

REPUBLIC OF KENYA

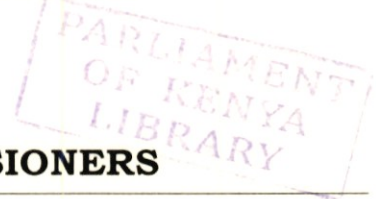


THE NATIONAL ASSEMBLY (FOURTH SESSION)

CONVEYANCE OF A PUBLIC PETITION

(No. 02 of 2020)

REGARDING THE PLIGHT OF PENSIONERS



Honourable Members, pursuant to the provisions of Standing Order 225(2) (b), I wish to report to the House a Petition submitted by the Kenya Association of Retired Officers, a duly registered association working towards better and improved terms and conditions of pensioners in Kenya which petition is tendered on behalf of over 200,000 government pensioners in the Country.

Honourable Members, the petitioners claim that majority of the pensioners especially those who retired before the year 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.

Honourable Members, the petitioners believe that they play a very significant role in national development in their own way and deserve better livelihoods through a Comprehensive Pension and Benefit Policy.

Honourable Members, the petitioners pray that this House intervenes through the implementation of the Salaries and Remuneration Commission (S.R.C.) Pension Increase Policy of 2015;

amendment of the Pensions Act, Cap 189 and the Pensions (Increase) Act, Cap 190 of the Laws of Kenya; 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.

Honourable Members, pursuant to the provisions of Standing Order 227, this Petition stands committed to the Departmental Committee on Labour and Social welfare for consideration. The Committee is required to report its findings to the House and the Petitioner in accordance with Standing Order 227(2).

I thank you!


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

THUR, 27 FEB 2020



KENYA ASSOCIATION OF RETIRED OFFICERS (K.A.R.O)

(MOTTO: FOR TOGETHER WE LIVE AND SERVE)

P.O. BOX 86-10100 NYERI. TEL: 0721 973 966, 0722 691 4:92

The National Assembly of the Republic of Kenya,
Thro'
The Clerk,
The National Assembly of Kenya,
P.O. Box 41482-00100,
NAIROBI.

DLPS

Please deal.

09/10/19

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PUS deal.*

11.10.19

30th September 2019.

PRESENTATION OF PETITIONS TO THE NATIONAL ASSEMBLY OF THE NATIONAL PARLIAMENT OF THE REPUBLIC OF KENYA BY THE KENYA ASSOCIATION OF RETIRED OFFICERS (KARO) ON BEHALF OF OVER 200,000 GOVERNMENT PENSIONERS SPREAD OUT IN ALL THE 47 ---COUNTIES THAT CONSTITUTE THE REPUBLIC OF KENYA.

The Kenya Association of Retired Officers, on behalf of over 200,000 government pensioners in Kenya who receive their monthly pension from the Pensions Department of the National Treasury, wishes to humbly and with due respect, present the following Petitions to the National Assembly of the Republic of Kenya for deliberation and expeditious action. This is in accordance with Articles 37 and 119 of the Kenya Constitution 2010, Petitions to Parliament (Procedure Act) of 2012 and Standing Orders 219—229, Part III—Public Petitions—of the National Assembly.

The Petitions referred above are as follows:

- (a) **Petition No.1:** Implementation of the Salaries and Remuneration Commission (S.R.C.) on Pension Increase Policy of 2015;
- (b) **Petition No. 2:** Repeal/Review/Amendment of the Pensions Act, Cap 189. And the Pensions (Increase) Act, Cap. 190 of the Laws of Kenya;
- (c) **Petition No. 3:** Provision of Free and Comprehensive Health/Medical Care for government pensioners at all Public Health and any other N.H.I.F. accredited Health Facilities in Kenya under the Universal Health Coverage (U.H.C.) Agenda;
- (d) **Petition No. 4:** Inclusion of government pensioners in the "Inua Jamii 70 years and above Cash Transfer Program" under the Ministry of Labour and Social Protection;
- (e) **Petition No. 5:** Representation of Government Pensioners, through their recognised Pensioners Association, in the Salaries and Remuneration Commission (S.R.C.);
- (f) **Petition No.6:** Development and Implementation of a Comprehensive Pension Policy for the Public Service in Kenya.



The Petitions referred above, represent issues of major and special concern to government pensioners which need to be addressed as a matter of urgency. It should be a matter of great concern to the Members of the National Assembly and indeed the Government of the Republic of Kenya to note that majority of pensioners rely solely on their meager monthly pension which is inadequate to meet their daily basic needs. This applies largely to those who retired before the year 2003.

