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REPUBLIC OF KENYA
THIRTEENTH PARLIAMENT – (SECOND SESSION)
THE NATIONAL ASSEMBLY

COMMITTEE ON IMPLEMENTATION

FIRST REPORT ON
IMPLEMENTATION STATUS OF REPORTS ON PETITIONS AND
RESOLUTIONS PASSED BY THE HOUSE

October, 2023

26 OCT 2023 Thursday
Hon. Rose Musoco (Vice Chairperson
Implementation Committee)
Anne Shibusko

Directorate of Audit, Appropriations and Other Select Committees
The National Assembly
Parliament Buildings
NAIROBI

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ABBREVIATIONS

| | | |
|--------|---|---|
| AFS | - | Audited Financial Statement |
| BQ | - | Bill of Quantities |
| CEO | - | Chief Executive Officer |
| CORT | - | Code of Regulations for Teachers |
| EACC | - | Ethics and Anti-Corruption Commission |
| EMS | - | Express Mail Services |
| FAMs | - | Fund Accounts Managers |
| GIS | - | Geographical Information Systems |
| ILO | - | International Labour Organization |
| KARO | - | Kenya Association of Retired Officers |
| KFS | - | Kenya Ferry Service |
| KMA | - | Kenya Maritime Authority |
| KNUT | - | Kenya National Union of Teachers |
| KPA | - | Kenya Ports Authority |
| KUPPET | - | Kenya Union of Post Primary Teachers |
| NG-CDF | - | National Government Constituency Development Fund |
| NHIF | - | National Health Insurance Fund |
| NIMES | - | National Electronic Monitoring and Evaluation Systems |
| PAC | - | Public Accounts Committee |
| PIC | - | Public Investment Committee |
| PMC | - | Project Management Committee |
| PSASB | - | Public Sector Accounting Standard Board |
| PWP | - | Presidential Working Party |
| SAGAs | - | Semi-Autonomous Government Agencies |
| SOLAS | - | Safety Life at the Sea |
| SRC | - | Salaries and Remuneration Commission |
| TPD | - | Teacher Professional Development Program |
| TSC | - | Teachers Service Commission |

CHAIRPERSON'S FOREWORD

The Committee on Implementation is established under Standing Order 209 of the National Assembly Standing Orders. The Committee scrutinizes resolutions of the House (*including adopted Committee Reports*), petitions and undertakings given by the National Executive. It examines whether such decisions and undertakings have been implemented, the extent to which they have been implemented and whether such implementation has taken place within the minimum time necessary.

The mandate of the Committee is further enhanced by Standing Order 201 of the National Assembly Standing Orders that provides that within 60 days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the appropriate Committee of the House. In addition, Article 153(4) (b) of the Constitution requires Cabinet Secretaries to provide Parliament with full and regular reports concerning matters under their control.

As such, the Committee plays a pivotal role in ensuring that the National Assembly resolves issues of concern to the people by holding the executive to account through the implementation of House resolutions. This ultimately ensures that the National Assembly executes its constitutional mandate effectively and efficiently; and that it does not act in vain.

In the execution of its mandate, the Committee invited the concerned Ministries, Departments and Semi-Autonomous Government Agencies (SAGAs) to submit status reports on the implementation of various House resolutions under their purview. The Committee also received both oral and written submissions from Cabinet Secretaries and Accounting Officers of State Corporations about the extent to which they had implemented recommendations contained in the reports adopted by the House.

In addition, the Committee carried out inspection of some of the projects referenced in the reports to verify their degree of completeness as reported by the Accounting Officers. This report therefore contains responses received by the Committee from the implementing agencies about the status of implementation of House resolutions, findings arising from inspection visits to various projects, as well as observations about the level of implementation and Committee recommendations.

In execution of its mandate, the Committee made the following general observations which have a direct impact on the implementation of House resolutions:

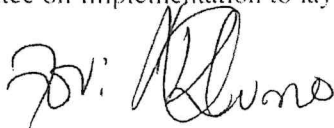
1. A majority of the House Resolutions have budgetary implications for their effective implementation. For this reason, there is need for appropriation of funds in subsequent financial year to ensure House Resolutions are implemented as directed. However, in most instances, inadequate budgetary allocation is the major hindrance to effective implementation of the same by ministries, departments and agencies.;
2. Some of the recommendations were generalized and not specific, measurable, achievable, realistic and time-bound (SMART) so as to facilitate smooth implementation of House resolutions.

To address these challenges, the Committee made the following general recommendations:

1. The Accounting Officers of MDAs should factor resolutions with budgetary implications in the subsequent financial year budgets for effective implementation;
2. The Accounting Officers of MDAs should incorporate House resolutions in their work plans for effective and efficient delivery of the implementations. This should include timelines for achievement of specific deliverables and assignment of responsibility; and
3. The EACC should provide a status report of all pending investigations stated in this report within 60 days of the adoption of this report by the House.

In conclusion, I wish to express my appreciation to fellow Honourable Members of the Committee, the Office of the Speaker, the Clerk of the National Assembly and the Secretariat for their contribution and support in the production of this report.

Pursuant to Standing Order 199(6), it is therefore, my pleasant duty and privilege, on behalf of the select Committee on Implementation to lay this report on the table of the House.



HON. RAPHAEL BITTA SAUTI WANJALA, M.P.
CHAIRPERSON, COMMITTEE ON IMPLEMENTATION

1 PREFACE

1.1 Mandate of the Committee

1. The Committee on Implementation is established under Standing Order 209 of the National Assembly Standing Orders.
2. The Committee is charged with scrutinizing the resolutions of the House (*including adopted committee reports*), petitions and undertakings given by the National Executive and examining whether or not such decisions and undertakings have been implemented and where implemented, the extent to which they have been implemented; and whether such implementation has taken place within the minimum time necessary; and whether or not legislation passed by the House has been operationalized and where operationalized, the extent to which such operationalization has taken place within the minimum time necessary. The Committee may propose to the House: sanctions against any Cabinet Secretary who, without justifiable reasons; fails to report to the relevant Committee on the implementation status.
3. Standing Order 201 further provides that within 60 days of a resolution of the House or adoption of a report of a select committee, the relevant Cabinet Secretary under whose portfolio the implementation of the resolution falls shall provide a report to the appropriate Committee of the House.
4. The mandate of the Committee is further enhanced by the provisions of Article 153(4) (b) of the Constitution which requires Cabinet Secretaries to provide Parliament with full and regular reports concerning matters under their control.

