

Approved for tabling ~~by~~ SWA
3/4/19

REPUBLIC OF KENYA



TWELFTH PARLIAMENT -THIRD SESSION

THE NATIONAL ASSEMBLY

THE DEPARTMENTAL COMMITTEE ON COMMUNICATION,
INFORMATION AND INNOVATION

PARLIAMENT
OF KENYA
LIBRARY

REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO
THE COPYRIGHT (AMENDMENT) BILL, 2017

THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 03 APR 2019	DAY: Wed
TABLED BY: Majority Party whip Hon Benjamin W	
CLERK-AT-THE-TABLE: Miriam Mado	

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS
PARLIAMENT BUILDINGS
NAIROBI

MARCH, 2019

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Annexure 1 The Senate amendments to the Copyright (Amendment) Bill, 2017 as
passed by the Senate on 20th February 2019

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THE CHAIRPERSON'S FOREWORD

The Copyright (Amendment) Bill, 2017, a Bill for an Act of Parliament to amend Copyright Act, 2001 was passed by the National Assembly on 25th July, 2018 and was transmitted to the Senate on 29th August, 2018 pursuant to the National Assembly Standing Order 142.

The Bill was passed with amendments by the Senate on 20th February, 2019 and the Senate Amendments to the bill were transmitted to the National Assembly on 5th March, 2019.

Through a communication by the Speaker of the National Assembly, the Senate Amendments to the Copyright (Amendment) Bill, 2017 were committed to the Departmental Committee on Communication, Information and Innovation for consideration and reporting to the House.

The Committee considered the Senate Amendments to the Copyright Bill on 25th March, 2019 during which it received submissions from the Kenya Copyright Board. The Committee agreed with the Senate Amendments.

The Committee appreciates the assistance provided by the Offices of the Speaker and of the Clerk of the National Assembly that enabled it to discharge its functions in considering the Copyright (Amendment) Bill, 2017.

I take this opportunity to thank all Members of the Committee for their input and valuable contributions during the Committees deliberations on Senate Amendments to the Copyright Bill, 2017.

Pursuant to provisions of Standing Order 199 (6), and on behalf of the Departmental Committee on Communication, Information and Innovation, it is my pleasant privilege and honor to present to this House the Report of the Committee on its consideration of the Senate amendments to the Copyright (Amendment) Bill, 2017.

Hon. Kisang William Kipkemoi, M.P – **Chairperson**

Departmental Committee on Communication, Information and Innovation

1.0 PREFACE

1.1 Committee Mandate

1. The Departmental Committee on Communications, Information and Innovation is established under *Standing Order 216* 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*);
 - (fa) examine treaties, agreements and conventions;
 - g. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - h. make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;
 - i. consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and
 - j. Examine any questions raised by Members on a matter within its mandate.
2. In accordance with Second Schedule of the Standing Orders, the Committee is mandated to oversee Communication, Information, media and broadcasting (except for broadcast of parliamentary proceedings), Information Communications

Technology (ICT) development and advancement of technology and modernization of production strategies.

1.2 Committee Membership

3. The Committee comprises the following Members-

No.	NAME	CONSTITUENCY/ County	POLITICAL PARTY
1.	The Hon. Kisang William Kipkemoi, M.P – Chairperson	Marakwet West	Jubilee
2.	The Hon. George Macharia Kariuki, M.P - Vice Chairperson	Ndia	Jubilee
3.	The Hon. Liza, Chelule Chepkorir, M.P.	Nakuru	Jubilee
4.	The Hon. Alfah, O. Miruka, M.P.	Bomachoge Chache	Kenya National Congress
5.	The Hon. Annie Wanjiku Kibeh, M.P.	Gatundu North	Jubilee
6.	The Hon. Joshua Kimilu, Kivinda, M.P.	Kaiti	Wiper Democratic
7.	The Hon. Marwa Kitayama Maisori, M.P.	Kuria East	Jubilee
8.	The Hon. Mwambu Mabongah, M.P.	Bumula	Independent
9.	The Hon. Maritim Sylvanus, M.P.	Ainamoi	Jubilee
10.	The Hon. Mwangaza Kawira, M.P.	Meru County	Independent
11.	The Hon. Jonah Mburu, M.P.	Lari	Jubilee
12.	The Hon. Gertrude Mbeyu Mwanyanje, M.P.	Kilifi County	Orange Democratic Party
13.	The Hon. Wamuchomba, Gathoni, M.P.	Kiambu County	Jubilee
14.	The Hon. (Eng.) Mark Nyamita Ogola, M.P	Uriri	Orange Democratic
15.	The Hon. John Kiarie Waweru, M.P.	Dagoretti South	Jubilee
16.	The Hon. Erastus Nzioka Kivasu,	Mbooni	New Democrats