Those in the bracket, Kes5.000—Kes10.000, in monthly pension, live in abject poverty and are unable to meet their monthly food, clothing and medical expenses. In this regard, therefore, the government pensioners, through the Kenya Association of Retired Officers, wishes to strongly appeal to the Members of the National Assembly to give the Petitions, herewith attached, the attention they deserve as a means of improving the welfare of the pensioners.

These Petitions, attached herewith, are supported by 1433 signatures, appended herewith. The pensioners who have appended their signatures to the said Petitions are drawn from different Counties in Kenya as follows:

County	No. of Signatures
Elgeyo—Marakwet	419
Baringo	326
Meru	197
Nyeri	169
Tharaka-Nithi	163
Taita Taveta	127
Laikipia	12
Nyandarua	10
Marsabit	10
Total	1433

The Association humbly prays to the Honourable Members of the National Assembly of the Republic of Kenya to seriously consider the Petitions herein and act expeditiously

Thank you for your support,

Your humble Petitioners,



P. KARUGA GICHOHI—0724110671.

FOR AND ON BEHALF OF,

KENYA ASSOCIATION OF RETIRED OFFICERS (KARO)



KENYA ASSOCIATION OF RETIRED OFFICERS (K.A.R.O)

(MOTTO: FOR TOGETHER WE LIVE AND SERVE)

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PETITIONS TO THE NATIONAL ASSEMBLY OF THE
REPUBLIC OF KENYA UNDER ARTICLES 37 AND 119
OF THE KENYA CONSTITUTION 2010, PETITIONS TO
PARLIAMENT (PROCEDURE) ACT OF 2012 AND
STANDING ORDERS No. 219 – 229, PART XXIII –
PUBLIC PETITIONS – OF THE NATIONAL ASSEMBLY.

Compiled by:-

P. Karuga Gichohi – 0724 110 671

EXECUTIVE OFFICER

KENYA ASSOCIATION OF RETIRED OFFICERS (KARO)

Courtesy of:

Jeremiah M. Limungi - National KARO Chair; John M. Wachira - Secretary General, KARO;

Veronica W. Maina - Treasurer KARO



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9TH September, 2019

PETITIONS TO THE NATIONAL ASSEMBLY OF THE REPUBLIC OF KENYA UNDER ARTICLES 37 AND 119 OF THE KENYA CONSTITUTION OF 2010, PETITIONS TO PARLIAMENT (PROCEDURE) ACT OF 2012 AND THE STANDING ORDERS 219-229, PART XXIII – PUBLIC PETITIONS – OF THE NATIONAL ASSEMBLY ON:-

- (i) IMPLEMENTATION OF THE SALARIES AND REMUNERATION COMMISSION (S.R.C) RECOMMENDATIONS ON PENSION INCREASE POLICY 2015;**
- (ii) REPEAL/REVIEW/AMENDMENT OF THE PENSIONS ACT CAP. 189, AND THE PENSIONS (INCREASE) ACT, CAP. 190, OF THE LAWS OF KENYA;**
- (iii) PROVISION OF FREE AND COMPREHENSIVE HEALTH CARE FOR GOVERNMENT PENSIONERS AT ALL PUBLIC HEALTH INSTITUTIONS IN KENYA UNDER THE UNIVERSAL HEALTH COVERAGE (U.H.C) AGENDA; AND**
- (iv) INCLUSION OF GOVERNMENT PENSIONERS IN THE “INUA JAMII 70 YEARS AND ABOVE CASH TRANSFER PROGRAMME”.**
- (v) REPRESENTATION OF GOVERNMENT PENSIONERS IN THE SALARIES AND REMUNERATION COMMISSION.**
- (vi) DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE PENSION POLICY FOR THE PUBLIC SERVICE OF THE REPUBLIC OF KENYA.**

1. Preamble

We, the undersigned, being citizens of Kenya and members of the Kenya Association of Retired Officers (K.A.R.O), a duly registered Association, and representing over 200,000 government pensioners in Kenya, working towards better and improved terms for the pensioners of Kenya, wish to state that it is in public interest to lodge the following Petitions relating to unresolved matters hereunder. And further, that the Petitioners wish to humbly bring to the attention of the Honourable Members of the National Assembly of the Republic of Kenya the fact that government pensioners in Kenya are the most neglected citizens arising from the perception that they are economically unproductive, they are paid a pension for doing nothing

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(minimal contribution towards national economic development) and that they should not participate in any community activities and thus they should stay at home and enjoy their pension.

The Petitioners, therefore, strongly and sincerely believe that pensioners play a significant role in the national development in their own way and deserve a better deal in future. The need for the development of a Comprehensive Pension and Benefit Policy, rather than piecemeal amendments to the Pension Acts, cannot be overemphasized. The National Assembly of Kenya's Parliament has the prime and critical responsibility to drive this initiative to its final conclusion.