1.2 Committee Membership

5. The Committee membership comprises:

Chairperson

Hon. Raphael Bitta Sauti Wanjala, M.P.
Budalangi Constituency
Orange Democratic Movement

Vice-Chairperson

Hon. Rose Museo, M.P.
Makueni County

Wiper Democratic Movement-Kenya

Members

Hon. Mohamed Ali, M.P.
Nyali Constituency

United Democratic Alliance

Hon. Elijah Memusi Kanchory, M.P.
Kajiado Central Constituency

Orange Democratic Movement

Hon. Johnson Many Naicca, M.P.
Mumias West Constituency

Orange Democratic Movement

Hon. Hillary Arap Kosgei, M.P.
Kipkelion West Constituency

United Democratic Alliance

Hon. George Koimburi Ndung'u, M.P.
Juja Constituency

United Democratic Alliance

Hon. Nicholas N. Nixon Ngikilong', M.P.
Turkana East Constituency

Jubilee Party

Hon. Charles Gumini Gimose, M.P.
Hamisi Constituency

Amani National Congress

Hon. Prof. Guyo Waqo Jaldesa, M.P.
Moyale Constituency

United Party of Independent Alliance

Hon. Linet Chebet, Siyoi, M.P.
Trans Nzoia County

United Democratic Alliance

Hon. Abdul Ebrahim Haro, M.P.
Mandera South Constituency

United Democratic Movement

Hon. Cynthia Jepkosgei Muge, M.P.
Nandi County
United Democratic Alliance

Hon. Julius Taitumu M'Anaiba, M.P.
Igembe North Constituency
United Democratic Alliance

Hon. John Okwisia Makali, M.P.
Kanduyi Constituency
FORD-K

Hon. Timothy Kipchumba Toroitich, M.P.
Marakwet West Constituency
Independent

Hon. Hamisi Kakuta Maimai, M.P.
Kajiado East Constituency
Orange Democratic Movement

Hon. Stanley Muiruri Muthama, M.P.
Lamu West Constituency
Jubilee Party

Hon. Mark Samwel Muriithi Mwenje, M.P.
Embakasi West Constituency
Jubilee Party

Hon. Zamzam Mohamed Chimba, M.P.
Mombasa County
Orange Democratic Movement

Hon. Rael Chepkemoi Kasiwai, M.P.
West Pokot
Kenya Union Party

1.3 Committee Secretariat

6. The Secretariat facilitating the Committee in executing its mandate comprises of:

Ms. Lucy G. Kimathi

Principal Clerk Assistant I/Team Leader

Mr. Abdiaziz Shobay

Clerk Assistant II

Ms. Kafuyai Wamae

Clerk Assistant III

Mr. Abdimalik Ahmed

Clerk Assistant III

Ms. Noel Amutabi

Legal Counsel II

Ms. Winnie Kiziah

Media Relations Officer II

Dr. Joseph K. Waitara

Research Officer III

Mr. Danton Kimutai

Audio Officer III

Mr. Joshua Lenambeti

Sergeant- at- Arms

Ms. Mary Kamande

Public Communications Officer III

2 INTRODUCTION

7. The Committee on Implementation commenced to apprise itself on implementation status of House resolutions according to Standing Order 209 (2) which requires the Committee to scrutinize resolutions of the House (including adopted Committee Reports), Petitions and undertakings given by the National Executive.
8. This report contains the status of the implementation of various House resolutions as submitted by various Ministries, Departments and Agencies between February and April, 2023 as follows:
 - i. Report of the Departmental Committee on Education and Research on Public Petition No. 047 of 2021 regarding the suspension of the Teacher Professional Development (TPD) program;
 - ii. Report by the Departmental Committee on Education and Research on Public Petition regarding the repeal of sections of the Universities Act 2012;
 - iii. The Special Fund Accounts Committee Report on the examination of Audited Financial Statements for Financial years 2013/14 to 2015/16 for the National Government Constituency Development Fund (NG-CDF) for Constituencies in Nairobi County;
 - iv. The Public Investments Committee Report on the Inquiry into the Safety of Ferries as observed in the Audited Accounts for Financial Year 2016/17; and
 - v. Report by the Departmental Committee on Labour and Social Welfare on its consideration of the Petition by the Kenya Association of Retired Officers (KARO) on improved terms for pensioners in Kenya.

IMPLEMENTATION STATUS OF VARIOUS COMMITTEE REPORTS, PETITIONS AND HOUSE RESOLUTIONS

3 THE REPORT OF DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH ON PUBLIC PETITION NO. 047 OF 2021 REGARDING THE SUSPENSION OF TEACHER PROFESSIONAL DEVELOPMENT PROGRAM

3.1 Background

9. The Petition regarding the suspension of Teachers Professional Development (TPD) by the Teachers Service Commission (TSC) was presented by Hon. Omboko Milemba, M.P. on behalf of Mr. Moses Mboru, Mr. Francis Yivo and Mr. Justus Nyakundi. The three were representatives of the Kenya Union of Post Primary Education Teachers (KUPPET) Nairobi Branch.

Recommendations by the Departmental Committee on Education and Research

10. In response to the Petitioners' prayer, the Departmental Committee on Education and Research Committee recommended that:
- i. The Teachers Service Commission suspends the roll-out and implementation of the Teacher Professional Development programme until the following concerns regarding the programme are addressed by the Commission:
 - a. That the Teacher Service Commission should conduct extensive public participation as required under Article 232(1) (d) of the Constitution and consider the views of teachers, teachers' trade unions and other stakeholders with a view of building consensus on the programme; and
 - b. That the sourcing of service providers/institutions/centres to offer the programme should be broadened to ensure even distribution of the centres across the counties for easy access.
 - ii. The Teacher Professional Development programme, being a training initiated by the employer, should be paid for by the Government; and
 - iii. Parliament should enact legislation and pass amendments to Article 237 of the Constitution and the Teachers Service Commission Act, 2012 to remedy the conflict of interest of the Commission being a regulator and an employer and further scrutinize and approve regulations governing Teacher Professional Development program.

3.2 Implementation Status of the Recommendations

11. The Committee on Implementation wrote to the Teachers Service Commission on 19th January, 2023 seeking the implementation status of the report by the Departmental Committee on Education and Research on Public Petition No. 047 of 2021 regarding the suspension of the Teacher Professional Development program.
12. Dr. Nancy Macharia, the Chief Executive Officer of the Teacher Service Commission, appeared before the Committee on 21st February, 2023 to apprise the Committee on the implementation of the recommendations.

She was accompanied by the following officers of the commission:

- i. Mr. Cavin Anyuor - Director Legal Services
- ii. Dr. Reuben Ndamburi - Director Quality Assurance
- iii. Mr. Gabriel Mathenge - Director Operations
- iv. Ms. Edwin Musundi - Legal Officer

Submission by the Chief Executive Officer

13. Dr. Macharia submitted that a Constitutional Petition No. 24 of 2021 challenging the implementation of TPD by Joseph Ng'ethe Karanja vs TSC and nine others was before the Nakuru Employment and Labour Relations Court. Specifically, she informed the Committee that the petitioner sought *inter alia* the following orders:
 - i. Declaration that, in formulating and seeking to implement TPD, the Commission failed to observe and uphold Articles 10, 41, 47 and 232 of the Constitution;
 - ii. A permanent injunction restraining the Commission from implementing TPD;
 - iii. Declaration that the appointment of the service providers was irregular, illegal, and thus void; and
 - iv. Declaration that Regulation 48 of the Code of Regulations for Teachers (CORT) is unconstitutional.
14. She further informed the Committee that the teachers' unions, the Kenya National Union of Teachers (KNUT) and Kenya Union of Post Primary Teachers (KUPPET) together with the service providers were enjoined as respondents in the suit and filed responses to it. She added that the Committee on Education had considered the Petition and it had made recommendations that TSC suspends the roll-out and implementation of the TPD program until the following concerns regarding the programme are addressed by the Commission:

- i. Conduct extensive public participation as required under Article 232(1) (d) of the Constitution and take into account views of teachers, teacher unions and other stakeholders with a view of building consensus concerning the programme; and
 - ii. Broaden the sourcing of service providers to offer the programme to ensure even distribution of the centres across counties for easy access.
15. With regard to the above, the CEO submitted that the TSC had informed the Committee on Education and Research that the matter was *sub judice*, since the issues raised in the Petition were similar in subject to a matter that was pending in court, and which was still active at the time of the submission.
16. She informed the Committee that the Commission had appealed against the recommendations by the Committee on Education and Research to the Speaker of the National Assembly.
17. Upon this appeal, the Speaker of the National Assembly vide a letter Ref: NA.2/4/2022 (187) dated 20th July 2022 directed that the recommendations of the Committee on Education with respect to the Public Petition No. 47 of 2021 be put in abeyance awaiting the outcome of the Court matter.
18. Pursuant to the directive by the Speaker of the National Assembly highlighted above, the Committee on Implementation was informed that the recommendations of the Committee on Education and Research were put in abeyance awaiting the determination of the court case.
19. The Court rendered its judgement on 22nd September, 2022 on the matter and made the following findings:
 - a) That the Commission had not breached Articles 10, 41, 47 & 232 of the Constitution in implementing TPD;
 - b) By providing for and implementing TPD, the Commission was simply implementing the provisions of the law under Article 237 of the Constitution, Sections 11 and 35 of the TSC Act and Regulations 41, 48 and 49 of the Code of Regulations for Teachers;
 - c) The appointment of the service providers was appropriately done in accordance with the Public Procurement and Asset Disposal Act; and
 - d) Regulation 48 of CORT does not offend Article 237 of the Constitution and it is therefore constitutional and valid.

To this end, the suit was dismissed in its entirety.

20. Dr. Macharia informed the Committee that as a result of the dismissal of the Petition, the Commission's obligations under the Committee's recommendations were therefore fully discharged. This is because the matters raised in the petition mirrored issues and recommendations in the report by the Departmental Committee on Education and Research.
21. She further submitted that the Commission had received feedback from teachers and other stakeholders and it is in consultation with the Ministry of Education on the use of the existing Teacher Training Colleges as centres for capacity building and professional development programmes for teachers. This is meant to address issues of costs and other logistical challenges the Commission has faced in rolling the programme out.
22. Lastly, the Committee was informed that TSC had gained important insights since the commencement of the programme and that it is committed to working with more institutions to expand accessibility and to lower costs in the next phase of the programme.

Committee Observations

23. Arising from the submissions by the TSC, the Committee observed that the court had pronounced itself on the matter and that the recommendations by the Committee on Education and Research had been fully addressed.

Committee Recommendation

24. **The Committee recommends that the Teachers Service Commission should fast track its engagement with the Ministry of Education and engage with teachers, who are the key stakeholders, in order to lower the cost of the programme and bring more service providers on board so as to improve accessibility.**

4 REPORT OF THE DEPARTMENTAL COMMITTEE ON EDUCATION AND RESEARCH ON A PETITION REGARDING REPEAL OF SECTIONS OF THE UNIVERSITIES ACT, 2012

4.1 Background

25. Mr. Amos Ndung'u Kamotho presented a Petition to the Clerk of the National Assembly on 5th August, 2021. The petitioner sought to repeal sections 41(1c), (1d) and (1e) of the Universities Act, 2012 in order to replace the Electoral College system with Direct Voting system based on universal suffrage.

26. In response to the petitioner's prayer, the Departmental Committee on Education and Research recommended that:

The Universities Act, 2012 be amended to provide for election to the students' council through election by the students' associations comprising of all students as opposed to electoral colleges by amending Section 41 of the Universities Act, 2012 by:

- i. deleting subsection (1c) which provides for the election of members of the student council through electoral colleges;
- ii. deleting subsection (1d) which provides for the election of three representatives from each electoral college; and
- iii. deleting subsection (1e) which provides for the election of members of the student council by representatives of each electoral college.

27. The Committee on Education also recommended that each university, in consultation with the students' associations of the university, formulates and enacts regulations on good academic standing to govern the conduct of elections; including regulation of campaigns, election financing, offences and penalties.

4.2 Implementation Status of the Recommendations

28. The Committee on Implementation wrote to the Ministry of Education seeking the implementation status of the report on 19th January, 2023.

29. Dr. Beatrice Inyangala, the Principal Secretary, State Department of Higher Education and Research, appeared before the Committee on 21st February, 2023 to apprise the committee of the status of the recommendation. She was accompanied by the following officers from the Ministry of Education:

- i. Mr. Obiero Charles - Deputy Director Higher Education
- ii. Ms. Wamittah Hellen - Principal Higher Education Officer

Submission by the Principal Secretary

30. The Principal Secretary submitted that:
- i. the recommendations by the Departmental Committee on Education and Research were made on 3rd March, 2022;
 - ii. At the time of the recommendations, the Universities (Amendment) Bill, 2021 was pending before the National Assembly;
 - iii. on 9th June, 2022 (the last sitting of the 12th Parliament) the Speaker of the National Assembly had ruled that the Bill was unconstitutional on several fronts and ordered that it be republished. Thus, the Ministry did not have the opportunity to re-introduce the bill before the lapse of the 12th Parliament;
 - iv. She further submitted that, on 30th September, 2022, the President had appointed the Presidential Working Party on Education Reform. The Terms of Reference the taskforce were wide-ranging and included studying all laws governing the tertiary education sub-sector and making recommendations for the review of this legislation with a view to streamlining the effectiveness and efficiency in the sub-sector; and
 - v. In this regard, the Ministry presented the report of the Committee on Education and Research to the Presidential Working party. She informed the committee that it was the objective of the ministry to prosecute the Committee on Education and Research's recommendations together with the overall recommendations for law reform that were to be made by the Presidential Working Party on Education Reform.

Committee Observation

31. Arising from the submissions by the Principal Secretary, the Committee observed that the recommendations by the Departmental Committee on Education and Research had not been implemented.

Committee Recommendation

32. **The Committee recommends that the Cabinet Secretary, Ministry of Education, prepares the Universities Act, 2012 (Amendment) Bill and presents it to the House for consideration within 60 days of the adoption of this report by the House.**

5 THE SPECIAL FUND ACCOUNTS COMMITTEE REPORT ON THE EXAMINATION OF AUDITED FINANCIAL STATEMENTS FOR FINANCIAL YEARS 2013/14, 2014/15 AND 2015/16 FOR THE NG-CDF FOR CONSTITUENCIES IN NAIROBI COUNTY

5.1 Background

33. The Special Fund Accounts Committee was one of the three Audit Committees alongside the Public Accounts Committee (PAC) and the Public Investments Committee (PIC) in the 12th Parliament that examined reports of the Auditor-General laid before the National Assembly.
34. The Committee examined audited financial statements for financial years 2013/14, 2014/15 and 2015/16 for the NG-CDF for the following constituencies in Nairobi County: Dagoretti North, Dagoretti South, Embakasi Central, Embakasi East, Embakasi North, Embakasi South, Embakasi West, Kamukunji, Kasarani, Kibra, Lang'ata, Makadara, Mathare, Roysambu, Ruaraka, Starehe and Westlands.
35. The Public Investments Committee made recommendations in its report on the following audit queries:
 1. Disbursement of funds for the implementation of NG-CDF Projects;
 2. Failure to submit documents during the audit period;
 3. Bursary allocations and disbursement;
 4. Accuracy of financial statements;
 5. The NG-CDF Board adopts and implements Electronic Monitoring and Evaluation Systems and Tools to monitor all projects in the Constituencies and have them linked to the Electronic National Government Monitoring and Evaluation Systems (NIMES);
 6. Un-surrendered imprest;
 7. Transfer of assets and liabilities following split of constituencies;
 8. Support from the National Government Sub-County Treasury in Nairobi City County;
 9. Engagement of Fund Account Managers by the National Government Constituencies Development Fund Board;
 10. Operations of the National Government Constituencies Development Fund Board; and
 11. Investigations by EACC and active matters in court.

