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Speaker	sts
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NATIONAL ASSEMBLY

EIGHTH PARLIAMENT - 2ND SESSION

REPORT OF THE DEPARTMENTAL COMMITTEE

ON

FINANCE, PLANNING AND TRADE

ON:-

: THE FINANCE BILL (BILL NO.6)

**: THE RETIREMENT BENEFITS
(AMENDMENT) BILL (BILL NO.7)**

: THE LOCAL AUTHORITIES TRANSFER FUND BILL (BILL NO.8)

July 1998

I INTRODUCTION

Mr. Speaker, Sir, on behalf of the members of the Departmental Committee on Finance, Planning and Trade and pursuant to the provisions of Standing Order No. 101(3), I would like to take this opportunity to present to the House, the Reports and recommendations of the Committee on the Finance Bill, Retirement Benefits Bill and the Local Authorities Transfer Fund Bill.

The functions of the Departmental Committees inter alia as established under Standing Order No.151 are:-

- (i) to study and review all legislation after First Reading subject to the exemptions under Standing Order 101 A(4).**
- (ii) 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 or a Minister.**
- (iii) to make reports and recommendations to the House as often as possible including recommendation of proposed legislation.**

Mr. Speaker, Sir, the recommendations contain proposed amendments to the three Bills and these have been discussed and agreed upon by the Committee and the Minister for Finance.

The three bills were referred to the committee on 1st July, 1998 upon a motion moved by the Minister pursuant to the provisions of Standing Order No.101(1). The Committee commenced its deliberations on the Bills on 6th July, 1998 and held four Sittings. Sir, I wish to inform the House that the Committee was considering the Finance Bill, the Retirement Benefits Bill and the Local Authorities Transfer Fund Bill simultaneously because the three Bills are as a result of the financial proposals raised by the Minister for Finance during the 1998/1999 Budget Speech.

The Minister for Finance accompanied by the Permanent Secretary and the Director of Fiscal and Monetary Affairs among other technical Officers were available to the committee for discussion and attended the sessions when required.

II RECOMMENDATIONS OF THE COMMITTEE AND PROPOSED AMENDMENTS AGREED ON BY THE MINISTER FOR FINANCE

The following are the recommended amendments agreed upon by the Committee and the Minister for Finance.

I FINANCE BILL (BILL NO. 6)

CLAUSE 9

The Minister acceded to the Committee's request to allow exempted persons to import passenger Motor vehicles of up to 3000cc and four wheel drive vehicles of up to 4000cc.

II RETIREMENT BENEFITS(AMENDMENT) BILL (BILL NO.7).

CLAUSE.4

That clause 4 of Retirement Benefits Bill be amended by inserting subsection(4) to read:-

"Once in every calender year, the Authority in consultation with the Minister shall publish a list of registered Managers and custodians"

CLAUSE 9

That , Clause 9 be amended by deleting the word "Licence" wherever it appears and inserting the words "**certificate of registration**" in place thereof.

Clause 12:

That, Clause 12 be amended and a new subclause 3 inserted as follows "**Every Scheme shall Publish Annual Accounts**".

III LOCAL AUTHORITIES TRANSFER FUND BILL(BILL NO.8)

CLAUSE 3

That, clause 3 be amended by inserting the words "**An Officer not below the rank of Deputy Secretary**" in the third line immediately after the word "or".

CLAUSE 5(2)

That, subclause 2 be amended by adding "**with the approval of the National Assembly**" in the fourth line immediately after the word "specify".

CLAUSE 8

- That, a new sub clause 8(a) be inserted as follows:- "**The Chairman, who shall not be a Public Officer and who shall be appointed by the Minister.**"

- Deleting all the words after the word "Fund" in subclause 8(a).
- That clause 8(f) be amended by deleting "**Three**" and inserting "**Five**" in the first line.

CLAUSE 10(b)

That clause 10(b) be amended by deleting "(e)", "7" and inserting "8" in the last line.

CONCLUSION

Mr. Speaker Sir, may I take this opportunity to thank the members of the Committee for availing themselves for the sittings and for the invaluable contributions they made during our deliberations on the three Bills. I would also like to thank the Minister for Finance, the Permanent Secretary to the Treasury, Director of Fiscal and Monetary Affairs and his technical team for the assistance they rendered to the Committee.