That we the undersigned, further wish to humbly bring to the attention of the Honourable Members of the National Assembly of the Republic of Kenya the following background information relating to the issues herein as a means of assisting the members to understand the rationale of the Petitions.

Therefore, the Petitioners wish to humbly state as follows:-

- (i) that the Kenya Association of Retired Officers (KARO) was conceived in the 1990s as a vehicle for bringing together pensioners from the mainstream civil service, teachers from the Teachers Service Commission (TSC) and members of the Kenya Defense Forces (KDF) and all those pensioners whose monthly pension is paid through the Pensions Department of the National Treasury;
- (ii) that the Association was duly registered in January 1997 by the Registrar of Societies under Cap. 108 of the Laws of Kenya;
- (iii) that the Association was formed with three (3) objectives in mind:-
 - (a) to protect pension as an accrued and “**absolute right**”, in accordance with the Pensions Act Cap. 189, Section 5, of the Laws of Kenya, for all pensioners in Kenya and hence ensure that pensioners are paid their dues in time and in sufficient amounts;
 - (b) to lobby the government, their former employer, for improvement of their pensions and other benefits; and

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- (c) to initiate, promote and support socio-economic welfare of the pensioners in terms of activities, projects and program;
- (iv) that, according to the available data, which has not been verified for accuracy, there are over 200,000 pensioners in the payroll of the Pensions Department of the National Treasury and more than 500 public officers are joining the ranks of pensioners each year;
- (v) that the philosophy underlying the payment of pensions by the Pensions Department is to provide pensioners with **“a reasonable and sustainable standard of living so that they enjoy dignified and secure livelihoods when they leave service”** on retirement;
- (vi) that the current Pension Scheme is **“non-contributory, non-funded and defined benefit”** paid to a public officer on retirement at the age of 60 years, on completion of ten (10) years of satisfactory service or at any other time as the government may determine in accordance with the Pensions Act or any other law in Kenya.
- (vii) that the payment of pension to public officers is based on the following Acts of Parliament:
- (a) the Pensions Act, Cap. 189, of the Laws of Kenya, enacted in 1942 and assented to by the Governor of the Colony and Protectorate of Kenya in 1946, in anticipation of the end of the 2nd World War (1939-45) and which, between 1946 and 2017, has gone through a series of amendments (not less than 40 amendments)
- (b) the Pensions (Increase) Act, Cap. 190, of the Laws of Kenya, enacted in 1956 and which has also gone through a series of amendments between 1956 and 2017;
- (viii) that pension is an **“absolute right”** in accordance with Section 5 of the Pensions Act, Cap. 189, of the Laws of Kenya and accrues throughout the working life of a public officer;
- (ix) that on retirement, the public officer opts to commute one-quarter ($\frac{1}{4}$) of the total pension to facilitate payment of monthly pension;
- (x) that the Salaries and Remuneration Commission (S.R.C) was established under the Kenya Constitution 2010 Article 230 and the Salaries and Remuneration Commission Act No. 10 of 2011 and is

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mandated **“to, in consultation with the National Treasury and other relevant parties, undertake periodic reviews and make recommendations on pensions to compensate for the rise in the cost of living”**;

- (xi) that, pension, though based on the two Acts of Parliament, is not protected under the Kenya Constitution 2010 – in fact, there is no mention or reference to pension in any of the 264 Articles, except in Sixth Schedule, Section 32, where reference is made to pension for holders of constitutional offices;
- (xii) that there are two (2) groups of pensioners, namely:
 - (a) those who retired before 2003, characterized by extremely low pensions based on low salaries; prior to retirement, with a monthly pension of between KES 4,000/00 and 10,000/00 and who are the majority of pensioners in Kenya; and
 - (b) those who retired after 2003 whose monthly pensions are substantially higher and who benefitted from improved salaries and benefits during the Hon. Mwai Kibaki Presidency.
- (xiii) that Kenya, during its 56 years of independence, has not developed a Comprehensive Pension Policy for the public service;
- (xiv) that the Policy Documents, namely (a) the Public Sector Remuneration and Benefits Policy Framework 2015 and (b) the Public Sector Remuneration and Benefits Policy 2015 both published in June 2015 by the Salaries and Remuneration Commission (S.R.C) fell short of defining the elements and tenets of a comprehensive pension and benefits policy.
- (xv) that, with respect to the above background, the Petitioners wish to present the following Petitions for your deliberation and expeditious action as the members may deem necessary.