	M.P.		
17.	The Hon. Innocent Momanyi Obiri, M.P.	Bobasi	People's Democratic Party
18.	The Hon. Godfrey Osotsi Atieno, M.P.	Nominated	African National Congress
19.	The Hon. Anthony, Tom Oluoch, M.P.	Mathare	Orange Democratic

1.3 Committee Secretariat

4. The secretariat comprises of-

- | | |
|------------------------|------------------------------------|
| 1. Mr. Nicholas Emejen | Deputy Director Committee Services |
| 2. Ms. Ella Kendi | Clerk Assistant III |
| 3. Ms. Marlene A Ayiro | Senior Legal Counsel |
| 4. Ms. Lorna Okatch | Research Officer III |
| 5. Ms. Catherine Gati | Fiscal Analyst III |
| 6. Mr. Albert Atunga | Sergeant at arms |

2.0 INTRODUCTION

Background

5. The Copyright (Amendment) Bill, 2017 sponsored by the Leader of the Majority Party, the Hon. Aden Duale, MP, was passed by the National Assembly on 29th August 2018.
6. The Bill sought to amend the Copyright Act, 2001 to domesticate provisions of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired or Otherwise Print Disabled which came into force on 30th September 2016. The Bill further seeks to expand definitions under the Act, to restate provisions in the Act for better clarity, enhance penalties for willful infringement of copyright and to establish a Copyright Tribunal in place of the current “competent authority”.

3.0 OVERVIEW OF THE SENATE AMENDMENTS TO THE COPYRIGHT (AMENDMENT) BILL 2017

7. **CLAUSE 5** of the Bill seeks to amend section 11 of the Act that deals with the Executive Director and the senate amendment provides —

THAT clause 5 of the Bill be amended -

- (a) in paragraph (b) by deleting the word “as” appearing immediately after the word “is” in the proposed new subsection (2)(a);
- (b) by inserting the following new paragraph immediately after paragraph (b) –
 - (c) by inserting the following new subsection immediately after subsection (3) –
 - (4) The Executive Director shall be appointed for a term of four years and shall be eligible for reappointment for one further term of four years.

8. **CLAUSE 6** of the Bill seeks to amend section 19 of the Act that deals Accounts and Audits and the Senate amendment provides —

THAT the Bill be amended by deleting Clause 6 and substituting therefor the following new clause —

6. Section 19 of the principal Act is amended —

(a) in subsection (2) by deleting the words “Auditor General (Corporations) or to an auditor appointed under this section” appearing immediately after the words “submit to the” and substituting therefor the words “Auditor-General”; and

(b) by deleting subsection (3) and substituting therefor the following new subsection —

(3) The accounts of the Board shall be audited and reported
in accordance with the provisions of the Public Audit Act.

No. 34 of 2015.

4.0 MEETING WITH THE KENYA COPYRIGHT BOARD

9. The Committee held a meeting with the Kenya Copyright Board on 25th march, 2019 to deliberate on the Senate amendments to the Copyright (amendment) Bill 2017. The Board agreed with the amendments proposed by the Senate.

5.0 COMMITTEE CONSIDERATION THE SENATE AMENDMENTS TO THE COPYRIGHT (AMENDMENT) BILL 2017

10. CLAUSE 5

THAT Clause 5 of the Bill be amended -

(a) in paragraph (b) by deleting the word “as” appearing immediately after the word “is” in the proposed new subsection (2)(a);

Committee Recommendation:

The Committee **agreed** with the Senate Amendment to the Copyright (Amendment) Bill, 2017 on Clause 5(a).

Justification

The amendment seeks to delete a typographical error that appeared in the Bill that was passed by the National Assembly.