5.2 Implementation Status of the Recommendations

36. The Committee on Implementation wrote to the National Government Constituency Development Fund (NG-CDF) Board on 3rd March, 2023 seeking the implementation status of the recommendations contained in the report.
37. Mr. Yusuf Mbuno, the Chief Executive Officer of the NGCDF Board, appeared before the Committee on 16th March, 2023 to apprise the Committee of the implementation of the recommendations. He was accompanied by the following officers from the NGCDF Board-
- i. Mr. James Chebii - Head of Finance
 - ii. Ms. Christine Mwangolo - National Program Co-ordinator
 - iii. Ms. Beatrice Otieno - In-charge of Accounts/Field Service

Submission by the Chief Executive Officer

1. Disbursement of funds for the implementation of NG-CDF Projects

Implementation Status

38. Mr. Mbuno, the Chief Executive Officer, submitted that the Board, in liaison with the National Assembly Select Committee on NG-CDF, continually engages the National Treasury for prompt release of funds.

Committee Recommendation

39. **The Committee recommends that the National Treasury should strictly ensure timely release of funds to the NGCDF Board.**

2. Failure to submit documents during audit period

Implementation Status

40. The Chief Executive Officer submitted that the Board issued a directive requiring the Fund Account Managers to maintain project files containing original Bills of Quantities (BQs) drawings, payments certificates and expenditure returns.

Committee Observation

41. Arising from the submission by the Chief Executive Officer, the Committee observed that the recommendation had been implemented.

3. Bursary allocations and disbursement

Implementation Status

42. The Chief Executive Officer submitted that the guidelines on bursary funds had been reviewed and issued to constituencies. This incorporated electronic funds transfers and any other efficient means. Additionally, he informed the Committee that Constituency committees had been guided through a circular to dispatch cheques to institutions through express mail service (EMS) or alternative safest and expeditious means that also remit acknowledgement receipts.

Committee Observation

43. Arising from the submission by the Chief Executive Officer, the Committee observed that the measures put in place by the Board have improved bursary allocations and disbursement. The implementation status is ongoing.

4. Accuracy of financial statements

Implementation Status

44. The Chief Executive Officer submitted that the Board in consultation with the Public Sector Accounting Standards Board (PSASB) undertakes annual training of the Fund Account Managers, Sub-County Accountants and Chairpersons on the financial reporting template. In addition, he said that the Board reviews annual reports and financial statements of constituencies to ensure compliance with the reporting template before submission to the Auditor General.

Committee Observation

45. Arising from the submission by the Chief Executive Officer, the Committee observed that the recommendation had been implemented.

5. The NG-CDF Board adopts and implements Electronic Monitoring and Evaluation Systems and Tools to monitor all projects in the Constituencies and have them linked to the Electronic National Government Monitoring and Evaluation Systems (NIMES).

Implementation Status

46. The Chief Executive Officer submitted that the Board had developed a Monitoring and Evaluation Framework guided by the National Monitoring and Evaluation Policy (2022) which includes provision for linking to NIMES. The Board was in the process of developing an Integrated Geographic Information System (GIS) based Monitoring and Evaluation system.

47. He further submitted that the Board had developed the National Government Constituencies Development Fund Management Information System (NGCDFMIS) capable of online submission and processing of project proposals, automated generation of project code list and tracking implementation at Project Management Committee (PMC) level.
48. This is complemented by a vote-book management system deployed by the National Treasury and customized to NGCDF operations to track financial management in the Fund.

Committee Observation

49. Arising from the submissions, the Committee observed that:
 - i. The NG-CDF Board had had put in place appropriate systems to monitor NG-CDF projects in all the 290 Constituencies.
 - ii. The recommendation was adequately implemented.

6. Un-surrendered imprest

Implementation Status

50. The Chief Executive Officer submitted that the Board had put in place mechanisms to ensure imprests are duly surrendered. He informed the Committee that cases of imprest defaulters were continuously identified through the Board's internal audit. He added that recovery is instituted through the payroll and paid back to the respective constituencies.

Committee Observation

51. Arising from the submission, the Committee observed that the recommendation had been implemented.

7. Transfer of assets and liabilities following split of constituencies

Implementation Status

52. The Chief Executive Officer informed the Committee that the Board, in a circular dated 16th April, 2013, guided the constituency committees on how to transfer assets and liabilities between the parent and newly created Constituencies.

Committee Observation

53. Arising from the submission by the Chief Executive Officer, the Committee observed that the recommendation had been implemented.

**8. Support from the National Government Sub-County Treasury in Nairobi City County
Implementation Status**

54. The Chief Executive Officer informed the Committee that the Board engaged the National Treasury on the matter. This engagement resulted in the National Treasury establishing four National Sub-County treasuries to serve the 17 constituencies in Nairobi County.

Committee Observation

55. Arising from the submission, the Committee observed that the recommendation had been implemented.

**9. Engagement of Fund Account Managers by the National Government Constituencies
Development Fund Board**

Implementation Status

56. In his submission, the Chief Executive Officer informed the Committee that the Board had developed a comprehensive appraisal instrument that ensures Fund Accounts Managers (FAMs) have cleared all the outstanding issues before their employment contracts are renewed. The Board has also recruited substantive Regional Co-ordinators who are responsible for overseeing the handing- over process.

Committee Observation

57. Arising from the submission, the Committee observed that some fund managers were not available in their offices during working hours thus affecting service delivery.

Committee Recommendation

58. The Committee recommends that the NG-CDF Board should enhance monitoring of the Fund Accounts Managers to enhance service delivery.

10. Operations of the National Government Constituencies Development Fund Board

Implementation Status

59. The Chief Executive Officer informed the Committee that administratively, the Board had divided the country into ten regions namely; Nairobi, Lower Eastern, Upper Eastern, Central, Coast, North Eastern, South Rift, North Rift, Nyanza and Western.

60. He informed the committee that the Regional Offices are run by Regional Co-ordinators who are the immediate supervisors of Fund Account Managers. The Regional Co-ordinators report to the Chief Manager, Programmes and Field Services Co-ordination in the NG-CDF Board.

Committee Observation

61. Arising from the submissions, the Committee observed that the recommendation had been implemented.

11. Investigations by EACC and active matters in Court

Implementation Status

62. The Chief Executive Officer informed the Committee that the audit queries raised by the Auditor General were either in court or under investigation by the EACC. This matter is within the mandate of the EACC. Additionally, he informed the committee that the Board had taken administrative action against all officers charged in court.

Committee Observation

63. Arising from the submission by the Chief Executive Officer, the Committee observed that the NG-CDF-Board had undertaken administrative action against the implicated officers. The recommendation had been implemented.

