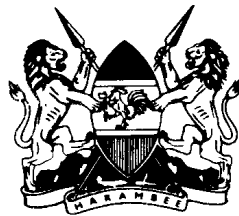


REPUBLIC OF KENYA



ELEVENTH PARLIAMENT-(THIRD SESSION)

THE NATIONAL ASSEMBLY

MESSAGES

MESSAGE (NO. 22 OF 2015)

REFERRAL BY H.E. THE PRESIDENT OF:

- i. THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL, 2014; AND
- ii. THE PUBLIC AUDIT BILL, 2014.

Honourable Members,

You may recall that during the First Part of this Session, the National Assembly passed the Public Procurement and Asset Disposal Bill, 2014, and the Public Audit Bill, 2014 which had Constitutional deadlines. Thereafter, I presented the Bills for Assent to H.E. the President on **May 27, 2015**, in accordance with the provisions of the Constitution and our Standing Orders. However, on June 10, 2015, H.E. the President, by way of Memoranda, referred the Bills back to the National Assembly for reconsideration, pursuant to the provisions of Article 115(1)(b) of the Constitution.

Honourable Members,

On the Public Procurement and Asset Disposal Bill, 2014, H.E. the President has expressed reservations on Clauses 51 and 124. Consequently, the President recommends *amendment of sub-clause (3) of Clause 51 and the deletion of sub-clause 4 of Clause 124 and insertion of a new sub-clause 4 therefor.* Regarding the Public Audit Bill, 2014, H.E. the President has made recommendations on *Clauses 4, 8, 16, 19 and 66.* The President has also recommended the insertion of *new Clauses 11A and 40A.*

Hon. Members, it is important from the onset to note that these two Bills were considered by the two Houses of Parliament. In this regard, the consideration of the Presidential Memoranda will be by both the National Assembly and the Senate.

Honourable Members,

Let me remind you that I have always observed that some provisions of our Standing Orders, especially those related to the consideration of Presidential Memoranda on a Bill, do not accord to the expectations of the Constitution. For instance, the provisions of Standing Order 155 which commits Presidential Memoranda on a Bill considered by both

Houses to a Joint Committee seem to offend the provisions of Article 115 of the Constitution. While the provisions of Standing Order 115 foresee the adoption of a report of a Joint Committee of the two Houses, the Constitution requires that any amendment to the President's recommendations or a total rejection of the recommendations should be supported by a vote of at-least two-thirds of the Members of the National Assembly **AND** two-thirds of the delegations in the Senate. With this in mind, this may be said to be one of the instances where we cannot use the Standing Orders in the consideration of the matters at hand.

Hon. Members, in view of the foregoing, I will issue a comprehensive guidance on how to proceed with the above matters on Tuesday, June 16, 2015. In the meantime, the Memoranda stand committed to the Departmental Committee on Finance, Planning and Trade for consideration.

Thank you!

THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY

June 11, 2015