with the amendments contained in the Bill except for a few proposals which the Committee undertook to consider in the final report. Further, the National Transport and Safety Authority (NTSA) and the Ministry rejected in totality amendments to the National Transport and Safety Authority Act, 2012 on the grounds that both the Ministry and the NTSA were not consulted on the proposals and if allowed to pass, the amendments will have far-reaching consequences on the smooth operations of the NTSA.

Oral submissions on the Statute Law (Miscellaneous Amendments) (No. 2) Bill, 2018 were received from the Ministry with regard to the Urban Areas and Cities Act, 2011 and the Ministry had no objections to the proposed amendments since the amendments were pursuant to paragraph 20 and 21 of Part 1 of the Fourth Schedule to the Constitution which provides that housing policy and general principles of land planning and co-ordination of planning by counties is a function of the national government. The Committee therefore noted that the proposed amendments seek to ensure that county governments comply with the National Urban Development Policy.

MIN No. TPWH 149/2018: **ADJOURNMENT**

There being no other business, the sitting was adjourned at thirty minutes past one o'clock. The next meeting to be held on Tuesday, 19th June 2018.

Signed..... DAR/LS
(Chairperson)

Date..... 20/06/2018

MINUTES OF THE THIRTY FIRST (31ST) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON THURSDAY, 17TH MAY 2018 AT 9.30 A.M. IN BOMA INN HOTEL, SOUTH C NAIROBI

PRESENT

Hon. David Pkosing - Chairperson
Hon. Samuel Arama
Hon. Johnson Many Naicca
Hon. David Njuguna Kiaraho
Hon. Ahmed Abdisalan Ibrahim
Hon. Dominic Kipkoech Koskei
Hon. Kulow Maalim Hassan
Hon. Mugambi Murwithania Rindikiri
Hon. Peris Pesi Tobiko
Hon. Shadrack John Mose
Hon. Vincent Kemosi Mogaka
Hon. Gideon Mutemi Mulyungi
Hon. Rigathi Gachagua

ABSENT WITH APOLOGY

Hon. Moses Kuria - Vice Chairperson
Hon. Ahmed Bashane Gaal
Hon. Rehema Dida Jaldesa
Hon. Suleiman Dori Ramadhani
Hon. Savula Ayub Angatia
Hon. Tom Mboya Odege

SECRETARIAT

Ms. Chelagat Tungo - Clerk Assistant II
Mr. Ahmed Salim Abdalla - Clerk Assistant III
Ms. Emma Essendi - Legal Counsel II
Mr. James Muguna - Research Officer
Mr. Abdinasir Moge - Fiscal Analyst
Ms. Zeinab Wario - Sergeant-at-arm
Mr. Eugene Luteshi - Audio Office

MIN No. TPWH128/2018: PRELIMINARIES

The Chairman called the meeting to order at 2:45 p.m. The meeting was then opened with a word of prayer. Members were informed that the agenda of the meeting was to receive a briefing from the Fiscal Analyst on the budget estimates for the financial year 2018/19 before interrogation of the main budget for Ministry of Transport, Infrastructure, Housing and Urban Development as well as its Departments and Agencies.

MIN No. TPWH129/2018: BRIEF ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL, 2018

The Legal Counsel took Members through the Brief on the Statute Law (Miscellaneous Amendments) Bill, 2018, Clause by Clause. While the Committee deliberated on the Bill, it made the following general observations

- 1) As regards to the proposed amendments to the Housing Act, Cap 117, the Committed noted that the Cabinet Secretary should appoint a maximum of six members to the Corporation taking into account the regional and ethnic balance of the people of Kenya, gender, and representation of youths and persons with disabilities.
- 2) As regards to the proposed amendments to the Kenya Ports Authority Act (Cap 309) and the Kenya Airports Authority Act (Cap.395), the Committee was agreeable to the proposed amendments which seek to provide that arbitrators in disputes under the two statutes shall be appointed by the Registrar of the Nairobi Centre for Arbitration instead of the Chief Justice since it would encourage the independence of the courts in matters arbitration.
- 3) As regards the proposed amendments to the Traffic Act, Cap 403, the Committee noted that-
 - (a) The proposed amendments seek to align the Traffic Act, Cap 403 to the National Transport and Safety Authority Act, No.33 of 2012 since the amendments seek to, among other things define and provide for the appointment of inspectors of motor vehicles and designate authorized officers by the National Transport and Safety Authority; and
 - (b) The proposed amendments seek to recognize the East African Community Load Control Act, 2013 as regards the removal of vehicles from the road and also create an offence with respect to driving of commercial vehicles while being intoxicated and prescribe a penalty for the same or in accordance with the the East African Community Load Control Act, 2013;
- 4) As regards to the proposed amendments to the Kenya Roads Board Act, the Committee noted that the Kenya Roads Bill, 2017 which was at the Senate had similar amendments on the qualifications of the Executive Director of the Board and had been passed by the House.