As you are aware Sir, the **Finance Bill (Bill No.6)** being largely taxation oriented warranted deep discussions and analysis by the Committee and considering the current economic situation, the committee felt that the Minister needs all the support he can get in his efforts to revitalise the economy.

The **Retirement Benefits(Amendment) Bill (Bill No.7)** has the main objective of providing for the registration and regulation of the custodians of scheme Funds. Mr. Speaker Sir, currently there is no legal requirement for the registration of custodians of retirement schemes or the regulation of their businesses. Apart from redefining the role of fund Managers as distinct from that of administrators, the Bill also seeks to limit the business and practice of custodians to limited liability companies whose principle objective will be to safeguard the funds securities, financial instruments and documents of the assets of scheme funds.

The **Local Authorities Transfer Fund Bill (Bill No. 8)** proposes to establish a fund to facilitate the disbursement of certain funds to Local Authorities to supplement the financing of services and facilities in accordance with the Local Government Act. It also proposes to establish an Advisory Committee to advise the Minister on the operations of the Fund.

Mr. Speaker, Sir, the Minutes of the sittings of the Committee are annexed to the report in accordance with Standing Order No. 162(2). The proposed amendments will be indicated on the Order Paper during the Second Reading of the Bills.

Signed.....
Hon. Simeon M. Mkalla, M.P.
Chairman of the Departmental
Committee on Finance,
Planning and Trade

Date.....

Ref:N.A./DCF/FPT/AM/98/10

Clerk's Chamber,
National Assembly,
Parliament Buildings.
P. O. Box 41842
NAIROBI.

7th July, 1998

**MINUTES OF THE FIFTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN
CONFERENCE ROOM NO. 9 PARLIAMENT BUILDINGS ON
MONDAY 6TH JULY, 1998 AT 2.00 O'CLOCK**

PRESENT

The following Members of the Committee were present:-

The Hon. Simeon M. Mkalla, M.P (Chairman)
The Hon. Onesmus Mboko, M.P.
The Hon. Joseph D. Lotodo, M.P.

**ABSENT WITH
APOLOGY**

The Hon. Soita Shitanda, M.P.
The Hon. Peter Ochieng Odoyo, M.P.
The Hon. David Mwiraria, M.P

**ABSENT WITHOUT
APOLOGY**

The Hon. John N. Michuki, M.P.
The Hon. Rashid M. Sajjad, M.P
The Hon. Mohamed A. Galgalo, M.P.
The Hon. Joseph J. Mugalla, M.P.
The Hon. David Musila, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. P.G. Gichohi - Principal Clerk Assistant
Ms. A.K. Thurania - Clerk Assistant I

MINUTE NO.23/98

**CONFIRMATION OF MINUTES OF THE PREVIOUS
MEETING**

The Minutes of the Fourth Sitting of the Committee held on Tuesday 16th June, 1998 were confirmed by the Members present and signed by the Chairman.

MINUTE NO.24/98

MATTERS ARISING

- (i) Minute 18(i) and (ii) - The Committee noted that the issue of reduction of Development funds and duplication of Portfolios are yet to be discussed with the Permanent Secretary, Ministry of Finance.
- (ii) Minute 21/98 - The Committee was informed that the Ministry of Planning and National Development and the Ministry of Trade had already forwarded their Policy Statements and Programmes as requested by the Committee.

MINUTE NO.25/98

CONSIDERATION OF THE FINANCE BILL (BILL NO.6)

The Members deliberated on the Bill and proposed as follows:-

CLAUSE 9

That, Clause 9 be amended by deleting 2000cc appearing in the fifth line and inserting 3000cc and also deleting 3000cc appearing in the sixth line and inserting 4500cc.

CLAUSE 10(2)

That, the Minister be requested to explore the possibility of the Commissioner of Customs & Excise awarding interest for the funds tied if the case is ruled in favour of the aggrieved party.

CLAUSE 14(iii)(c)

That, Clause 14(iii)(c) be amended by deleting 2000cc appearing in the fourth line and inserting 3000cc and also deleting 3000cc appearing in the sixth line and inserting 4500cc there of.

CLAUSE 14(c)IV

That, Clause 14(c)IV be amended by deleting 2000cc appearing in the fourth line and inserting 3000cc and also deleting 3000cc appearing in the sixth line and inserting 4500cc there of.

CLAUSE 14(c)V

That, Clause 14(c)V be amended by deleting 2000cc appearing in the fourth line and inserting 3000cc .

CLAUSE 14(c)VI

That, Clause 14(c)VI be amended by deleting 2000cc appearing in the fourth line and inserting 3000cc .

CLAUSE 19

That, Clause 19 be amended by deleting 2000cc appearing in the fifth line and inserting 3000cc and also deleting 3000cc appearing in the sixth line and inserting 4500cc there of.

CLAUSE 29(ii),(iii),(iv),(v)

That, Clause 29(ii)(iii)(iv)(v) be amended by deleting 2000cc wherever it appears and inserting 3000cc and deleting 3000cc and inserting 4500cc there of.

CLAUSE 31

That, the Minister be requested to clarify whether the Provisions of this Clause will affect cooperators in the Co-operative Sector.

MINUTE NO.26/98

ADJOURNMENT

And the time being five O'clock, Mr. Chairman adjourned the Sitting until Wednesday 8th July, 1998 at 10.00 a.m. in Conference Room No. 9

CONFIRMED:
(CHAIRMAN)

DATE: ...8/7/98.....

13th July, 1998

**MINUTES OF THE SIXTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN
CONFERENCE ROOM NO. 9 PARLIAMENT BUILDINGS ON
WEDNESDAY 8TH JULY, 1998 AT 10.00 O'CLOCK**

PRESENT

The following Members of the Committee were present:-

The Hon. Simeon M. Mkalla, M.P (Chairman)
The Hon. Onesmus Mboko, M.P.
The Hon. Joseph D. Lotodo, M.P.
The Hon. Peter Ochieng Odoyo, M.P.
The Hon. John N. Michuki, M.P.
The Hon. David Musila, M.P.

**ABSENT WITHOUT
APOLOGY**

The Hon. Rashid M. Sajjad, M.P
The Hon. Mohamed A. Galgalo, M.P.
The Hon. Joseph J. Mugalla, M.P.
The Hon. Solta Shtanda, M.P.
The Hon. David Mwiraria, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. P.C. Omolo - Principal Clerk Assistant
Ms. A.K. Thurania - Clerk Assistant I

MINUTE NO.27/98

**CONFIRMATION OF MINUTES OF THE PREVIOUS
MEETING**

The Minutes of the Fifth Sitting of the Committee held on Monday 6th July, 1998 were confirmed by the Members present and signed by the Chairman.

MINUTE NO.28/98

MATTERS ARISING

MINUTE NO.25/98 -FINANCE BILL (BILL NO.6)

The Committee deliberated on the proposed amendments and resolved as follows:-

(i) Clause 9

That, the Minister be requested to consider exempting Members of Parliament from the provisions of this clause as far as the engine capacity of the said vehicles is concerned.

(ii) Clause 14(iii), 14(c)iv, 14(c)vi, Clause 19, Clause 29(ii),(iii),(iv), Clause 31

That the proposed amendments to the above clauses be annulled.

MINUTE NO.29/98

CONSIDERATION OF THE FINANCE BILL (BILL NO.6)

CLAUSE 37

That, the Minister be requested to clarify whether the tax paid while awaiting the outcome of the appeal will be interest earning and whether it would be possible for the employer to pay half of the required amount awaiting the determination of the appeal.

CLAUSE 41

That, the Minister be requested to clarify why exemption has been withdrawn for Kenya Tea Development Authority and not Kenya Power Company Limited as well.

CLAUSE 70(2)(c)

That, the Minister be requested to explain why Kenya Revenue Authority should "borrow and lend" money.

CLAUSE 72(d)

That, the Minister be requested to explain what modalities he would use to ensure that the six persons he appoints are people of high integrity or what advisory body would be used to vet those appointees.

