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REPUBLIC OF KENYA

THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – FOURTH SESSION – 2025

DIRECTORATE OF DEPARTMENTAL COMMITTEES

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS	
THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 29 MAY 2025	DAY: Thursday
TABLED BY:	Hon. George Mwangi MP Chairperson of Committee on Justice and Legal Affairs
CLERK-AT THE TABLE:	Halima Ahmed

REPORT ON:

THE CONSIDERATION OF THE PRESIDENT'S
MEMORANDUM OF REFERRAL OF THE CONFLICT OF
INTEREST BILL, 2023
(NATIONAL ASSEMBLY BILL NO. 12 OF 2023)



CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

MAY 2025

TABLE OF CONTENTS

Table of Contents	i
List of Abbreviations and Acronyms	ii
List of Annexures	iii
Chairperson's Foreword	iv
CHAPTER ONE	I
1 Preface	I
1.1 Establishment of the Committee	I
1.2 Mandate of the Committee	I
1.3 Committee Membership	3
1.4 Committee Secretariat	4
CHAPTER TWO	5
2 Consideration of the President's MEMorandum on the Conflict of Interest Bill (<i>National Assembly Bill No. 12 of 2023</i>)	5
2.1 Background	5
2.2 Consideration of the President's Memorandum of Referral	5
CHAPTER THREE	8
3 Committee OBSERVATIONS AND Recommendations	8

LIST OF ABBREVIATIONS AND ACRONYMS

EACC	-	Ethics and Anti-Corruption Commission
FORD	-	Forum for the Restoration of Democracy
Hon.	-	Honourable
MCCP	-	Maendeleo Chap Chap Party
MP	-	Member of Parliament
ODM	-	Orange Democratic Movement
UDA	-	United Democratic Alliance
UDM	-	United Democratic Movement
WDM	-	Wiper Democratic Movement

LIST OF ANNEXURES

- Annexure 1: Adoption Schedule
- Annexure 2: Minutes
- Annexure 3: President's Memorandum of Referral of the Conflict of Interest Bill, 2023
- Annexure 4: Message from the President on Referral of the Conflict of Interest Bill, 2023
- Annexure 4: Speaker's Communication dated 28th July 2015 on Consideration and Scope of Presidential Reservations Pursuant to Article 115 of the Constitution – Referral of Bills to Parliament for Reconsideration

CHAIRPERSON'S FOREWORD

This report contains the proceedings of the Departmental Committee on Justice and Legal Affairs on its consideration of the President's Memorandum of Referral of the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023).

The Mediated Version of the Bill was passed by the National Assembly and the Senate on 5th December 2024 and 8th April 2025, respectively. The Rt. Hon. Speaker, thereafter, presented the Bill to H.E the President for assent pursuant to Standing Order 153 of the National Assembly Standing Orders.

In compliance with Article 155(1)(b) of the Constitution the President, vide a memorandum dated 28th April 2025, referred the Bill back to the National Assembly for reconsideration with reservations recommending reconsideration of clauses 2, 5, 6, 8, 12, 16, 17, 18, 20, 30, 31 and 35 aimed at strengthening conflict of interest restrictions.

Vide Message from the President (No. 3 of 2025) dated Wednesday 30th April 2025, the Rt. Hon. Speaker notified the House of the President's Memorandum of Referral of the Bill and referred it to the Departmental Committee on Justice and Legal Affairs pursuant to Standing Order 42(3)(c) of the National Assembly Standing Orders. Consequently, the Committee proceeded to consider the President's Memorandum in its meeting held on Monday 26th May 2025, Tuesday 27th May 2025 and Thursday 29th May 2025.

On behalf of the Departmental Committee on Justice and Legal Affairs and pursuant to the provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its Consideration of the President's Memorandum of Referral of the Conflict of Interest Bill (*National Assembly Bill No. 12 of 2023*).

The Committee is grateful to the Offices of the Speaker and Clerk of the National Assembly for the logistical and technical support accorded to it during its consideration of the President's Memorandum on Referral of the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made useful contributions towards the preparation and production of this report.

It is my pleasure to report that the Committee has considered the President's Memorandum and recommendations on the Conflict of Interest Bill (*National Assembly Bill No. 12 of 2023*) and has the honour to report back to the National Assembly with the recommendation that the House **does not concur with the President's reservations**.

Hon. Murugara George Gitonga, CBS, MP

Chairman, Departmental Committee on Justice and Legal Affairs

CHAPTER ONE

I PREFACE

I.1 Establishment of the Committee

- I. The Departmental Committee on Justice and Legal Affairs is one of twenty departmental committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:
 - i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
 - ii. *To study the programme and policy objectives of ministries and departments and the effectiveness of the implementation;*
 - iii. *To, on a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
 - iv. *To study and review all legislation referred to it;*
 - v. *To study, assess and analyse the relative success of the ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - vi. *To 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;*
 - vii. *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);*
 - viii. *To examine treaties, agreements and conventions;*
 - ix. *To make reports and recommendations to the House as often as possible, including recommendations of proposed legislation;*
 - x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - xi. *To examine any questions raised by Members on a matter within its mandate.*

I.2 Mandate of the Committee

2. In accordance with the Second Schedule of the Standing Orders, the Committee is mandated to consider: -
 - a) The Judiciary;
 - b) Tribunals;
 - c) Access to Justice;
 - d) Public prosecutions;
 - e) Ethics, Integrity and Anti-corruption;
 - f) Correctional services;
 - g) Community service orders and witness protection;
 - h) Constitutional Affairs;
 - i) Sovereign immunity;
 - j) Elections including referenda;
 - k) Human rights;
 - l) Political parties; and
 - m) The State Law Office' including insolvency, law reform, public trusteeship, marriages and legal education.

3. In executing its mandate, the Committee oversights the following Ministries, Departments and Agencies:

- a) State Department of Correctional Services;
- b) State Law Office and Department of Justice;
- c) The Judiciary;
- d) Judicial Service Commission;
- e) Office of the Director of Public Prosecutions;
- f) Ethics and Anti-Corruption Commission;
- g) Independent Electoral and Boundaries Commission;
- h) Commission on Administrative Justice;
- i) Office of the Registrar of Political Parties;
- j) Witness Protection Agency;
- k) Kenya National Commission on Human Rights;
- l) Kenya Law Reform Commission; and
- m) Council of Legal Education.

1.3 Committee Membership

4. The Committee was reconstituted by the House on 5th March 2025 and comprises the following Members:

Chairperson

Hon. Murugara George Gitonga, MP
Tharaka Constituency
UDA Party

Vice-Chairperson

Hon. Mutuse Eckomas Mwengi, OGW, MP
Kibwezi West Constituency
MCCP Party

Hon. Gladys Boss, MGH, MP
Uasin Gishu Constituency
UDA Party

Hon. Maalim Farah, EGH, MP
Dadaab Constituency
WDM-Kenya

Hon. Onyiego Silvanus Osoro, CBS, MP
South Mugirango Constituency
UDA Party

Hon. Francis Kajwang' Tom Joseph, CBS, MP
Ruaraka Constituency
ODM Party

Hon. Wetang'ula Timothy Wanyoyi, CBS, MP
Westlands Constituency
ODM Party

Hon. (Dr.) Otiende Amollo, SC, EBS, MP
Rarieda Constituency
ODM Party

Hon. Muchira Michael Mwangi, MP
Ol Jorok Constituency
UDA Party

Hon. Eric Muchangi Karemba, MP
Runyenjes Constituency
UDA Party

Hon. Makali John Okwisia, MP
Kanduyi Constituency
FORD-Kenya

Hon. Mogaka Stephen M., MP
West Mugirango Constituency
Jubilee Party

Hon. Aden Daud, EBS, MP
Wajir East Constituency
Jubilee Party

Hon. Siyad Amina Udgoon, MP
Garissa Township (CWR)
Jubilee Party

Hon. CPA Zuleka Hulbale Harun, MP
Nominated Member
UDM Party

1.4 Committee Secretariat

5. The Committee is well-resourced and facilitated by the following staff:

Mr. Ahmed Salim Abdalla
Clerk Assistant I / Head of Secretariat

Mr. Ronald Walala
Senior Legal Counsel

Mr. Abdikafar Abdi
Clerk Assistant III

Ms. Jael Ayiego
Clerk Assistant III

Mr. Isaac Nabiswa
Legal Counsel II

Mr. Omar Abdirahim
Fiscal Analyst I

Ms. Vivienne Ogega
Research Officer III

Mr. John Nduaci
Serjeant-At-Arms

Mr. Meldrick K. Sakani
Audio Officer III

Ms. Mary Kamande
Public Communications Officer III

Mr. Calvin Karung'o
Media Relations Officer III

Mr. Silas Opanga
Hansard Reporter III

CHAPTER TWO

2 CONSIDERATION OF THE PRESIDENT'S MEMORANDUM ON THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2023)

2.1 Background

6. The Mediated Version of the Bill was passed by the National Assembly and the Senate on 5th December 2025 and 8th April 2025, respectively and was thereafter presented to the President for assent in accordance with provision of Article 115 of the Constitution.
7. In accordance with Article 115(1)(b) of the Constitution, H.E the President, vide a memorandum dated 28th April, 2025 referred the Bill back to the National Assembly for reconsideration with reservations recommending amendment of clauses 2, 5, 6, 8, 12, 16, 17, 18, 20, 30, 31 and 35.
8. Consequently, and pursuant to Standing Order 42(3)(c) of the National Assembly Standing Orders, the Rt. Hon. Speaker referred the President's Memorandum of Referral of the Conflict of Interest Bill (*National Assembly Bill No. 12 of 2023*) to the Departmental Committee on Justice and Legal Affairs.
9. In accordance with Standing Order 154(2) of the National Assembly Standing Orders, the Rt. Hon. Speaker directed that the House ought to consider the President's reservations within twenty-one (21) days
10. To this end, the Committee held a meeting on Tuesday 27th May 2025 to deliberate the President's Reservations to the Conflict of Interest Bill, 2023.

2.2 Consideration of the President's Memorandum of Referral

11. Article 115 of the Constitution provides as follows:

"Presidential assent and referral.

115. (1) Within fourteen days after receipt of a Bill, the President shall—

- (a) assent to the Bill; or*
- (b) refer the Bill back to Parliament for reconsideration by Parliament, noting any reservations that the President has concerning the Bill.*
- (2) If the President refers a Bill back for reconsideration, Parliament may, following the appropriate procedures under this Part—*
 - (a) amend the Bill in light of the President's reservations; or*
 - (b) pass the Bill a second time without amendment.*
- (3) If Parliament amends the Bill fully accommodating the President's reservations, the appropriate Speaker shall re-submit it to the President for assent.*
- (4) Parliament, after considering the President's reservations, may pass the Bill a second time, without amendment, or with amendments that do not fully accommodate the President's reservations, by a vote supported—*
 - (a) by two-thirds of members of the National Assembly; and*
 - (b) two-thirds of the delegations in the Senate, if it is a Bill that requires the approval of the Senate.*
- (5) If Parliament has passed a Bill under clause (4)—*
 - (a) the appropriate Speaker shall within seven days re-submit it to the President; and*
 - (b) the President shall within seven days assent to the Bill.*

(6) If the President does not assent to a Bill or refer it back within the period prescribed in clause (1), or assent to it under clause (5)(b), the Bill shall be taken to have been assented to on the expiry of that period."

12. As directed by the Rt. Hon. Speaker, the Committee was guided by Speaker's Communication dated 28th July 2015 on the Referral of Bills to Parliament for Reconsideration in deliberating the following Presidential reservations:

Clause 2

13. Amendment of the clause to include new definitions of 'family', and 'relative' to prevent public officers from bypassing conflict of interest restrictions through family members and relatives as proxies. In his view, an absence of the definitions limits the scope of the Bill.
14. In addition, the President was of the view that there was need to include a new definition of 'undeclared asset' to empower the Ethics and Anti-Corruption Commission to institute forfeiture proceedings against public officers who fail to disclose assets.

Clause 5

15. Amendment of the clause to provide that only the EACC should be granted the exclusive mandate to administer the Act. The President was of the view that the provision introduces multiple administrative structures contrary to Article 79 of the Constitution that mandates the EACC with ensuring compliance with enforcement of Chapter Six of the Constitution on Leadership and Integrity. Hence, the proposal to delete 'a reporting authority and' appearing immediately after 'the Ethics'.

Clause 6

16. Amendment of the clause to empower the EACC to institute forfeiture proceedings against public officers who fail to declare or explain assets. In his view, the provision omits this function which he considers key in strengthening conflict of interest restrictions.

Clause 8

17. Amendment of the clause to provide for perceived conflict of interest. It was his view that conflict of interest entails real, perceived and potential conflict and should be included to ensure the effectiveness of the compliance measures in the Bill.

Clause 12

18. Deletion of sub-clause (3) because the inclusion of a 'good faith' exception negates the prohibition against preferential treatment and gives room for a public officer to justify unlawful conduct through subjective claims.
19. Amendment of the clause to provide for the management of conflict of interest that may arise as a result of gifts or other benefits granted to family members and relatives who may be used as proxies to indirectly influence public officers.

Clause 17

20. Amendment of the clause to limit the information provided in a gift register to gifts received by a public officer and not by a reporting entity. This is because the clause excludes gifts granted by a reporting entity to persons who are not public officers. To prevent abuse of gifting by reporting entities, there is need for an accountability framework that covers gifts given to all persons.

Clause 18

21. Amendment of the clause to provide for the management of conflict of interest that may arise as a result of complimentary treatment received by family members and relatives who may be used as proxies to indirectly influence public officers.

Clause 20

22. Amendment of the clause to prohibit public officers from acquiring interest in any business that is a party to a contract with any reporting entity. This is because there is a perception that a public officer has the capacity to influence the award of contracts in reporting entities other than that which s/he is employed.

Clause 30

23. Noting that clause 11 adequately provides for the procedure through which a Member of Parliament or member of county assembly declares interest in any debate or proceeding and grants the Speaker or Committee Chairperson the discretion to evaluate any such declaration, the President proposed deletion of sub-clause (2).

Clause 31

24. Amendment of the clause to define 'material change' in relation to declaration of income assets and liabilities to prevent subjective interpretation and weakened enforcement and in turn enhance compliance with the requirements of the provision.


Clause 35

25. Amendment of sub-clause one to allow the EACC to assess declarations for completeness or accuracy to enhance its oversight capacity.
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CHAPTER THREE

3 COMMITTEE OBSERVATIONS AND RECOMMENDATIONS

26. The Committee observed that the proposed amendments by H.E. the President negate some of the provisions of the mediated version of the Bill that was approved by Parliament pursuant to Article 113 of the Constitution.
27. Having considered the President's Memorandum of Referral of the Conflict of Interest Bill (*National Assembly Bill No. 12 of 2023*) and pursuant to Article 115(2)(a) of the Constitution, the Committee recommends that the House **does not concur with the President's reservations.**

SIGNED.......... DATE.....*29.5.025*.....

HON. GEORGE GITONGA MURUGARA, CBS, MP

CHAIRMAN

DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS





DEPARTMENTAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

ADOPTION OF THE COMMITTEE REPORT ON ITS CONSIDERATION OF THE PRESIDENT'S MEMORANDUM OF REFERRAL OF THE CONFLICT OF INTEREST BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2023)

We, the Members of the Departmental Committee on Justice and Legal Affairs have, pursuant to Standing Order 199, adopted this Report of the Committee on the President's Memorandum of Referral of the Conflict of Interest Bill (National Assembly Bill No. 12 of 2023) and affixed our signatures to affirm our approval and confirm its accuracy, validity and authenticity:

1. Hon. Murugara George Gitonga, CBS, MP - Chairperson

2. Hon. Mutuse Eckomas Mwengi, OGW, MP - Vice Chair

3. Hon. Gladys Boss, MGH, MP

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4. Hon. Farah Maalim, EGH, MP

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5. Hon. Silvanus Osoro Onyiego, CBS, MP

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6. Hon. Tom Joseph Francis Kajwang', MP

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7. Hon. Muchangi Karemba, CBS, MP

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8. Hon. Timothy Wanyonyi Wetangula, CBS, MP

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9. Hon. (Dr.) Otiende Amollo, SC, MP

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10. Hon. Michael Mwangi Muchira, MP

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11. Hon. Aden Daud, EBS, MP

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12. Hon. John Okwisia Makali, MP

.....

13. Hon. Stephen M. Mogaka, MP

.....

14. Hon. Amina Udgoon Siyad, MP

.....

15. Hon. CPA Zuleka Hulbale Harun, MP

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