- 5) As regards to the proposed amendments to the National Construction Authority Act, the Committee noted that the amendments were minor amendments seeking to correct cross-referencing mistakes.
- 6) As regards to the proposed amendments to the Engineers Act, the Committee noted that the amendments only seek to provide for the extension of the renewal of registration of foreign engineers where works have not been completed.
- 7) With respect to the proposed amendments to the National Transport and Construction Authority Act, No33 of 2012, the Committee observed that the proposed amendments were substantive in nature seeking to remove the corporate powers of the Authority and to also have its offices and establish offices elsewhere.
- 8) With regards to the proposed amendments to the Urban Areas and Cities Act, the Committee observed that the proposals are pursuant to Paragraph 20 and 21 of Part 1 of the Fourth Schedule to the Constitution which provides that housing policy and general principles of land planning and co-ordination of planning by counties is a function of the national government. The Committee further noted that the proposed amendments seek to ensure that county governments comply with the National Urban Development Policy.
- 9) The proposed amendments by Mr. Kenneth Samoei to the Engineers Act were in contravention of Standing Order 133 (5) which provides that no amendment shall be permitted to be moved if the amendment deals with a different subject matter or proposes to unreasonably or unduly expand the subject of the Bill or is inappropriate or is not in logical sequence to the subject matter of the Bill.

Having considered the Bill, the Committee made the following recommendations that:-

- 1) Section 3(2) of the Housing Act, be further amended in paragraph (d) by-
 - (a) deleting the words “not less than five nor more than seven” and substituting therefor the words “six”; and
 - (b) by inserting the following new paragraph immediately after paragraph (d) –

“(h) in appointing the persons under paragraph (d),the Cabinet Secretary shall ensure that –

 - (i) It reflects the regional and ethnic diversity of the people of Kenya;
 - (ii) Not more than two thirds of the members are of the same gender; and
 - (iii) Youths and persons with disability are represented.
- 2) The Traffic Act, Cap 403 be further amended in section 2 by deleting the definition of the term “driving test examiner”;
- 3)The proposed amendment to section 57 of the Traffic Act, Cap 403 be deleted;
- 4)The proposed amendment to Section 58 of the Traffic Act, Cap 403 be further amended by inserting the words “or in accordance with the East African Commercial Vehicle Load Control Act,2013” before the words “shall be guilty”;
- 5) The proposed amendment to section 70 (5B) of the Traffic Act, Cap 403 be deleted;

6) The proposed amendment to Section 106 (8) of the Traffic Act, Cap 403 be further amended by deleting the words “under” appearing immediately before the word “thereunder”;

7) The proposed amendment to section 2 of the National Transport and Safety Authority Act , No.33 of 2012 be deleted; The Committee rejected the proposed amendment.

8) The proposed amendment to section 3(2) of the National Transport and Safety Authority Act, No.33 of 2012 be deleted; The Committee rejected the proposed amendment.

9) The proposed amendment to section 5 of the National Transport and Safety Authority Act , No.33 of 2012 be deleted; The Committee rejected the proposed amendment.

10) The proposed amendment to section 15(1) of the National Transport and Safety Authority Act, No.33 of 2012 be deleted; The Committee rejected the proposed amendment.

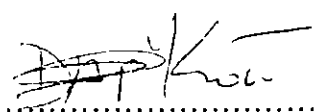
11) The proposed amendment to section 15(3) of the National Transport and Safety Authority Act, No.33 of 2012 be deleted; The Committee rejected the proposed amendment.

MIN No. TPWH130/2018: ANY OTHER BUSINESS

The Committee tasked the secretariat to prepare a draft report on the Statute Law (Miscellaneous Amendments) Bill, 2018 to be adopted by Members before tabling in the House.

MIN No. TPWH131/2018: ADJOURNMENT

There being no other business to transact, the sitting adjourned at thirty minutes past one o'clock. The next meeting was scheduled for same day at 2.30 p.m. where the Committee will meet the accounting officer from State Department of Housing, Urban Development and Public Works.

Signed.....
(Chairperson)

Date.....19/6/2018.....