(b) by inserting the following new paragraph immediately after paragraph (b) –

(c) by inserting the following new subsection immediately after subsection (3) –

(4) The Executive Director shall be appointed for a term of four years and shall be eligible for reappointment for one further term of four years.

Committee recommendation: The Committee **agreed** with the Senate Amendment to to the Copyright (Amendment) Bill, 2017 on clause 5(b).

Justification

This amendment seeks to provide the tenure of office of the Executive Director of the Kenya Copyright Board that had not been provided for in the Bill as passed by the National Assembly

11. CLAUSE 6

THAT the Bill be amended by deleting Clause 6 and substituting therefor the following New Clause –

6. Section 19 of the principal Act is amended –

(a) in subsection (2) by deleting the words “Auditor General (Corporations) or to an auditor appointed under this section” appearing immediately after the words “submit to the” and substituting therefor the words “Auditor-General”; and

Committee recommendation

The Committee **agreed** with the Senate amendments to the Copyright (Amendment) Bill, 2017 on Clause 6(2).

Justification

This is a very minor amendment that does not change the import of the amendment as was passed by the National Assembly. Article 229 of the Constitution refers to “an

auditor-general” and not to “the office of the auditor general” the amendment seeks ensure consistency with the supreme law of the land.

(c) by deleting subsection (3) and substituting therefor the following new subsection –

(3) The accounts of the Board shall be audited and reported
in accordance with the provisions of the Public Audit Act.

No. 34 of 2015.

Committee recommendation

The Committee **agreed** with the Senate Amendment to the Copyright (Amendment) Bill, 2017 on Clause 6(3).

Justification:

The Amendment seeks to provide clarity in the drafting of the amendment that was provided for in the National Assembly Bill on the process of carrying out audits by the board.

6.0 COMMITTEE RECOMMENDATIONS

Having deliberated on the Senate amendments to the Copyright (Amendment) Bill, 2017, the Committee therefore recommends that the National Assembly **approves** the Senate amendments to Clauses 5 and 6 of the Copyright (Amendment) Bill, 2017.

SIGNED *William Kisang* DATE *28/03/2019*

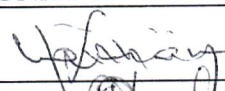
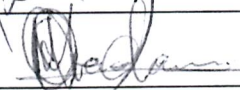

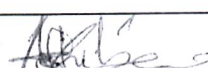

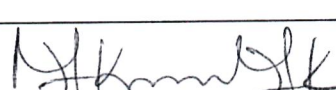


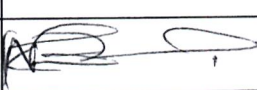
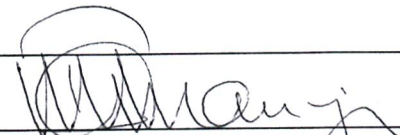

**HON. WILLIAM KISANG, MP - CHAIRPERSON
DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION
AND INNOVATION**

THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION

MEMBERS ADOPTION LIST

DATE: 21/3/2019 TIME: 9:30am VENUE: 2nd Floor, Protection House

Agenda: Adoption of the report on the consideration of the Senate amendments to the Copyright (Amendment) Bill, 2017

NO.	NAME	SIGNATURE
1.	Hon. Kisang, William Kipkemoi, M.P - Chairperson	
	Hon. George, Macharia Kariuki, M.P - Vice – Chairperson	
3.	Hon. Liza, Chelule Chepkorir, M.P.	
4.	Hon. Alfah, O. Miruka, M.P.	
5.	Hon. Annie Wanjiku Kibeh, M.P.	
6.	Hon. Joshua Kimilu, Kivinda, M.P.	
7.	Hon. Marwa Kitayama Maisori, M.P.	
8.	Hon. Mwambu Mabongah, M.P.	
9.	Hon. Maritim Sylvanus, M.P.	
10.	Hon. Mwangaza Kawira, M.P.	
11.	Hon. Jonah Mburu, M.P.	
12.	Hon. Gertrude Mbeyu Mwanyanje, M.P.	
13.	Hon. Wamuchomba, Gathoni, M.P.	
14.	Hon. (Eng). Mark Nyamita Ogola, M.P.	
15.	Hon. John Kiarie Waweru, M.P.	
16.	Hon. Erastus Nzioka Kivasu, M.P.	
17.	Hon. Godfrey Osotsi, Atieno, M.P.	
18.	Hon. Innocent Momanyi, Obiri, M.P.	
19.	Hon. Anthony, Tom Oluoch, M.P.	