6 PUBLIC INVESTMENTS COMMITTEE REPORT ON THE INQUIRY INTO THE SAFETY OF FERRIES AS OBSERVED IN THE AUDITED ACCOUNTS OF KENYA FERRY SERVICES FOR FINANCIAL YEAR 2016/17

6.1 Background

64. The Public Investments Committee examined the report of the Auditor General on the audited accounts of the Kenya Ferry Services for the financial year 2016/17. In its report, the committee made the following recommendations-

1. The Kenya Ferry Services should ground MV Harambee until the vessel undergoes dry docking and significant repair followed by inspection before the it can resume operation;
2. The National Treasury should urgently release funds to the Kenya Ferry Services to ensure that ferries operated by the agency undergo urgent repair and maintenance. Funds for ferry repair and maintenance should be ring-fenced in future budgets for the Kenya Ferry Services to ensure availability for scheduled maintenance of the vessels;
3. The Kenya Ports Authority should consider establishing a dry dock facility for the repair and maintenance of maritime vessels including ferries. The facility would ensure competitiveness of the Mombasa port facility, generate income for the Authority and provide cost effective services for maritime operators;
4. All ferries operated by the Kenya Ferry Services should be fitted with necessary safety equipment for use in emergency situations. The ferries should also be fitted with public address system for use to communicate safety matters when the vessels are in use;
5. Board appointees to the Kenya Ferry Services should be competent and qualified individuals to provide effective leadership and strategic direction for the organisation. The Board should ensure that board members are appropriately inducted and that their skills and knowledge are regularly enhanced given the specialised nature of the maritime industry;
6. The Kenya Ferry Services should ensure that key positions such as the Head of Engineering are filled substantively. Succession planning should also be done to ensure that recruitment of a replacement is done to coincide with the departure of the incumbent office holder;

7. The Ministry of Transport, Infrastructure and Housing and Urban Development should fast track the implementation of infrastructure projects that provide access to the South Coast so as to reduce over-reliance on the ferries operating at the Likoni and Mtongwe channels;
8. The Kenya Maritime Authority (KMA) and Kenya Ferry Services should conduct a public education and safety campaign at the ferry crossings to sensitize the public on maintaining safety while using the ferries;
9. The Kenya Ferry Services should replace the security company that provides security services aboard the ferries because they are negligent in performing their duties; and
10. The Kenya Ferry Services should impose stiff penalties against ferry passengers who fail to adhere to safety regulations while using the ferries. The penalties should be enforced strictly to ensure compliance.

6.2 Implementation status of the recommendations

65. The Committee on Implementation wrote to the Kenya Ferry Services on 10th March, 2023 seeking to establish the implementation status of the report.
66. Capt. William K. Ruto, the Managing Director, Kenya Ports Authority and Kenya Ferry Services, appeared before the Committee on 24th March, 2023 to apprise the Committee on the implementation of the recommendations. He was accompanied by the following officers:
 - i. Mr. Bakari Gowa - Manager, Kenya Ferry Services
 - ii. Mr. Alex Mbui - Representative, Ministry of Roads and Transport
 - iii. Mr. Livingstone Bumbe - Representative, The National Treasury
 - iv. Mr. Turasha Kinyanjui - Kenya Ports Authority

Submission by the Managing Director

1. The Kenya Ferry Services should ground MV Harambee until the vessel undergoes dry docking and significant repair followed by inspection before it can resume operation.

Implementation Status

67. The Managing Director informed the Committee that the MV Harambee had been removed from operations on 1st December 2019 for comprehensive repairs. The construction of dry docking and superstructure had started in December 2020 and it was concluded in August 2021. In addition, the prow lifting system and new hydraulic works started in April 2021 and were concluded in December 2021.

Committee Observation

68. Arising from the submissions by the Managing Director, the Committee observed that the recommendation had been implemented.
2. **The National Treasury should urgently release funds to the Kenya Ferry Services to ensure ferries operated by the Agency undergo urgent repair and maintenance. Funds for ferry repair and maintenance should be ring-fenced in future budgets for the Kenya Ferry Services to ensure availability for scheduled maintenance of vessels.**

Implementation Status

69. In his submission, the Managing Director presented a schedule of funds disbursed by the government in financial years 2018/19 to 2020/2021 as follows:

| Period | New ferries | Ferry rehabilitation |
|-----------|-------------|----------------------|
| 2018/2019 | 150,000,000 | 200,000,000 |
| 2019/2020 | 127,000,000 | 370,000,000 |
| 2020/2021 | 128,000,000 | 200,000,000 |
| Total | 405,000,000 | 770,000,000 |

70. He further informed the Committee that the government had merged KPA and KFS in June 2021 partly to ensure ferry services are well resourced and to improve the safety of vessels.

Committee Observation

71. Arising from the submissions of the Managing Director, the Committee observed that the recommendation had been implemented.
3. **The Kenya Ports Authority should consider establishing a dry dock facility for the repair and maintenance of maritime vessels including ferries. The facility would ensure competitiveness of the Mombasa port facility, generate income for the Authority and provide cost effective services to maritime operators.**

Implementation Status

72. The Managing Director submitted that the Government had established Kenya Shipyard Limited in August 2020 with a mandate to construct, refit, convert, repair and maintain marine vessels among other services.

Committee Observation

73. Arising from the submission of the Managing Director, the Committee noted that the recommendation had been implemented.

- 4. All ferries operated by the Kenya Ferry Services should be fitted with necessary safety equipment to be used in case of emergency. The ferries should also be fitted with public address system for to be used to communicate safety matters when the vessels are in use.**

Implementation Status

74. The Managing Director informed the Committee that the ferries are equipped with life-saving equipment on board (rigid life rafts, safety life jackets and life buoys) as established by Safety of Life at Sea Regulations (SOLAS).

75. Additionally, he added that all ferries are fitted with public address systems which are used to disseminate information and safety matters on board and they are routinely maintained to ensure functionality.

Committee Observation

76. Arising from the submission by the Managing Director, the Committee observed that the recommendation had been implemented.

- 5. Board appointees to the Kenya Ferry Services should be competent and qualified individuals to provide effective leadership and strategic direction for the organisation. The Board should ensure that Board members are appropriately inducted and that their skills and knowledge are regularly enhanced given the specialised nature of the maritime industry.**

Implementation Status

77. The Managing Director submitted that the last appointment of the board by the Government on 7th August, 2020 comprised of the following three members with background and experience in the marine industry:

- i. Mr. Salim Chingabwi, who had worked for KPA at the level of General Manager for over 30 years was appointed Chairperson;
- ii. Julius Segera, who was a Director of Maritime as a Ministry of Transport representative; and

- iii. Mr. Mohamed Amin Sheikh, a marine expert who has also worked at KPA among other organisations in the marine industry.

Committee Observation

78. Arising from the submission, the Committee noted that the board had experts with diverse backgrounds and experience, specifically in maritime. The recommendation had been implemented.

- 6. Kenya Ferry Services should ensure that key positions such as the Head of Engineering are filled substantively. Succession planning should be done to ensure that recruitment of a replacement is done to coincide with the departure of the incumbent office holder.**

Implementation status

79. The Managing Director informed the committee that the position of Manager, Ferry Maintenance was substantively filled up on the completion of the merger of KPA and KFS and the restructuring process in April 2022. The delay had been occasioned by the merger process. Further, he informed the Committee that a succession plan had been put in place in line with the recommendation of the Committee.

Committee Observation

80. Arising from the submission, the Committee noted that the recommendation had been implemented.

- 7. The Ministry of Transport, Infrastructure and Housing and Urban Development should fast track the implementation of infrastructure projects that provide access to the South Coast so as to reduce over-reliance on the ferries operating at the Likoni and Mtongwe channels.**

Implementation Status

81. The Managing Director submitted that the construction of the Dongo Kundu bypass, a road linking Mombasa West mainland to the South Coast, was at an advanced stage towards completion.

Committee Observation

82. Arising from the submission, the Committee observed that the implementation of the recommendation was on-going.

- 8. Kenya Maritime Authority (KMA) and Kenya Ferry Services should conduct a public education and safety campaign at the ferry crossings to sensitize the public about maintaining safety when using the ferries.**

Implementation Status

83. The Managing Director submitted that safety sensitisation is regularly done by the KMA and ferry customer services team. At the time of the submission, the last exercise of the programme had been conducted in December 2022.

