

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**SENATE BILLS, 2018**

**NAIROBI, 28th February, 2018**

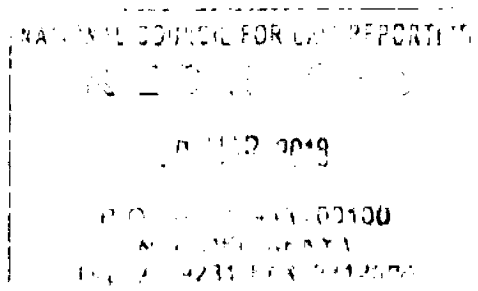
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**THE RETIREMENT BENEFITS (DEPUTY  
PRESIDENT AND DESIGNATED STATE  
OFFICERS) (AMENDMENT) BILL, 2018**

**A Bill for**

**AN ACT of Parliament to amend the Retirement  
Benefits (Deputy President and Designated State  
Officers) Act**

**ENACTED** by the Parliament of Kenya, as follows—

**1.** This Act may be cited as the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, 2018.

Short title.

**2.** Section 2 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015, hereinafter referred to as the “principal Act”, is amended by deleting the definition of the term “retired vice-president” and substituting therefore—

Amendment of  
section 2 of No. 8  
of 2015.

“retired Vice-President” means a person who, having held the office of the Vice-President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution.

**3.** Section 3 of the principal Act is amended by deleting the words “sections 5(3)” appearing immediately after the words “subject to” and substituting therefor the words “sections 8A”.

Amendment of  
section 3 of No. 8  
of 2015.

**4.** The principal Act is amended by inserting the following new section immediately after section 3—

Insertion of new  
section 3A in No. 8  
of 2015

Joint Committee on  
Entitlements

**3A.** (1) There is established a joint committee on entitlements comprising of—

- (a) leaders of the Majority Party in the National Assembly and the Senate;
- (b) leaders of the Minority Party in the National Assembly and the Senate;
- (c) whips of the Majority Party in the National Assembly and the Senate;
- (d) whips of the Minority Party in the

National Assembly and the Senate;  
and

(e) five members, two of whom shall be senators, appointed by Parliament, from among its members in the following manner—

(i) three shall be appointed by the party or coalition of parties forming the national government, of whom at least one shall be a woman; and

(ii) two shall be appointed by the party or coalition of parties not forming the national government, of whom at least one shall be a woman.

(2) The Committee shall consider—

(a) a petition that seeks to alter the entitlements of an entitled person under this Act;

(b) a complaint or dispute regarding the entitlements due to an entitled person under this Act; and

(c) any other petition committed to the committee by the Speaker for consideration.

(3) The Committee shall—

(a) consider a petition under subsection (2) within thirty days of receipt of such petition; and

(b) table its report in the National Assembly and the Senate for adoption.

5. Section 5 of the principal Act is amended—

(a) in the marginal note by deleting the words “an entitled person” appearing immediately after the words “benefits of” and substituting therefor the words “a Speaker”; and

Amendment of  
section 5 of No. 8  
of 2015.

(b) by deleting subsection (3).

6. The principal Act is amended by inserting the following new section immediately after section 8—

Insertion of section 8A in No. 8 of 2015.

Death of entitled person while in service

**8A.**Where an entitled person dies in service after the commencement of this Act, a lump sum payment on death calculated as a sum equal to five times the entitled person's annual salary shall become payable to the entitled person's legal personal representatives.

7. The principal Act is amended by deleting section 10 and substituting therefor the following new section—

Amendment of section 10 of No. 8 of 2015.

Children's Benefits.

**10.** Upon the death of an entitled person who is in receipt of, or who is entitled to a pension under this Act, the surviving eligible child shall be entitled to—

- (a) if there is only one eligible child, pension at the rate of twenty-five percent of the pension entitlement of the deceased entitled person; or
- (b) if there are two or more eligible children, a pension at the rate of fifty percent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

8. Section 12 of the principal Act is amended by—

Amendment of section 12 of No. 8 of 2015.