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PETITION NO. 1

**IMPLEMENTATION OF SALARIES AND REMUNERATION
COMMISSION (S.R.C) RECOMMENDATIONS ON PENSION
INCREASE POLICY 2015**

That the Petitioners wish to draw the attention of the House to the following:-

- (i) that the Salaries and Remuneration Commission was created under Article 230 of the Kenya Constitution 2010 and operationalised through the Salaries and Remuneration Commission Act No. 10 of 2011;
- (ii) that between 2011 and 2015, the Commission embarked on various studies on salaries and remuneration in the public service that culminated in the publication of two major Documents, namely,
 - (a) the Public Sector Remuneration and Benefits Policy Framework(First Edition) 2015; *and*
 - (b) the Public Sector Remuneration and Benefits Policy 2015
- (iii) that the two Documents were launched by His Excellency Hon. Uhuru Muigai Kenyatta, the President of the Republic of Kenya, in June 2015;
- (iv) that the major recommendations based on these documents with specific reference to government pensioners are summarized as follows:
 - (a) a discretionary one-off pension increase for retirees for the period 1991 - 2005 to compensate for inflation;
 - (b) amendment of the Pension (Increase) Act, Cap. 190 of the Laws of Kenya, to provide for a triennial review of pension-in-payment over and above the existing biennial pension increase effected in June 2005;
 - (c) cap the increase in pension expenditure to not more than 1.5% of Gross Domestic Product (G.D.P) for public liabilities;
- (v) that the effective date of implementation of the recommendations was to be July 2017;
- (vi) that the S.R.C. recommendations have not yet been implemented to date as expected, two (2) years after they were presented to the National Treasury;

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- (vii) that recommendation (iv) (a) above is derived from the Ramtu Commission Report of 1985 and the subsequent Sessional Paper No.3 of 1985, Paragraph 70, that recommended that “***whenever there is a general salary revision for serving civil servants there shall be a corresponding increase for government pensioners***”.
- (viii) That the main objective of the Pension (Increase) (Amendment Bill) of 1996, presented to Parliament by the then Attorney General was “to implement the present government policy contained in Paragraph 70 of Sessional Paper No.3 of 1985 that whenever there is a general salaries revision for serving civil servants there shall be a corresponding increase for government pensioners”.
- (ix) that the binding nature of the SRC’s advice is provided under Article 259 (11) of the Kenya Constitution 2010 but is not clear as at what time that advice should be sought;
- (x) that the inadequacy, unfairness and unsustainability of the current unfunded pension scheme as provided for in the Pensions Act, Cap. 189 of the Laws of Kenya, has been documented by a number of successive Public Service Review Commissions / Committees over the past four (4) decades;
- (xi) that attempts to address the problem of low pension benefits following the 2005 pensions increase have been made, and that in 2014, the SRC contracted a professional review of pension benefits;
- that the review recommended a revised pension in the Pensions (Increase) Act (Cap. 190) and targeted pension increase of up to 50% of inflation for pensions in-payment once every three (3) years.
- (xii) that the pension increase rate as contained in the Pensions (Increase) Act, Cap. 190 of the Laws of Kenya, section 3(1) of the three percent (3%) after every two (2) years is totally inadequate to compensate for inflation taking into account the fact that pensioners are elderly citizens of Kenya who are likely to experience lifestyle and other ailments;
- (xiii) that the Association is humbly requesting the National Assembly to consider raising the same rate to at least ten per cent (10%) in order to uplift the pensioners from the scourge of poverty by amending the Pensions (Increase) Act Section 3(1);
- (xiv) that the petitioners wish to confirm that efforts have been made with relevant authorities to have the matters addressed with no satisfactory

response, that the Petitioners wish to confirm that the issues in respect of which this Petition is made are not pending before any court of law or constitutional or legal body.

Therefore your Petitioners humbly pray that the National Assembly of the Republic of Kenya takes the following measures:

- a) that the National Assembly of the Republic of Kenya shall initiate the implementation of recommendation (iv)(a) above as a matter of urgency as a means of alleviating the suffering the pensioners are going through;
- b) that the National Assembly of the Republic of Kenya shall initiate the amendment of Pensions (Increase) Act, Cap.190, as recommended by the Commission in (iv)(b) above to facilitate payment by the National Treasury and this in conjunction with the Office of the Attorney General.