Committee Observation

84. Arising from the submission, the Committee noted that the recommendation had been implemented.

9. Kenya Ferry Services should replace the security company that provides security services aboard the ferries because they are negligent in performing their duties.

Implementation Status

85. The Managing Director informed the committee that the Guard Force Security Company Group had exited on the 31st December, 2019 and Ismax Security Company started offering services on 1st January, 2020.

Committee Observation

86. Arising from the submission by the Managing Director, the Committee observed that the recommendation had been implemented.

10. The Kenya Ferry Services should impose stiff penalties against ferry passengers who fail to adhere to safety regulations while using the ferries. The penalties should be enforced strictly to ensure compliance.

Implementation Status

87. The Managing Director submitted that a multi-agency team comprising of the Kenya Coast Guards Service, the National Police Service and the Mombasa County Inspectorate assists the ferry security team on enforcement. Additionally, those who violate ferry regulations are booked and taken to court for various offences as provided for by the Kenya Penal Code.

88. He further submitted the following information concerning various offences that had taken place between January and August, 2023 and actions taken against each offender-

| INCIDENT | NATURE OF OCCURRENCE | REMARKS |
|--|--|---|
| Assault Onboard vessel MV Harambee 13-01-2023 | Use of obscene gender language against staff by a motorist and a Tuk Tuk driver. | Suspects taken to FPS OB no. 02/13/01/2023 |

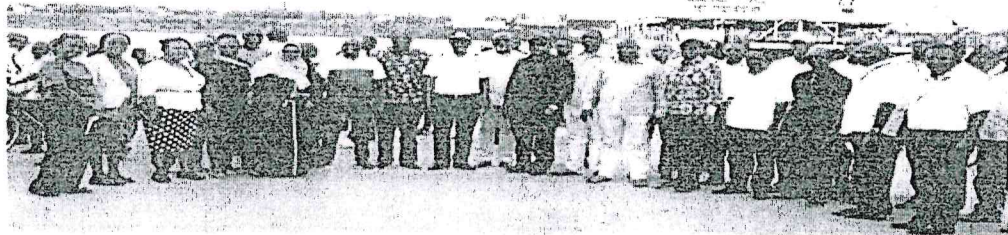
| | | |
|--|---|---|
| Assault Island and ramp area respectively 30-01-2023 | Outsourced security personnel assaulted (torn uniform) by pedestrians who forced their way against designated access points. | Suspects taken to FPS OB no. 39/30/01/2023 |
| Violation of procedures 01-02-2023 | Cycling in prohibited area | Bicycle taken to FPS after abandonment by the suspect OB 40/01/02/2023 |
| Incitement Island screening shade 05-02-2023 | Suspect became unruly after being denied access against procedure | Suspect taken to FPS OB no. 23/05/05/2023 |
| Drowning Island ramp 10-02-2023 | An elderly man identified as Juma Mwakiranze accidentally slipped into the Indian ocean shortly after disembarking from MV Kwale. | Rescued by security personnel (Crowd Control) Escorted home by his relative after it was established, he was in good condition. |
| Breach of procedure Island ramp 15-02-2023 | One Martin Ngumbao staff C/N 563092 violated segregation procedure | Suspect taken to FPS OB no. 46/15/02/2023 |
| Breach of procedure Mainland ramp 03-03-2023 | Motorist Raphael Munyao driving Mini-bus reg. no. KDE 769X defied boarding procedure order from the ramp controller | Taken to FPS and given a stern warning. |
| Breach of procedure Mainland ramp 05-03-2023 | Motorist Caroline Wausi driving saloon vehicle reg. no. KDG 265D defied boarding procedure order from the ramp controller | Suspect taken to FPS OB no. 12/05/03/2023 |

| | | |
|--|---|--|
| Non-payment of toll charges Island ramp 08-03-2023 | Joseph Ochieng, Tuk Tuk driver drove past toll booth area without payment of ferry toll charges | Suspect taken to FPS OB no. 48/08/03/2023 Fine of Kshs3000 was imposed |
|--|---|--|

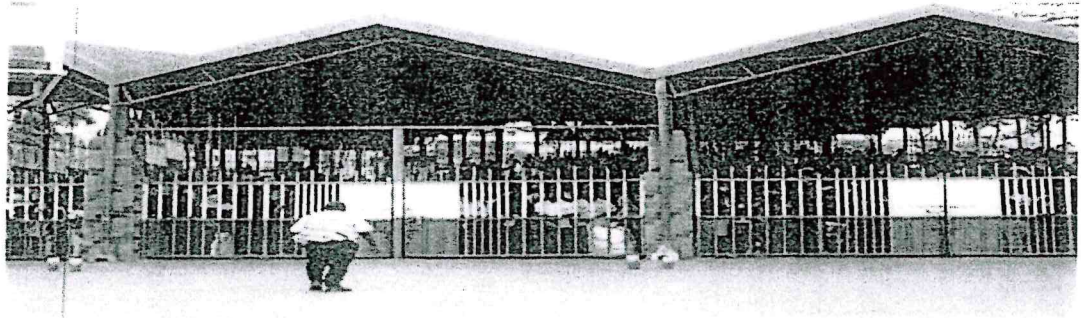
Tabulated data on offences done by ferry passengers who fail to adhere to ferry safety regulations and actions taken by KFS against these individual offences.

Inspection Visit to Likoni Ferry

89. Arising from the submissions made by the Managing Director of Kenya Ports Authority, the Committee resolved to undertake an inspection visit to Likoni. The Committee undertook the inspection visit on 24th March, 2023.
90. The objectives of the visit were:
- i. to physically ascertain the completion status of the recommendations by the Public Investments Committee such as the grounding and repair of MV Harambee and the establishment of a dry dock facility; and
 - ii. to apprise itself of the current status of the ferries.



Members of the Committee on Implementation during an inspection visit to the Likoni Ferry on 24th March, 2023.



Likoni Ferry passengers holding area.

Committee Observations

91. Arising from the inspection visit, the committee observed that:
- i. the ferries are equipped with life-saving equipment on board (rigid life rafts, safety life jackets and life buoys);
 - ii. all ferries are fitted with public address systems which are used to disseminate information and safety matters on board and are routinely maintained to ensure functionality;
 - iii. there is a holding area and adequate security measures have been put in place; and
 - iv. the recommendation had been implemented.

7. REPORT OF DEPARTMENTAL COMMITTEE ON LABOUR AND SOCIAL WELFARE ON THE CONSIDERATION OF THE PETITION BY THE KENYA ASSOCIATION OF RETIRED OFFICERS ON IMPROVED TERMS FOR PENSIONERS IN KENYA

7.1 Background

92. The Petition regarding the improvement of terms for pensioners was presented by the Kenya Association of Retired Officers (KARO) and considered by the Labour and Social Welfare Committee.
93. The Association is a duly registered association working towards better and improved terms and conditions for pensioners in Kenya, submitted a petition which was tendered on behalf of over 200,000 Government pensioners in the country.
94. The petitioners claimed that majority of the pensioners, especially those who retired before 2003, live in abject poverty and are unable to meet their monthly upkeep, food, clothing and medical expenses and that they have for long been neglected due to the perception that they are economically unproductive.
95. The petitioners prayed that the House intervenes through the implementation of the Salaries and Remuneration Commission (SRC) Pension Increase Policy of 2015, amendment of the Pensions Act Cap. 189 and the Pensions Increase Act Cap.190 of the Laws of Kenya.
96. Additionally, they also prayed for the provision of free and comprehensive healthcare for pensioners as well as the development and implementation of a comprehensive pension policy for the public service in Kenya.
97. The Departmental Committee on Labour and Social Welfare considered the Petition and made the following recommendations:
 1. **The Cabinet Secretary for National Treasury and Economic Planning should fast track the ongoing process on the development of National Retirement Benefits Policy to provide for the provision and management of retirement benefits in the country;**
 2. **The Cabinet Secretary for National Treasury and Economic Planning should initiate the comprehensive review/peal of the Pensions Act, Cap 189 and the Pensions Increase Act, Cap 190 to align them with the provisions of the constitution of Kenya 2010 and enable it to conform to the realities of the day. The review should in particular consider the issue of frequency of review of pension,**

minimum payable pension and the need for consideration of the cost-of-living adjustment;