- (a) renumbering the existing provision as subsection (1); and
- (b) inserting the following new subsections immediately after subsection(1)—
  - (2) Without prejudice to the generality of subsection (1), where an entitled person is entitled to provision of security, the entitled person shall be accorded the opportunity to select the officers to serve them.

- (3) Where there is a need to reduce or alter the security arrangements of an entitled person, the Inspector-General shall refer the matter to the joint committee on entitlements for approval.
- (4) The committee shall consider the matter referred to it under subsection (3) within fourteen days and table its reports before the National Assembly and the Senate for consideration and adoption.

**9.** The Second schedule of the principal Act is amended in paragraph (j) by inserting the words “not less than six and a not exceeding ten” immediately before the words “armed security guards”.

Amendment of  
the Second  
Schedule of No. 8  
of 2015.

**10.** The Third schedule of the principal Act is amended in paragraph (j) by inserting the words “not less than six and not exceeding ten” immediately before the words “armed security guards”.

Amendment of  
the Third  
Schedule of No. 8  
of 2015.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The Principal object of this Bill is to amend the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015 to provide for the procedure to be followed when altering or modifying the entitlements due to a Deputy President and Designated State Officers as provided for in the Act.

The amendment seeks to ensure the executive does not use alteration or modification of entitlements due to an entitled person as a tool to intimidate or maltreat the entitled person. The amendment establishes a joint committee within Parliament to review decisions of the executive to alter or modify the personnel attached to the entitled person.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill does not delegate legislative powers nor does it limit the fundamental rights and freedoms.

### **Statement on how the Bill concerns county governments**

The Bill affects the powers and functions of the county government and it is therefore a Bill that concerns counties in terms of Article 110(1)(a) of the Constitution.

### **Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 19th January, 2018.

LEDAMA OLEKINA,  
*Senator.*

*Section 2 of No. 8 of 2015 which it is proposed to amend—*

2. In this Act, unless the context otherwise require—

“benefits” means pension and other retirement benefits conferred by this Act;

“Deputy President” means a person who holds the office of Deputy-President of Kenya in accordance with the Constitution;

“eligible child” means any child of a deceased entitled person who—

(a) is under eighteen years of age; or

(b) is under twenty-four years of age and is undergoing a course of full time education; or

(c) was at the time of the death of the deceased wholly or mainly dependent on the deceased and was at that time and has at all times since been either a person falling within paragraph (a) and (b) or is incapable, and likely to remain permanently incapable, by reason of bodily or mental infirmity, of earning his own living, and is not for the time being maintained out of moneys provided by the Government in a hospital or similar institution;

“entitled person” means any of the persons specified in section 3;

“retired Chief Justice” means a person who, having held the office of Chief Justice, has ceased to hold the office as such in the manner specified in the Constitution;

“retired Deputy Chief Justice” means a person who, having held the office of Deputy Chief Justice, has ceased to hold office as such in the manner specified in the Constitution;

“retired Deputy President” means a person who, having held the office of Deputy-President, has ceased to hold office as such in the manner specified in the Constitution;

“retired Prime Minister” means a person who, having held the office of Prime Minister, has ceased to hold office as such in the manner specified in the Constitution;

“retired Speaker” means a person who, having held the office of the Speaker of the National Assembly or Speaker of the Senate at any time after the 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

“retired Vice-President” means a person who, having held the office of Vice-President, has ceased to hold office as such in the manner



specified in the Constitution and does not include a person who served as Vice-President before the commencement of this Act;

“spouse” means the wife or husband of an entitled person who dies while holding office as such, and includes in the case of an entitled person under whose religion or custom polygamy is lawful, any person to whom the entitled person is lawfully married in accordance with the tenets of that religion or custom;

“term” means a Parliamentary term unless otherwise defined by the instrument of appointment; and

*Section 3 of No. 8 of 2015 which it is proposed to amend—*

3. Subject to sections 5(3) and 15, the persons entitled to the benefits conferred by this Act shall be persons who—

- (a) at any time after the 1st January, 1993, retire as Deputy President, Prime Minister, Vice-President or Speaker; or
- (b) at any time after the 27th August, 2010, retire as Chief Justice or Deputy Chief Justice.