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PETITION NO. 2:

**REVIEW/REPEAL/AMENDMENT OF PENSIONS ACT, CAP.189,
OF THE LAWS OF KENYA**

That the Petitioners wish to draw the attention of the House to the following:

- (i) that the Pension's Act Cap.189, of the Laws of Kenya is an archaic and oppressive legislation and a remnant of the colonial legal system which is overdue for review/repeal by the National Assembly of the Republic of Kenya;
- (ii) that the Act was enacted in 1942 and assented to by the Colonial Governor in 1946 to provide for payments of pension to colonial officers serving the colonial government:- the legislation remains in Kenya's statute books 55 years after independence and 75 years after its enactment;
- (iii) that the Africans who served the then colonial government were not pensionable until after independence in 1963;
- (iv) that between 1946 and 2017 the Act has been amended more than 40 times but still retains a number of irrelevant sections that should be expunged through a review / repeal process;
- (v) that Section 5 of the Act defines pension as an "***absolute right***" for those who have given satisfactory service in the public service - in addition pension is earned, it is not a gift/privilege, and accrues throughout the public officers employment life;
- (vi) that the majority of pensioners particularly those who retired before 2003 when civil service salaries were substantially low - receive a monthly pension of KES.4,000/00 -10,000/00 which is inadequate to cater for their basic needs, taking into account the fact that pensioners are elderly citizens of Kenya who are vulnerable to physical ,mental, psychological and health challenges on a daily basis;
- (vii) that the Pensions Act is an archaic, oppressive, discriminatory and gender-insensitive remnant of colonial legacy which calls for immediate and urgent repeal/review in order to be in consonance with the Constitution of Kenya 2010;
- (viii) that Section 17(1) of the Pensions Act (Cap.189) which provides for "Pensions to Dependants on Death of Officer in Service or on Retirement":

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- (a) recognizes a widow of a deceased officer who has died in service or on retirement as a dependant; but
 - (b) does not recognize the widower of a pensionable female officer who has died in service or on retirement as a dependant;
- (ix) that the Pensions Act generally and largely assumes that pensionable officers serving in the public service of the Republic of Kenya are male arising from the colonial tradition where female officers were serving on contractual terms and thus they were not on pensionable terms of service unlike their male counterparts who were serving on pensionable terms;
- (x) and further that the strongly held view during the colonial period was that women were fully dependant on their male folk and serving at the behest of their men hence widowers' pension was beyond the imagination of the government officers who drafted the Pensions Act in 1942 – this situation is no longer tenable in modern Kenya since all officers in the public service (both male and female) are serving on permanent and pensionable terms.
- (xi) that the Petitioners wish to present the following proposals for action by the National Assembly of the Republic of Kenya:
- a) that the National Assembly shall initiate a comprehensive review /repeal of the Pensions Act, as a matter of urgency, to provide among other things ,for the protection of pensions and thus enhance their constitutionality;
 - b) that the National Assembly, as an initial stage of review/repeal of the Act, shall consider specifically the amendment of Section13– ***“Pension, etc..... Not Assignable”*** - of the Act to allow government pensioners to enjoy the benefits of the ***“Check-Off System”*** a right enjoyed by other Kenyan citizens including public officers.
 - c) that Section 17 of the Pensions Act should be amended to provide for the widows/widowers pension to be paid for a period exceeding five (5) years, that is for the lifetime of the widow/widower, taking into account the fact that the surviving spouse (husband/wife) has become more vulnerable to physical, psychological and health/medical challenges due to old age and that the prevailing level of monthly pension (KES 4,000/00 – 10,000/00) is inadequate to meet the daily needs of a pensioner.

- d) that the Pensions (Increase) Act (Cap. 190) should be amended to provide for increase of minimum monthly pension from Kshs. 2,000/00 (equivalent to USD 20.0 per month or Kshs. 66.7 per day – this is below the poverty line of USD 1.00 per day) to Kshs. 10,000.00 (equivalent to USD 100.00 per month or USD 3.3 per day);
- e) that all monthly pensions above Kshs. 10,000/00 to be increased on a prorata basis, consequent to which pensioners being paid less than Kshs. 10,000/00 (low pensions) in monthly pensions would benefit substantially
- (f) that the National Assembly of the Republic of Kenya should initiate the formulation of a Comprehensive Pension Policy covering the whole of the Public Sector and thus integrate the existing pension schemes in current use in various sectors in the Public Service;
- (g) that the existing Acts of Parliament that govern the payment of pensions to public and state officers in retirement do not constitute pension policy and should be collapsed into one Comprehensive Pension Policy;;
- (h) that the Pensions Department , a Department of the National Treasury ,should be transformed into an autonomous pensions and benefits government agency responsible for the management and administration of pensions, formulation of pensions policy and carrying out of periodical pensions reviews in consultation with other government Ministries/Departments/Agencies.