MINUTE NO.30/98

SECOND SCHEDULE

That, the Minister be requested to explain the issue of suspended duties as indicated in the second schedule on page 297.

MINUTE NO.31/98

ADJOURNMENT

And the time being fifteen minutes to one O'clock, Mr. Chairman adjourned the Sitting until Monday 13th July, 1998 at 2.00 p.m. In Conference Room No. 9.

CONFIRMED:
(CHAIRMAN)

DATE: 13/7/98

Ref:N.A./DCF/FPT/AM/98/12

Clerk's Chamber,
National Assembly,
Parliament Buildings.
P. O. Box 41842
NAIROBI.

13th July, 1998

**MINUTES OF THE SIXTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN
CONFERENCE ROOM NO. 9 PARLIAMENT BUILDINGS ON
WEDNESDAY 8TH JULY, 1998 AT 10.00 O'CLOCK**

PRESENT

The following Members of the Committee were present:-

The Hon. Simeon M. Mkalla, M.P (Chairman)
The Hon. Onesmus Mboko, M.P.
The Hon. Joseph D. Lotodo, M.P.
The Hon. Peter Ochleng Odoyo, M.P.
The Hon. John N. Michuki, M.P.
The Hon. David Musila, M.P.

**ABSENT WITHOUT
APOLOGY**

The Hon. Rashid M. Sajjad, M.P
The Hon. Mohamed A. Galgalo, M.P.
The Hon. Joseph J. Mugalla, M.P.
The Hon. Solta Shitanda, M.P.
The Hon. David Mwiraria, M.P

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. P.C. Omolo - Principal Clerk Assistant
Ms. A.K. Thurania - Clerk Assistant I

MINUTE NO.27/98

**CONFIRMATION OF MINUTES OF THE PREVIOUS
MEETING**

The Minutes of the Fifth Sitting of the Committee held on Monday 6th July, 1998 were confirmed by the Members present and signed by the Chairman.

MINUTE NO.28/98

MATTERS ARISING

MINUTE NO.25/98 -FINANCE BILL (BILL NO.6)

The Committee deliberated on the proposed amendments and resolved as follows:-

(i) Clause 9

That, the Minister be requested to consider exempting Members of Parliament from the provisions of this clause as far as the engine capacity of the said vehicles is concerned.

(ii) Clause 14(III), 14(c)iv, 14(c)vi, Clause 19, Clause 29(II),(III),(IV), Clause 31

That the proposed amendments to the above clauses be annulled.

MINUTE NO.29/98

CONSIDERATION OF THE FINANCE BILL (BILL NO.6)

CLAUSE 37

That, the Minister be requested to clarify whether the tax paid while awaiting the outcome of the appeal will be interest earning and whether it would be possible for the employer to pay half of the required amount awaiting the determination of the appeal.

CLAUSE 41

That, the Minister be requested to clarify why exemption has been withdrawn for Kenya Tea Development Authority and not Kenya Power Company Limited as well.

CLAUSE 70(2)(c)

That, the Minister be requested to explain why Kenya Revenue Authority should "borrow and lend" money.

CLAUSE 72(d)

That, the Minister be requested to explain what modalities he would use to ensure that the six persons he appoints are people of high integrity or what advisory body would be used to vet those appointees.

MINUTE NO.30/98

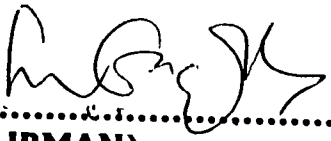
SECOND SCHEDULE

That, the Minister be requested to explain the issue of suspended duties as indicated in the second schedule on page 297.

MINUTE NO.31/98

ADJOURNMENT

And the time being fifteen minutes to one O'clock, Mr. Chairman adjourned the Sitting until Monday 13th July, 1998 at 2.00 p.m. in Conference Room No. 9.

CONFIRMED:.....
(CHAIRMAN)

DATE:13/7/98.....

Ref:N.A./DCF/FPT/AM/98/14

Clerk's Chamber,
National Assembly,
Parliament Buildings.
P. O. Box 41842
NAIROBI.

16th July, 1998

**MINUTES OF THE SEVENTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN
CONFERENCE ROOM NO. 9 PARLIAMENT BUILDINGS ON
MONDAY 13TH JULY, 1998 AT 2.00 O'CLOCK**

PRESENT

The following Members of the Committee were present:-

The Hon. Simeon M. Mkalla, M.P (Chairman)
The Hon. Onesmus Mboko, M.P.
The Hon. John N. Michuki, M.P.
The Hon. David Musila, M.P.
The Hon. Mohamed A. Galgalo, M.P.
The Hon. David Mwiraria, M.P

**ABSENT WITHOUT
APOLOGY**

The Hon. Joseph D. Lotodo, M.P.
The Hon. Peter Ochieng Odoyo, M.P.
The Hon. Rashid M. Sajjad, M.P.
The Hon. Joseph J. Mugalla, M.P.
The Hon. Soita Shitanda, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. P.G. Gichohi - Principal Clerk Assistant
Ms. A.K. Thurania - Clerk Assistant I

MINUTE NO.32/98

**CONFIRMATION OF MINUTES OF THE PREVIOUS
MEETING**

The Minutes of the Sixth Sitting of the Committee held on Wednesday 8th July, 1998 were confirmed by the Members present and signed by the Chairman.

MINUTE NO.33/98

MATTERS ARISING

MINUTE NO.30/98 -FINANCE BILL (BILL NO.6)

The Committee resolved the issue of "suspended duties" as indicated in the second schedule of the Finance Bill and therefore it was not necessary to seek an explanation from the Minister.

MINUTE NO.34/98

**CONSIDERATION OF THE RETIREMENT BENEFITS
(AMENDMENT) BILL (BILL NO. 7)**

CLAUSE 4

That, a new Clause be inserted requiring the Minister to publish in the Kenya Gazette an Annual list of Managers and Custodians of the Scheme.

CLAUSE 5(1)

That, Clause 5(1) be modified by including a new sentence after "registration" to read "No person shall commence business until a certificate of registration is issued".

CLAUSE 6

That an additional proviso be included requiring the Custodian or Manager of the Scheme to employ staff who are qualified in accordance with the Banking Act.

CLAUSE 9(2)

That, the Minister be requested to clarify whether subsection (2) is in reference to a Licence or a Certificate of registration.

CLAUSE 12

That, subsection (4) be added to section 37 of the Principal Act to read "Every scheme shall publish Annual Investment Accounts".

CLAUSE 13(2)

That the proviso in the last paragraph of subsection (2) be deleted.

MINUTE NO.35/98

**CONSIDERATION OF LOCAL AUTHORITIES
TRANSFER FUND BILL (BILL NO. 8)**

CLAUSE 3

That, Clause 3 be amended by inserting the words "an officer not below the rank of Deputy Secretary" in the third line immediately after "or".

CLAUSE 5(2)

That, Clause 5(2) be amended by adding "with the approval of the National Assembly" in the fourth line immediately after the word "specify"

CLAUSE 8

- (i) That, Clause 8(a), be amended by inserting the words "the Chairman who shall not be a Public Officer and who shall be appointed by the Minister".
- (ii) That, Clause 8(a) be amended by deleting all the words after "fund".
- (iii) That, Clause 8(d) be deleted.
- (iv) That, Clause 8(e) be amended by deleting "three" and inserting "two" in the first line.
- (v) That, Clause 8(f) be amended by deleting "three" and inserting "five" in the first line.

CLAUSE 10(b)

That, Clause 10(b) be amended by deleting "(e)", "and", "7" and inserting "8" in the last line.

MINUTE NO.36 /98

ADJOURNMENT

And the time being fifteen minutes past five O'clock, Mr. Chairman adjourned the Sitting until Tuesday 21st July, 1998 when the Committee is scheduled to meet with the Minister for Finance in Conference Room No. 9 at 10.00 a.m.

CONFIRMED:
(CHAIRMAN)

DATE: 27-7-98

23rd July, 1998

**MINUTES OF THE EIGHTH SITTING OF THE DEPARTMENTAL
COMMITTEE ON FINANCE, PLANNING AND TRADE HELD IN
CONFERENCE ROOM NO. 9 PARLIAMENT BUILDINGS ON
TUESDAY 21ST JULY, 1998 AT 11.00 O'CLOCK**

PRESENT

The following Members of the Committee were present:-

The Hon. Simeon M. Mkalla, M.P (Chairman)
The Hon. Onesmus Mboko, M.P.
The Hon. Mohamed A. Galgalo, M.P.
The Hon. David Mwiraria, M.P
The Hon. Joseph D. Lotodo, M.P.
The Hon. Peter Ochieng Odoyo, M.P.

**ABSENT WITHOUT
APOLOGY**

The Hon. John N. Michuki, M.P.
The Hon. David Musila, M.P.
The Hon. Rashid M. Sajjad, M.P
The Hon. Joseph J. Mugalla, M.P.
The Hon. Soita Shitanda, M.P.

IN ATTENDANCE

NATIONAL ASSEMBLY

Mr. P.G. Gichohi - Principal Clerk Assistant
Ms. A.K. Thurairra - Clerk Assistant I

MINUTE NO.37/98

MEETING WITH THE MINISTER FOR FINANCE

The Minister for Finance, the Hon. Simeon Nyachae, E.G.H,
M.P, accompanied by:-

Ms. Margaret Chemengich - Permanent Secretary,
Treasury
Mr. Njeru Kirira - Director of Fiscal and
Monetary Affairs
Mr. J.T. Ngugi - Retirement Benefits
Authority
Mr. David B. Nyakundi - Retirement Benefits
Authority

Introduced Members of his team and commenced discussion on the proposed amendments and clarifications on:-

- The Finance Bill (Bill No. 6)
- Retirement Benefits (Amendments) Bill (Bill No. 7)
- Local Authorities Transfer Fund Bill (Bill No. 8)

MINUTE NO.38/98

RECOMMENDATIONS OF THE COMMITTEE AND PROPOSED AMENDMENTS AGREED ON WITH THE MINISTER

The following are the recommendations agreed upon by the Committee and the Minister

I. **FINANCE BILL (BILL NO.6)**

CLAUSE 9

Minister's Response

The Minister acceded to the Committees request to allow exempted persons to import passenger motor vehicles of up to 3000cc and four wheel drive vehicles of up to 4000cc

CLAUSE 37

That, the Minister be requested to clarify whether the tax paid while awaiting the outcome of the appeal will be interest earning and whether it would be possible for the employer to pay half of the required amount awaiting the determination of the appeal.

Minister's Response

The Minister clarified that this clause deals with the failure by an employer to collect and remit PAYE correctly to the Income Tax Department. The requirement for prior payment of tax before an appeal is lodged is therefore meant to ensure that there is no loss of revenue and that tax payment is not delayed by frivolous appeals. This requirement is in line with provisions under the VAT Act, the Customs and Excise Act and other income Tax provisions, where the tax is required to be pre-paid.

The Minister further explained that if such monies are allowed to earn interest, it would encourage employers not to deduct and remit PAYE correctly and on time.

CLAUSE 41

That, the Minister be requested to clarify why exemption has been withdrawn for Kenya Tea Development Authority and not Kenya Power Company Limited as well.

Minister's Response

The exemption for Kenya Power Company Limited was withdrawn vide Legal Notice No. 73 of 11th June, 1998 and is effective on 1st January, 1999 as in the case of KTDA. The exemption for Kenya power Company Limited was revoked through the Finance Bill. Both exemptions were removed because the organisations were commercialized and are expected to compete with private sector firms engaged in similar activities.

CLAUSE 70(2)(c)

That, the Minister be requested to explain why Kenya Revenue Authority should "borrow and lend" money.

Minister's Response

The Minister explained that the powers to borrow and lend money are standard and are granted to any corporate entity. Without any powers to borrow, Kenya Revenue Authority may not be able to get overdrafts to meet periodic financial shortfalls which may arise. The provisions to lend money is therefore intended to enable KRA to provide the normal financial assistance to its employees when need arises.

CLAUSE 72(d)

That, the Minister be requested to explain what modalities he would use to ensure that the six persons he appoints are people of high integrity or what advisory body would be used to vet those appointees.

Minister's Response

The Minister informed the Committee that the criteria that has been used so far to appoint members of the Kenya Revenue Authority Board has been people of high integrity and have a good track record as taxpayers. This criteria has served the country well so far and the Minister will continue using the same. So far no body has ever been established for vetting public officers. Such a vetting body may also raise the question of who should vet its members.

II. **RETIREMENT BENEFITS (AMENDMENT) BILL (BILL NO. 7)**

CLAUSE 4

The Minister agreed :-

That section 22 clause 4 of 1998 Bill be amended by inserting subsection (4) to read:-

"Once in every calender year, the Authority in consultation with the Minister shall publish a list of registered Managers and Custodians".

CLAUSE 5(1)

That, Clause 5(1) be modified by including a new sentence after "reglstration" to read "No person shall commence business until a certificate of registration is issued".

Minister's Response

The Minister explained that the proposed amendment is already catered for under clause 4 of the Bill. Clause 4 deals with amendments to section 22 of the Act and requires that all schemes, managers and custodians shall not commence business unless registered by the Authority. However, it would not be appropriate for professionals already practising in these capacities in the country. These will be required to be registered under transitional arrangements. After the transitional period, all professionals will be required to be registered in accordance with the law.

CLAUSE 6

That an additional proviso be included requiring the Custodian or Manager of the Scheme to employ staff who are qualified in accordance with the Banking Act.

Minister's Response

The Minister explained that the proposal would not be appropriate since the retirement benefits schemes will deal with a wider range of skills than are provided for in the Banking Act. They will require Financial Analysts, Estate valuers, Investment managers, portfolio managers, Lawyers, Economists, Actuaries etc. The Minister proposed that qualifications of such professionals be contained in regulations.

CLAUSE 9(2)

The Minister agreed:-

That, Clause 9(2) be amended by deleting the word "Licence" wherever it appears and inserting the word "certificate of registration" in place thereof.

CLAUSE 12

The Minister agreed:-

That, subsection (4) be added to section 37 of the Principal Act to read "Every scheme shall publish Annual Investment Accounts".

Minister's Response

The Minister said that although the proposal is acceptable, it may be very expensive for very small schemes where the cost of publication may wipe out substantial income and be counter productive to interests of scheme members. The draft regulations already require that the account be conspicuously displayed to all the members.

CLAUSE 13(2)

That the proviso in the last paragraph of subsection (2) be deleted.

Minister's Response

The Minister said that while it is true that persons who contravene section 38 require severe punishment, a permanent bar of such persons in the management or administration of scheme funds may be too harsh. When a punishment is too harsh it is rarely imposed and could also encourage corruption. The law covers natural persons and corporations. Where corporations are concerned there is need to be a lot more flexible and disqualify the individuals involved rather than the institution. Furthermore, other professions cater for review and appraisal of suspensions. A ban would imply criminalizing the individual for life.

III. LOCAL AUTHORITIES TRANSFER FUND BILL (BILL NO. 8)

CLAUSE 3

The Minister agreed:-

That, Clause 3 be amended by inserting the words "an Officer not below the rank of Deputy Secretary" in the third line immediately after the word "or".

CLAUSE 5(2)

The Minister agreed:-

That, Clause 5 subsection 2 be amended by adding "with the approval of the National Assembly" in the fourth line immediately after the word "specify"

CLAUSE 8

The Minister agreed:-

- That, a new sub clause 8(a) be inserted as follows:-
"The Chairman, who shall not be a Public Officer and who shall be appointed by the Minister."
- Deleting all the words after "Fund" in subclause 8(a).
- That clause 8(f) be amended by deleting "Three" and inserting "Five" in the first line

CLAUSE 10(b)

The Minister agreed:-

That, Clause 10(b) be amended by deleting "(e)", "7" and inserting "8" in the last line.

MINUTE NO.39/98

ADJOURNMENT

And the time being Two O'clock, Mr. Chairman adjourned the Sitting until Monday 27th July, 1998 in Conference Room No. 9 at 2.00 p.m.

CONFIRMED:
(CHAIRMAN)

DATE: 27.7.98