*Section 5 of No. 8 of 2015 which it is proposed to amend—*

5. (1) A retired Speaker of the National Assembly or the Senate shall, during his or her lifetime, be entitled to—

- (a) a monthly pension equal to eighty per cent of the monthly salary of the entitled person’s last monthly salary while in office;
- (b) a lump sum payment on retirement, calculated as a sum equal to one year’s salary paid for each term served in office;
- (c) one saloon vehicle of an engine capacity not exceeding 2000 cc which shall be replaceable once every four years;
- (d) one four-wheel drive vehicle of an engine capacity not exceeding 3000 cc which shall be replaceable once every four years;
- (e) a fuel allowance equal to fifteen per cent of current monthly salary of the office holder;
- (f) full medical and hospital cover, providing for local and overseas treatment, with a reputable insurance company for the entitled person and the entitled person’s spouse;
- (g) the additional benefits set out in the First Schedule.

(2) Despite the provisions of this section, an entitled person who serves in office for less than a term, shall not be entitled to the benefits set out in this section but shall be entitled to—

- (a) gratuity paid at the end of the entitled person's service at the rate of thirty-one per cent of the entitled person's salary while in office;
- (b) one armed security guards who shall be provided on request by the entitled person;
- (c) diplomatic passports for the entitled person and his spouse; and
- (d) access to the V.I.P. lounge at all airports within Kenya.

(3) Where an entitled person dies in service after the commencement of this Act, a lumpsum payment on death calculated as a sum equal to five times his annual salary shall become payable to his legal personal representatives.

*Section 8 of No. 8 of 2015 which it is proposed to amend—*

**8.** (1) An entitled person shall be expected to play a consultative and advisory role to the Government and the people of Kenya.

(2) An entitled person may be requested by the Government to perform, subject to his or her concurrence, specific official functions and shall be paid a reasonable allowance in respect of such official functions.

*Section 10 of No. 8 of 2015 which it is proposed to amend—*

**10.** A children's pension shall be payable for the Children's benefit. benefit of an eligible child where an entitled person dies and—

- (a) if there is only one child, pension at the rate of twenty-five percent of the pension entitlement of the entitled person;
- (b) if there are two or more children, a pension at the rate of fifty percent of the pension entitlement of the deceased entitled person to be divided equally for the benefit of each child.

*Section 12 of No. 8 of 2015 which it is proposed to amend—*

**12.** The professional and other staff required to be provided for an entitled person under the First Schedule shall be public officers, but no person shall be appointed or posted to serve on such staff except with the concurrence of the entitled person and such staff shall, in the performance of their duties, be responsible only to the entitled person.

*The Second Schedule of No. 8 of 2015 which it is proposed to amend—*

**SECOND SCHEDULE**

[Section 6 (g).]

**ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED PRIME MINISTER**

- (a) Three drivers;
- (b) one personal assistant;
- (c) one accountant;
- (d) two secretaries;
- (e) two house keepers;
- (f) two senior support staff;
- (g) two gardeners;
- (h) two cooks;
- (i) two cleaners;
- (j) armed security guards who shall be provided on request by the entitled person;
- (k) diplomatic passports for the entitled person and his or her spouse;
- (l) office and office equipment;
- (m) maintenance expenses for the vehicles provided pursuant to this Act;
- (n) access to the V.I.P. lounge II at all airports within Kenya.

*The Third Schedule of No. 8 of 2015 which it is proposed to amend—*

**THIRD SCHEDULE**

[Section 7 (g).]

**ADDITIONAL RETIREMENT BENEFITS FOR A RETIRED DEPUTY PRESIDENT OR RETIRED VICE-PRESIDENT**

- (a) Two drivers;
- (b) one personal assistant;
- (c) one accountant;
- (d) one secretary;
- (e) two house keepers;

- (f) two senior support staff;**
- (g) two cooks;**
- (h) two gardeners;**
- (i) two cleaners;**
- (j) armed security guards who shall be provided on request by the**
- (k) entitled person;**
- (l) diplomatic passports for the entitled person and his or her spouse;**
- (m) office and office equipment;**
- (n) maintenance expenses for the vehicles provided pursuant to this Act;**
- (o) access to the V.I.P. lounge II at all airports within Kenya.**