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PETITION NO. 3

PROVISION OF FREE AND COMPREHENSIVE HEALTH CARE FOR GOVERNMENT PENSIONERS AS PART OF THE UNIVERSAL HEALTH CARE (U.H.C) AGENDA

That the Petitioners wish to draw the attention of the House to the following:

- (i) that public officers retire after a service of 30 years or more and on attainment of 60 years of age having spent the best years of their youthful lives serving their country with patriotism, commitment and dedication;
- (ii) that the reward of KES. 4,000/00-10,000/00 in monthly pension is not commensurate with the length of service rendered to their country;
- (iii) that, while serving in the public service, they enjoyed some form of medical cover which was discontinued on retirement, leaving them vulnerable to a variety of ailments, particularly due to old age;
- (iv) that pensioners are elderly citizens of Kenya who face daily challenges brought about by old age which include physical, mental, psychological and health problems;
- (v) that the burden of poverty and the burden of diseases and the subsequent medical bills leave the families of the pensioners desperate and resource poor;
- (vi) that Article 43 - Economic and Social Rights -of the Kenya Constitution 2010 Section (1)(a) provides for the right “**to the highest attainable standard of health which includes the right to health care services**” while Article 57 of the Kenya Constitution 2010 provides for the rights of Older Members Of Society;
- (vii) that the pensioners, under the National Hospital Insurance Fund (N.H.I.F) are classified under the class of self-employed, and are required to pay KES. 500/00 per month - due to resource poverty facing the pensioners this results in lapse of payments consequent to which the pensioner is not covered;

That the Petitioners, on behalf of fellow pensioners in Kenya, wish to humbly make the following proposals for action by the National Assembly of the Republic of Kenya;

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- a) that the National Assembly should consider providing government pensioners with a free and comprehensive medical/health insurance cover at all public and faith-based health institutions in Kenya;
- b) that the National Assembly shall consider recommending to government the waiving of the monthly payments of KES. 500/00 to N.H.I.F for the pensioners and instead carry the burden on behalf of its former employees/retired officers, in accordance with Article 43 of the Kenya Constitution 2010;
- (viii) that this is the best reward the government of the Republic of Kenya could give to its retired officers and former employees, during their old age, for having served their country with utmost dedication and commitment;
- (ix) that pensioners in Kenya constitute only about 0.6% of the total population of Kenya estimated at 45 million hence the burden on public resources is minimal.

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PETITION NO. 4

INCLUSION OF GOVERNMENT PENSIONERS IN THE “INUA JAMII 70 YEARS AND ABOVE CASH TRANSFER PROGRAMME”

That the Petitioners wish to draw the attention of the House to the following:

- (i) that “Inua Jamii 70 years and above Cash Transfer Program” was launched in 2017 by the government of the Republic of Kenya with the registration of all older persons aged 70 years and above in July/August 2017 at all Sub-County Social Development Offices throughout Kenya;
- (ii) that the program was expected to commence in January 2018 (but actually payments commenced in March 2018) as “New Social Assistance Unconditional Cash Transfer Program” to deliver regular bimonthly cash transfers of KES. 4,000/00;
- (iii) that according to the Ministry of Labor and Social Protection the program was “*A Universal Pension Scheme*” for older persons aged 70 years and above without exception;
- (iv) that in January 2018, the Petitioners, through reports from the members of the Association from a number of County branches, learnt that government pensioners were not eligible to receive payments under the said program;
- (v) that on further enquiry from the Sub-County Social Development Offices, it was confirmed that government pensioners were excluded from the Program for the reason that they were receiving a monthly pension from the same government;
- (vi) that, in the course of time, the Petitioners confirmed that a number of pensioners were receiving payments under the said Program contrary to reports from the Sub-County Social Development officials;
- (vii) that on 11th July 2018, the Association, on behalf of government pensioners, wrote to the Cabinet Secretary, Ministry of Labor and Social Protection on the matter (payment to government pensioners under the Program) in an attempt to establish the truth of the matter and the rationale for the exclusion from the payment under the Program;