3. The Cabinet Secretary for Health in consultation with the National Treasury should fast track the implementation of the post-retirement medical scheme to cater for the health needs of the pensioners, in the interim and in cognizance of the current risks enhanced by the COVID-19 situation, to cushion current pensioners from the burden of disease, it is recommended that pensioners drawing less than KShs.5,000 in monthly pension be granted free access to comprehensive healthcare services at all public health institutions country wide. All pensioners are granted subsidies to make premiums affordable to those who opt to purchase insurance cover under NHIF;
4. The Cabinet Secretary for the National Treasury and Economic Planning should implement the recommendations of the SRC on pensions increase policy as contained in the Public Sector Remuneration and Benefits Policy 2015, launched by His Excellency the President in June 2015 and submitted to the National Treasury for implementation. This should be executed in an equitable manner so as to ensure it does not perpetuate further disparity;
5. The Cabinet Secretary for Labour in consultation with the National Treasury should include Government pensioners currently earning less than KShs. 4,000 in monthly pension in the next listing of beneficiaries of the cash transfer for the elderly as a stop gap measure pending review to reflect the current cost of living; and
6. The Cabinet Secretary for the National Treasury and Economic Planning should initiate the transformation of the current Pensions Department into a Semi-Autonomous Government Agency (SAGA) to manage and administer pensions and with a wider mandate of developing and implementing the pension policy for the public service that would address issues of fairness, adequacy, affordability, and sustainability of pension benefits. In line with the International Labour Organization (ILO) recognition of pensions as a form of social security, the Government should in the long run consider domiciling the management of the retirement benefits sector under the state department for social protection together with other social protection initiatives.

7.2 Implementation Status of the Recommendations

98. The Committee on Implementation wrote to the Cabinet Secretary National Treasury and Economic Planning on 15th March, 2023 seeking to find out the implementation status.
99. Prof. Njuguna Ndung'u, the Cabinet Secretary for National Treasury and Economic Planning appeared before the Committee on 6th April, 2023 to apprise the Committee of the status of the recommendations. He was accompanied by the following officers from the National Treasury:
- i) Mr. Michael Ndichu - Director Pensions
 - ii) CPA Isabella Kogei - Parliamentary Liaison Unit
100. The Kenya Association of Retired Workers were represented by the following:
- i) Mr. Joseph Kinyua - Kenya Association of Retired Workers
 - ii) Ms. Monica Kilonzo - Kenya Association of Retired Workers
 - iii) Ms. Beatrice Mwaniki - Kenya Association of Retired Workers
 - iv) Mr. John Wachira - Kenya Association of Retired Workers
 - v) Mr. Boniface Makau - Kenya Association of Retired Workers
 - vi) Mr. Ahmed Hussein - Kenya Association of Retired Workers

Submission by the Cabinet Secretary

- 1. The Cabinet Secretary for National Treasury and Economic Planning should fast track the ongoing process of the development of National Retirement Benefits Policy to provide for the provision and management of retirement benefits in the country.**
101. The Cabinet Secretary submitted that the National Treasury and Economic Planning had accelerated the momentum to finalise the National Retirement Benefits Policy. Additionally, the National Treasury has retained a consultant who continues to work with the multi-agency team under the co-ordination of the National Treasury. He informed the Committee that a final stakeholder's forum was planned in the fourth quarter of the FY 2022/2023 whereupon a Cabinet memorandum would be drawn and submitted to the Cabinet before 30th June 2023.
102. He further submitted that the National Treasury was developing a policy that addresses key areas of concern that included:
- i. **The pension structure and legal framework:** The policy provides for a comprehensive pension system framework that follows a structure that recognizes

the different levels of needs, utilises various sources of funding and reflects the various roles of stakeholders. In addition, he informed the committee that the policy proposes a harmonized pension legal and regulatory framework;

- ii. **Pension coverage:** The policy aims to broaden pension coverage in both formal and informal sectors to enhance social protection for all citizens;
- iii. **Consumer protection:** The policy provides for mechanisms of consumer protection of members and beneficiaries of pension schemes and stakeholders;
- iv. **Transferability and Portability of Retirement Benefits:** The policy recognizes the portability of accrued benefits to another retirement savings arrangement in the country, East African Community (EAC) countries and in other countries with bilateral arrangements with Kenya;
- v. **Administration and Management of pension funds:** The policy advocates for innovative ways to optimize administrative costs in relation to returns in order to grow members' pension savings;
- vi. **Annuities and Income Drawdown:** The policy promotes the development of the market for annuities and income drawdown in Kenya;
- vii. **Indexation:** The policy promotes indexation of pension benefits in order to avoid erosion of retirement benefits; and
- viii. **Mutual recognition:** The policy encourages pension supervisors to practice mutual recognition of service providers and share information pertaining to registration to allow pension players registered in one EAC Partner State to operate in another Partner State and other countries with bilateral arrangement with Kenya.

Committee Observation

103. Arising from the submission made by the Cabinet Secretary, the Committee observed that the current National Retirement Benefits Policy, which is aimed to provide a framework on the management of retirement benefits in the country, is under development. For this reason, the Committee concluded that the implementation of the recommendation is on-going.

Committee Recommendation

104. **The Committee recommends that the National Treasury should fast track the development process of the National Retirement Benefits Policy and to submit a progress report on its development to the National Treasury within 60 days of the adoption of this report by the House.**

2. The Cabinet Secretary for National Treasury and Economic Planning should initiate the Comprehensive review/repeal of the Pensions Act, Cap 189 and the Pensions Increase Act, Cap 190 to align them with the provisions of the constitution of Kenya, 2010 and enable it to conform to the realities of the day. The review should in particular consider the issue of the frequency of review of pension, minimum payable pension and the need for the consideration of the cost-of-living adjustment.

Implementation Status

105. The Cabinet Secretary informed the Committee that a review of the public service pension laws had commenced under the banner of the Transformation of the Public Service Pension Ecosystem initiative of the National Treasury and Economic Planning. The initiative has four thematic areas, one of which is to review the public pension legal framework to be in accord with the Constitution of Kenya, 2010.
106. He submitted that in the preliminary analysis, the team had considered the gaps in the following key laws and regulations relating to the administration of public service pensions:
 - i) Pension Act Cap.189;
 - ii) Pensions Increase Act Cap.190;
 - iii) Widows' and Children's Pensions Act Cap.195;
 - iv) Parliamentary Pensions Act Cap.196; and
 - v) Kenya Defence Forces (Pensions and Gratuities) Regulations 2017.
107. The Cabinet Secretary further submitted that under The Pensions Act (Cap 189) several gaps had been highlighted for consideration to amend including:
 - i. The provisions of Sections 3, 5, 14 & 15 which bestow enormous powers on the Government and the President (delegated to the Secretary, Pensions) to among other things, determine whether or not an employee should get his/her pension, gratuity or other benefit at all or in the event of bankruptcy or insolvency, imprisonment among others;
 - ii. The provision under section 5 (3) stipulates that the benefits vest fully in the officer and become payable after completion of five years of pensionable service. This period is long and limits a member's rights to pension. The general provision in Kenya, covered under the Retirement Benefits Act, is for benefits to vest immediately when an employee becomes a member of a scheme; and

- iii. The current Constitution of Kenya provides that any modifications to the Public Service Pension Scheme benefits should not take away accrued benefits. This does limit the ability to reform the current system for existing staff.