THE NATIONAL ASSEMBLY
RECEIVED
05 MAR 2019
DIRECTOR COMMITTEE SERVICES
Time:.....

Directorate of Legislative & Procedural
Services (NA)
The Table Office

MEMO

TO : DIRECTOR, COMMITTEE SERVICES (NA)
FROM : HEAD OF TABLE OFFICE DEPARTMENT
DATE : MARCH 5, 2019
SUBJECT : MESSAGES CONVEYED ON TUESDAY, MARCH 5, 2019

The following Messages were conveyed during the afternoon Sitting of Tuesday, March 5, 2019: -

a) Message from His Excellency the President regarding nomination of Prof. George Albert Omoro Magoha for appointment to the office of Cabinet Secretary for Education; and

b) Message from the Senate on the passage of the following Bills:-

- (i) The Petroleum Bill (National Assembly Bill No. 48 of 2017); DC-ENERGY
- (ii) The Energy Bill (National Assembly Bill No. 50 of 2017); DC-ENERGY
- (iii) The Urban Areas and Cities (Amendment) Bill (Senate Bill No. 4 of 2017). DC-TRANSPORT
- (iv) The Copyright (Amendment) Bill (National Assembly Bill No. 33 of 2017); DC-ICT
- (v) The Irrigation Bill (National Assembly Bill No. 46 of 2017); and DC-AGRICULTURE
- (vi) The Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017). DC-FINANCE

Please find attached, the Messages, together with the supporting documents of the Nominee and the Schedules of the Senate amendments to National Assembly Bills listed as No. (vi), (v) and (iv) above for your necessary action.

~~R. K. Tiampati~~

(Encls.)

Copy: Clerk of the National Assembly

Director, Legislative and Procedural Services

(ii) GMESED
pls note
FA 05/3/19

(i) 1. MAGUT
2. TUNGO
3. KAKHI
4. KENYATTA
5. KENYATTA

pls deal
FA 05/3/19

REPUBLIC OF KENYA



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Nairobi, Kenya

PARLIAMENT
OFFICE OF THE CLERK OF THE SENATE

SENATE AMENDMENTS TO THE COPYRIGHT (AMENDMENT) BILL
(NATIONAL ASSEMBLY BILLS NO. 33 OF 2017)

The following amendments to the Copyright (Amendment) Bill (National Assembly Bills No. 33 of 2017) were passed by the Senate on Wednesday, 20th February, 2018-

Clause 5

THAT clause 5 of the Bill be amended —

(a) in paragraph (b) by deleting the word “as” appearing immediately after the word “is” in the proposed new subsection (2)(a);

(b) by inserting the following new paragraph immediately after paragraph (b) —

(c) by inserting the following new subsection immediately after subsection (3) —

(4) The Executive Director shall be appointed for a term of four years and shall be eligible for reappointment for one further term of four years.

Clause 6

THAT the Bill be amended by deleting clause 6 and substituting therefor the following new clause —

6. Section 19 of the principal Act is amended —

(a) in subsection (2) by deleting the words “Auditor General (Corporations) or to an auditor appointed under this section” appearing immediately after the words “submit to the” and substituting therefor the words “Auditor-General”; and

(b) by deleting subsection (3) and substituting therefor the following new subsection —

No. 34 of 2015. (3) The accounts of the Board shall be audited and reported in accordance with the provisions of the Public Audit Act.

MINUTES OF THE 14TH SITTING OF THE DEPARTMENTAL COMMITTEE ON COMMUNICATION, INFORMATION AND INNOVATION HELD IN BOARDROOM ON SECOND FLOOR PROTECTION HOUSE, PARLIAMENT BUILDINGS ON THURSDAY 28TH MARCH, 2019 AT 9.30AM

PRESENT

1. **Hon. William Kipkemoi, M.P.** -Chairperson
2. Hon. George Macharia Kariuki, M.P. -Vice- Chairperson
3. Hon. Annie Wanjiku Kibeh, M.P
4. Hon. Mwangaza Kawira, M.P
5. Hon. Liza Chelule Chepkorir ,M.P
6. Hon. Maritim Sylvanus, MP
7. Hon. Erastus Nzioka Kivasu, M.P
8. Hon. Gertrude Mbeyu Mwanyanje, M.P
9. Hon. Innocent Momanyi Obiri, M.P
10. Hon. Marwa Kitayama Maisori, M.P

APOLOGIES

1. Hon. Joshua Kimilu Kivinda, M.P.
2. Hon. Jonah Mburu, M.P
3. Hon. Anthony Oluoch, M.P.
4. Hon. Alfah O. Miruka, M.P
5. Hon. John Kiarie Waweru, M.P
6. Hon. Godfrey Osotsi Atieno, M.P
7. Hon. (Eng.). Mark Nyamita, M.P
8. Hon. Wamuchomba Gathoni, M.P
9. Hon. Mwambu Mabongah, M.P.

IN ATTENDANCE

National Assembly Secretariat

1. Ms. Marlene Ayriro - Senior Legal Counsel
2. Ms. Lorna Okatch - Research Officer III
3. Mr. Simon Muinde - Audio Officer
4. Mr. Wilson Angatangoria - Sergeant at arms

MIN.NO/NA/CII/2019/40: PRELIMINARIES

The meeting was called to order at thirty minutes past nine o'clock followed by a word of prayer.

MIN.NO/NA/CII/2019/41: CONFIRMATION OF THE MINUTES

The agenda was deferred to the next meeting.

MIN.NO/NA/CII/2019/42: ADOPTION OF THE REPORT ON THE CONSIDERATION OF THE SENATE AMENDMENTS TO THE COPYRIGHT AMENDMENT BILL, 2017

The Committee considered the draft report on the senate amendments to the Copyright Amendment Bill, 2017 and adopted it having been proposed by Hon.Erastus Kivasu,MP and seconded by Hon. Innocent Momanyi, MP. The report was adopted with the following recommendations;-

CLAUSE 5

THAT Clause 5 of the Bill be amended -

- (a) in paragraph (b) by deleting the word "as" appearing immediately after the word "is" in the proposed new subsection (2)(a);

Committee Recommendation:

The Committee **agreed** with the Senate Amendment to the Copyright (Amendment) Bill, 2017 on Clause 5(a).

Justification

The amendment seeks to delete a typographical error that appeared in the Bill that was passed by the National Assembly.

- (b) by inserting the following new paragraph immediately after paragraph (b) –
- (c) by inserting the following new subsection immediately after subsection (3) –
- (4) The Executive Director shall be appointed for a term of four years and shall be eligible for reappointment for one further term of four years.

Committee recommendation: The Committee **agreed** with the Senate Amendment to to the Copyright (Amendment) Bill, 2017 on clause 5(b).

Justification

This amendment seeks to provide the tenure of office of the Executive Director of the Kenya copyright board that had not been provided for in the Bill as passed by the National Assembly

CLAUSE 6

THAT the Bill be amended by deleting Clause 6 and substituting therefor the following New Clause –

- 6. Section 19 of the principal Act is amended –

- (a) in subsection (2) by deleting the words “Auditor General (Corporations) or to an auditor appointed under this section” appearing immediately after the words “submit to the” and substituting therefor the words “Auditor-General”; and

Committee recommendation

The Committee **agreed** with the Senate amendments to the Copyright (Amendment) Bill, 2017 on Clause 6(2).

Justification

This is a very minor amendment that does not change the import of the amendment as was passed by the National Assembly. Article 229 of the Constitution refers to “an auditor-general” and not to “the office of the auditor general” the amendment seeks ensure consistency with the supreme law of the land.

- (a) by deleting subsection (3) and substituting therefor the following new subsection –

(3) The accounts of the Board shall be audited and reported in accordance with the provisions of the Public Audit Act.

No. 34 of
2015.

Committee recommendation

The Committee **agreed** with the Senate Amendment to the Copyright (Amendment) Bill, 2017 on Clause 6(3).

Justification:

The Amendment seeks to provide clarity in the drafting of the amendment that was provided for in the National Assembly Bill on the process of carrying out audits by the board.

MIN.NO/NA/CII/2019/43 ADJOURNEMENT

There being no other business, the meeting was adjourned at eleven o'clock

SIGNED..........DATE.....

HON. WILLIAM KISANG, MP - CHAIRPERSON