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- (viii) that in the letter to the Cabinet Secretary, Ministry of Labor and Social Protection the Association wanted to establish:
- a) whether there was any law in Kenya which directly or indirectly bars government pensioners from receiving payment under such or any similar cash transfer program; and
 - b) whether there was any policy document, or a Circular Letter, from the Ministry of Labor and Social Protection that expressly excludes government pensioners from such payment;
- (ix) that as a follow up to the letter of 11th July 2018 referred in (vii) above a reminder dated 17th August 2018 was forwarded through e-mail address to the Cabinet Secretary, Ministry of Labor and Social Protection;
- (x) that to date, the Cabinet Secretary has not found it prudent to respond to our letter and thus clarify the matter;
- (xi) that on 4th October 2018 the Association wrote to the Attorney General of the Republic of Kenya seeking a legal advisory on the said Cash Transfer Program among other issues, in relation to (viii) above;
- (xii) that the legal advisory dated 7th November 2018 was received by the Association and was copied to the Cabinet Secretary, Ministry of Labor and Social Protection, and to date no response from that office
- (xiii) further that the Association wrote to the Commission on Administrative Justice (C.A.J – Ombudsman) the same issue on 4th September 2018;
- (xiv) that the response by the Ombudsman (C.A.J) was copied to the Cabinet Secretary, Labor and Social Protection, but to-date that office has not found it prudent and courteous to respond to our letter seeking advice on the issue of Cash Transfer Program.
- (xv) that the monthly payment to those aged 70 years and above and payment of a monthly pension to government pensioners are mutually exclusive taking into account the fact that public service

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pension is earned and accrues throughout the employment of a public officer and then paid on retirement;

That with respect to the above, the Petitioners wish to propose as follows:-

- a) that the National Assembly shall review the Program to establish whether there is enough justification to exclude government pensioners from payment under the Program;
- b) that, in reviewing the Program the National Assembly shall ensure that an appropriate legal framework should be put in place soonest;
- c) that the principle of equity and fair play should be exercised with respect to the implementation of the said Program;.
- d) that the Cabinet Secretary for Labor and Social Protection be compelled to pay the government pensioners under the “Inua Jamii 70 years and above Cash Transfer Program” and at no time in future should the Ministry discriminate, or act in a manner that is prejudicial to the government pensioners.

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PETITION NO. 5

REPRESENTATION OF GOVERNMENT PENSIONERS IN THE SALARIES AND REMUNERATION COMMISSION.

The Petitioners wish to draw the attention of the House to the following:-

- i) that the Salaries and Remuneration Commission was created by the Constitution of Kenya 2010 under Article 230 and operationalized through the Salaries and Remuneration Commission Act No. 10 of 2011;
- ii) that the membership of the Commission is given under Article 230 (2), (3) and is constituted as follows:
 - a) Chairperson
 - b) seven (7) persons nominated by the following bodies from among persons who are not members or employees of those bodies:
 - 1) Parliamentary Service Commission;
 - 2) Public Service Commission;
 - 3) Judicial Service Commission;
 - 4) Teachers Service Commission;
 - 5) National Police Service Commission;
 - 6) Defense Council;
 - 7) Senate, on behalf of the County Governments;
 - c) one person each nominated by:-
 - 1) an umbrella body representing Trade Unions;
 - 2) an umbrella body representing employers; and
 - 3) a joint forum of professional bodies as provided by legislation;
 - d) one person each nominated by:-
 - 1) the Cabinet Secretary responsible for Finance and
 - 2) the Attorney General; and
 - e) one person who has experience in the management of human resources in the public service nominated by the Cabinet Secretary responsible for the Public Service.
- iii) that under Section 11(g) of the Salaries and Remuneration Commission Act No. 10 of 2011, one of the functions of the

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- Commission, among others, is **“to make recommendations on the review of pensions payable to holders of public office,”**
- iv) that Regulation 16(1) of the Salaries and Remuneration Commission (Remuneration and Benefits of State and Public Officers) Regulations, 2013, Kenya Gazette Supplement No. 6 of 16th January, 2013, Legal Notice No. 2, provides that the **“Commission shall, in consultation with the National Treasury and other relevant parties, undertake periodic reviews and make recommendations on pensions to compensate for the rise in the cost of living”**.
 - v) that the Commission comprises fourteen (14) members, including the Chairperson, eleven (11) of whom are nominees of the government {Article 230 (2) (a), (b), (d) and (e)} and represent government interests, and that the Commission is largely dominated and controlled by government,
 - vi) that Article 230 (2) (c) represents the interests of trade unions, employers and the professional bodies;
 - vii) that other stakeholders, particularly the government pensioners, are not represented in the Commission;
 - viii) that the government pensioners who number in excess of 200,000 were either deliberately, or inadvertently, excluded from the membership of the Commission, thus ignoring a very important stakeholder in the fulfillment of the Commission’s functions, as set out in Section 11(g) of the Act.
 - ix) that the Petitioner humbly wish to appeal to the Honourable Members of the National Assembly of the Republic of Kenya to initiate an amendment to Article 230 (2) (c) to provide for the representation of government pensioners in the membership of the Commission so that they have a voice that represents and articulates the needs and interests of the pensioners.