Committee Observation

108. Arising from the submission, the Committee observed that the National Treasury was in the process of reviewing various pension laws aimed at filling identified gaps. The implementation of the recommendation is on-going.

Committee Recommendation

109. **The Committee recommends that the Cabinet Secretary, National Treasury and Economic Planning should prepare the amendments or Bills within a reasonable time and present them to the House for consideration.**

3. **The Cabinet Secretary for Health in consultation with the National Treasury should fast track the implementation of the post-retirement medical scheme to cater for the health needs of the pensioners in the interim and in cognizance of the current risks enhanced by the COVID-19 situation, to cushion current pensioners from the burden of disease. It is recommended that pensioners drawing less than KShs.5,000 in monthly pension be granted free access to comprehensive healthcare services at all public health institutions country wide. All pensioners should also be granted subsidies to make premiums affordable to those who opt to purchase insurance cover under NHIF.**

110. The Cabinet Secretary informed the Committee that his Ministry was working closely with the State Department of Public Service in implementing this resolution. Additionally, a draft Post-Retirement Medical Policy had been prepared and public participation conducted with a number of stakeholders including the Kenya Association of Retired Officers.

111. He further submitted that the Ministry of Health had been looped in through the NHIF, with a consultative forum planned in the second week of April, 2023. He informed the Committee that a joint Cabinet Memo would be submitted to the Cabinet for consideration.

Committee Observation

112. Arising from the submission, the Committee observed that the implementation of the recommendation was going on.

Committee Recommendation

113. The Committee recommends that the National Treasury and Economic Planning and the Ministry of Health should conclude the development of the Post-Retirement Medical Policy and report the progress within 60 days of the adoption of the report by the House.

4. The Cabinet Secretary for the National Treasury and Economic Planning should implement the recommendations of the SRC on pensions increase policy as contained in the Public Sector Remuneration and Benefits Policy 2015, launched by His Excellency the President in June 2015 and submitted to the National Treasury for implementation. This should be executed in an equitable manner so as to ensure it does not perpetuate further disparity.

Implementation Status

114. The Cabinet Secretary informed the Committee that at the time of the submission, the monthly pension paid to pensioners and their dependants was subject to a biennial increase at the rate of three (3) percent as per the Financial Act No. 9 of 2007, which was implemented with effect from 1st July 2007. In order to implement the SRC recommendations, it was necessary to undertake an actuarial review to evaluate the fiscal burden of the recommendations. Thus, the actuarial study would be factored in the F/Y 2023/2024.

Committee Observation

115. Arising from the submission by the Cabinet Secretary, the Committee observed that the recommendation had not been implemented pending the actuarial review to be done in the F/Y 2023/2024.

Committee Recommendation

116. The committee recommends that the Cabinet Secretary, National Treasury and Economic Planning should implement the recommendations of the Salaries and Remuneration Commission within 60 days of the adoption of the report by the House.

5. The Cabinet Secretary for Labour in consultation with the National Treasury should include Government pensioners currently earning less than KShs. 4,000 in monthly pension in the next listing of beneficiaries of the cash transfer for the elderly as a stop gap measure pending review to reflect the current cost of living.

Implementation Status

117. The Cabinet Secretary informed the Committee that he had shared the list of 977 Government pensioners, earning less than KShs. 4,000 monthly pension at the time of the submission, with the Ministry of Labour for further action.

Committee Observation

118. Arising from the submission made by the Cabinet Secretary, the National Treasury, the Committee observed that the recommendation had been implemented.

Committee Recommendation

119. **The Committee recommends that the Cabinet Secretary, Ministry of Labour and Social Protection should provide a status report on the payment of the 977 pensioners within 60 days of the adoption of the report by the House.**
6. **The Cabinet Secretary for the National Treasury and Economic Planning should initiate the transformation of the current Pensions Department into a Semi-Autonomous Government Agency (SAGA) to manage and administer pensions and with a wider mandate of developing and implementing the pension policy for the public service that would address issues of fairness, adequacy, affordability and sustainability of pension benefits. In line with the International Labour Organization (ILO) recognition of pensions as a form of social security, the Government should in the long run consider domiciling the management of the retirement benefits sector under the state department for social protection together with other social protection initiatives.**

Implementation Status

120. The Cabinet Secretary submitted that as part of the reforms in the Public Service Pensions' Sector, on 1st January 2021, the Government implemented the Public Service Superannuation Scheme Act, 2012 establishing the Public Service Superannuation Scheme (PSSS). The scheme is contributory, where employees contribute up to 7.5 percent of their monthly basic salary to the pension. This is graduated at the following rates: Two percent in the first year; Five percent in the second year and 7.5 percent in the third year. The Government contributes 15 percent of the employee's basic salary to the pension scheme.
121. He further informed the Committee that this lessens the pension burden on the Government while guaranteeing sustainability. He added that the National Treasury Administration ensures efficiency through automation as opposed to the creation of new institutions. He submitted that the National Treasury and Economic Planning is

determined to ensure that employers must remit pension obligations in a timely manner for the benefit of pensioners.

Committee Observation

122. Arising from the submission, the Committee noted that the Pensions Department had not been transformed into a Semi-Autonomous Agency (SAGA). However, the National Treasury had automated its processes to enhance efficiency and effectiveness. As such, the implementation of the recommendation is going on.

8. COMMITTEE'S GENERAL OBSERVATIONS

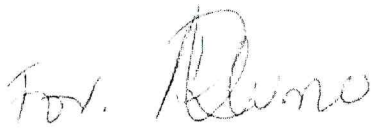
In consideration of the implementation status of House resolutions pursuant to its mandate under Standing Order 209 of the National Assembly Standing Orders, the Committee made the following general observations:

1. Implementation of majority of the House Resolutions passed require financial obligations for adequate implementation to be carried out by the executive. There is a need for the timely appropriation of funds to various agencies so as to ensure House Resolutions are implemented within the required timeframe;
2. There was no adequate budget allocated to the ministries, departments and agencies to implement some of the recommendations; and
3. There is a need for committee recommendations to be specific, measurable, achievable, realistic and time-bound (SMART) so as to facilitate smoother implementation of House resolutions.

9. COMMITTEES' GENERAL RECOMMENDATIONS

Following the general observations, the Committee makes the following general recommendations:

1. The National Treasury should ensure appropriations of funds for the implementation of House resolutions are done within one financial year following the adoption of a House resolution for the public to derive the intended benefits. Further, The National Assembly should allocate sufficient funds to the implementing agencies for effective implementation of reports passed by the House; and
2. Government Agencies and Departments are directed to implement House Resolutions should endeavour to fit the resolutions in their work plans and deliver the same within the stipulated time frame. Failure to do so, sanctions should be imposed against the responsible officials.

Signed.....


HON. RAPHAEL BITTA SAUTI WANJALA, M.P
(CHAIRPERSON)

Date.....
25th October 2023