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PETITION NO. 6

DEVELOPMENT AND IMPLEMENTATION OF A COMPREHENSIVE PENSION POLICY FOR THE PUBLIC SERVICE OF THE REPUBLIC OF KENYA

That we, the Petitioners wish to draw the attention of the Members of the National Assembly to the following:-

- (i) that the matter of a Comprehensive Pension Policy for the public service of Kenya, is alluded to in Petition No. 2 (xi) (f) requesting the National Assembly to initiate the development of a Comprehensive Pension Policy for the entire Public Service;
- (ii) that all Pensions Acts, enumerated in the Schedule in the Pensions (Increase) Act, Cap. 190, of the Laws of Kenya and any other pension schemes designed for the public service do not translate into a Comprehensive Pension Policy;
- (iii) that since independence in 1963, and during the colonial period dating back to 1942 when the Pensions Act (Cap. 189) was enacted, no pension policy has been developed to guide the management and administration of pensions in Kenya;
- (iv) that there is no body or semi-Government Autonomous Agency (SAGA) entrusted with pension policy development and pension management and administration in Kenya other than the Pensions Department which is an extension of the National Treasury whose mandate is limited to:-
 - (a) processing and payment of pensions, death gratuities and other benefits to eligible officers and dependants;
 - (b) implementation of periodic review of pension law – about 15 Acts of Parliament and other regulations;
 - (c) advice the government on public service pensions policy;
- (v) that the Pensions Department manages pension for over 220,000 pensioners with an annual budget in excess of Kshs. 30billion (Kshs. 24billion during the 2013/2014 year) – government pension liabilities will continue to increase with time;
- (vi) that the National Assembly should make reference to a number of policy documents that provide a history of pensions reforms as follows:-
 - (a) First Actuarial Study of 2001;
 - (b) Second Actuarial Study of 2004;
 - (c) Third Actuarial Study of 2008;
 - (d) Consultancy Study Reports commissioned by the Salaries and Remuneration Commission (SRC) that culminated in the publication of two (2) Documents, namely

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- (e) (i) Public Sector Remuneration and Benefits Policy Framework (2015) and
- (f) (ii) Public Sector Remuneration and Benefits Policy (2015);
- (g) the 15 Pension Acts of Parliament; and other pension schemes;
- (h) any other Studies and Reports of Government Commissions relating to pensions and benefits carried out during the last four (4) decades;
- (vii) that the documents referred to in (vi) above will provide facts and knowledge relating to pensions and an understanding of where the pensions are coming from;
- (viii) that since independence in 1963 the government operates an unfunded non-contributory and defined pensions (benefit) plan for mainstream public service employees;
- (ix) that the problem of inadequate pensions have been documented by a number of Commissions and Committees over the last four decades – the Public Sector Remuneration and Benefits Policy Framework (2015) contains a clear analysis of the problem;
- (x) that in 2012, the government enacted the Public Service Superannuation Scheme Act (PSSSA) under which a new contributory defined funded pension scheme was formed – the Act has not been operationalised on account of various factors.
- (xi) that the transformation of the Pensions Department into a Semi-Autonomous Government Agency (SAGA) to be known as Directorate of Pensions to manage and administer pensions and with a wider mandate of developing and implementing a Comprehensive Pensions/Benefits Policy would indeed be the Way Forward for Kenya in the years to come.
- (xii) that the Comprehensive Pensions/Benefits Policy would address issues of fairness, adequacy, affordability and sustainability of pension benefits in the public service.

That the humble Pensioners, represented by the Kenya Association of Retired Officers (KARO) with all due respect prays to the Members of the National Assembly of the Republic of Kenya to expeditiously and as a matter of urgency initiate the following measures:-

- (a) initiate the formulation, development and implementation of Comprehensive Pension Policy that covers the entire public service and thus integrate all the existing pension schemes that characterize the various sectors in the public service;
- (b) that the Pensions Department, a Department of the National Treasury, be transformed into a semi-autonomous government agency (SAGA) to be responsible for the management and administration of pensions, formulation of a comprehensive pensions and benefits policy and carrying out of periodical pension reviews, in consultation with other relevant government Departments / Agencies / Ministries.

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That

To the best of our knowledge the issues in respect to which these Petitions are made are not pending before any law or constitutional or legal body.

Therefore, your humble Petitioners pray:

That this Petition be dealt with immediately in view of the urgency and the gravity of the issues raised herein.

That the National Assembly of the Republic of Kenya consider the proposals herein and reviews /repeals / amends the Pensions Act, Cap.189, the

Pensions(Increase) Act, Cap.190 and any other relevant Act of Parliament to create harmony with the Kenya Constitution 2010;

That the National Assembly ensures the issues raised herein are appropriately addressed in accordance with the relevant Standing Orders.

And your Petitioners will ever pray and sign themselves as follows: