



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

TUESDAY, DECEMBER 01, 2015

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the Speaker
4. **PETITION**

The Speaker conveyed the following Petition –

“Honourable Members,

Pursuant to the provisions of Standing Order No. 225(2)(b), I wish to convey to the House that I am in receipt of a petition signed by Elijah King'ori Gathima regarding the inadequate and deplorable state of mental health facilities in Kenya. The Petitioner is concerned that the Government has neglected the only public mental healthcare facility. That Parliament has continuously failed to allocate funds for the operations of the facility. The Petitioner contends that the entire country is served by Mathare Mental Hospital. He further states that mental wards located at the Level 5 hospitals are under-staffed and the accommodation infrastructure is inappropriate for psychiatric patients considering that many mental patients are suicidal.

The Petitioner prays that the National Assembly, through the Departmental Committee on Health:-

- (i) Recommends establishment of more mental healthcare facilities in the country.
- (ii) Ensures provision of adequate budgetary allocation to enable smooth running of those medical facilities.
- (iii) Makes any other order or direction that it deems fit in the circumstances of the prayers sought.

Hon. Members, pursuant to Standing Order No. 227(1), this petition stands committed to the Departmental Committee on Health for consideration. I urge the Committee to engage the Petitioner and report to the House within 60 days.

Thank you”.

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (a) The Reports of the Auditor-General on the Financial Statements in respect of New Democrats for the years ended 30th June, 2011 and 2012 and the certificates therein;
- (b) The Report of the Auditor-General on the Financial Statements of People Democratic Party for the year ended 30th June, 2012 and the certificate therein;
- (c) The Reports of the Auditor-General on the Financial Statements in respect of the National Alliance Party of Kenya for the years ended 30th June, 2011, 2012, 2013, and 2014 and the certificates therein;
- (d) The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2014 and the certificates therein –
 - (i) Ministry of Lands, Housing and Urban Development;
 - (ii) Kirinyaga University College;
 - (iii) Kenya Dairy Board;
 - (iv) Rivatex East Africa Limited;
 - (v) IDB Capital Limited;
 - (vi) Wiper Democratic Movement- Kenya;
 - (vii) Kenya National Highways Authority; and
 - (viii) Kenya Ferries Services Limited.
- (e) The Annual Report and Financial Statements of the Independent Electoral and Boundaries Commission for the year ended 30th June, 2014;
- (f) The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2015 and the certificates therein:-
 - (i) Kenya Power and Lighting Company Limited; and
 - (ii) Kenya Electricity Generating Company Limited.
- (g) The Status Report of the Ministry of Devolution and Planning for the period 2013/2015.

(Leader of the Majority Party)

- (h) The Special Report of the Public Investments Committee on Kenya Airports Authority Duty Free Shops Contracts at Jomo Kenyatta International Airport and Moi International Airports: 1989 to 2015.

(Chairperson, Public Investments Committee)

6. **NOTICE OF MOTION- ADOPTION OF THE SPECIAL REPORT ON DUTY FREE SHOPS CONTRACTS**

(Chairperson, Public Investments Committee)

THAT, this House adopts the Special Report of the Public Investments Committee on Kenya Airports Authority Duty Free Shops Contracts at Jomo Kenyatta International and Moi International Airports, laid on the Table of the House today, Tuesday, December 01, 2015.

7. **NOTICE OF MOTION- FORMULATION OF POLICY ON PUNISHMENT IN SCHOOLS**
(Hon. Dan Kazungu)

THAT, aware that there has been an alarming increase in indiscipline cases in learning centres across the country and particularly in primary and high schools; further aware that the steady rise in indiscipline cases in these learning centres has been linked to the abolition of corporal punishment in 2001; noting that there seem to be a correlation between lack of a proper disciplinary mechanism and the rise in indiscipline in schools coupled with the fact that teachers have lesser say when it comes to disciplining of students under their care leading to strikes, destruction of property and embarrassing incidences in the full glare of the public; this House urges the Government to formulate a comprehensive policy on punishment in schools to check this worrying trend.

8. **MOTION – MEDIATED VERSION OF THE COUNTY GOVERNMENTS (AMENDMENT) BILL (SENATE BILL NO.1 OF 2014)**

Motion made and Question proposed –

THAT, this House adopts the Report of the Mediation Committee on the County Governments (Amendment) Bill (Senate Bill No.1 of 2014), laid on the Table of the House on Wednesday, November 18, 2015 and **approves** the Mediated Version of the County Governments (Amendment) Bill (Senate Bill No.1 of 2014).

(Vice-Chairperson, Mediation Committee)

Debate arising;

Rising in his place on a Point of Order pursuant to Standing Order 95, the Member for Kiminini (Hon. Chris Wamalwa) claimed to move that “the Mover be now called upon to reply”;

And the Speaker acceding to the claim;

Question put and agreed to;

Thereupon, Mover replied;

Question put and agreed to;

9. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The First Chairperson in the Chair

(i) **The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.57 of 2015)**

Clause 2 - agreed to
Schedule

(a)Provisions related to the Criminal Procedure Code (Cap. 75) – amendment proposed -

THAT, the Bill be amended in the Schedule—

In the proposed amendments to the Criminal Procedure Code by inserting the words “the Sexual Offences Act” immediately after the words “Laundering Act” in the proposed new section 364 (1) (c).

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Provisions related to the Criminal Procedure Code (Cap. 75) – as amended agreed to**(b) Provisions related to the Prisons Act (Cap. 90) – amendment proposed -**

THAT, the Bill be amended in the Schedule—

In the proposed amendments to the Prisons Act —

- (i) by deleting the word “office” appearing immediately after the words “or for an” in the proposed new section 46 (1) (ii) and substituting therefor the word “offence”;
- (ii) by deleting the words “or while malingering” appearing immediately after the word “fault” in the proposed new section 46 (3)(a);
- (iii) by deleting the word “if” appearing immediately after the words “considers that” in the proposed new section 46 (4) (b) and substituting therefor the word “it”;
- (iv) by deleting the words “on the recommendation of the Commissioner, the CS” appearing immediately after the words “of this section” in the proposed new section 46 (5) and substituting therefor the words “the Commissioner”.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Provisions related to the Prisons Act(Cap. 90) – as amended agreed to**(c)Provisions related to the Registration of Persons Act(Cap. 107) – agreed to****(d) Provisions related to the Firearms Act(Cap. 114) – agreed to**

(e)Provisions related to the Pharmacy and Poisons Act(Cap. 244) – amendment proposed

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THAT, the Bill be amended in the Schedule-

In the proposed amendments to section 3(1) of the Pharmacy and Poisons Act (Cap 244) by deleting the first row and substituting therefor the following new row-

Delete the words "paragraph (d)" and substitute therefor the following new paragraph-

(d) three Pharmacists representing the categories specified in this paragraph and appointed by the Minister from nine names competitively nominated by the Pharmaceutical Society of Kenya with due regard to gender, in which case the Society shall submit three names in respect of each of the following categories-

- (i) the public service;
- (ii) the community pharmacy; and
- (iii) the pharmaceutical industry

(Hon. Kimani Ichungwah)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, the Bill be amended in the Schedule-

In the proposed amendments to section 3(1) of the Pharmacy and Poisons Act (Cap 244) by deleting the first row and substituting therefor the following new row-

Delete the words paragraph (d) and substitute therefor the following new paragraph-

(d) three Pharmacists representing the categories specified in this paragraph and appointed by the Minister from nine names competitively nominated by the Pharmaceutical Society of Kenya with due regard to gender, in which case the Society shall submit three names in respect of each of the following categories-

- (i) the public service;
- (ii) the community pharmacy; and
- (iii) the pharmaceutical industry

(Hon. Victor Munyaka)

Proposed amendment dropped;

Provisions related to the Pharmacy and Poisons Act(Cap. 244) – as amended agreed to

(f) Provisions related to the Valuation for Relating Act,(Cap. 266) – agreed to

(g) Provisions related to the Rent Restriction Act,(Cap. 296) – agreed to

(h) Provisions related to the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act (Cap. 301) – agreed to

- (i) Provisions related to the State Corporations Act, (Cap. 446) – agreed to
- (j) Provisions related to the Air Passenger Service Charge Act, (Cap. 475) – agreed to
- (k) Provisions related to the Kenya Information and Communications Act, 1998 (No. 2 of 1998) – amendment proposed –

THAT, the schedule to be Bill be amended in the proposed amendments to the Kenya Information and Communication Act, 1998 (No.2 of 1998) by –

- (i) deleting the proposed amendment to section 84 W(4) and substituting therefor the following row in the proper sequence -

s. 84W(4) Delete and substitute therefor the following subsection –

(4) The Commission may, in consultation with the Competition Authority and after due process declare a person or institution, by notice in the Gazette, to be a “dominant telecommunications Service Provider” for the purposes of this Act.

- (ii) deleting the proposed amendment to section 84W(5) and substituting therefor the following row in its proper sequence

s. 84W(5) Inserting the words “in consultation with the Competition Authority” immediately after the words “Commission shall” in the prefatory statement.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Provisions related to the Kenya Information and Communications Act, 1998 (No. 2 of 1998) – as amended agreed to

- (l) Provisions related to the Environmental Management and Coordination Act, 1999 (No.8 of 1999) – agreed to
- (m) Provisions related to the National Cohesion and Integration Act 2008 (No.12 of 2008) – agreed to
- (n) Provisions related to the Anti-Counterfeit Act, 2008 (No.13 of 2008) – agreed to
- (o) Provisions related to the Competition Act (No.12 of 2010) – agreed to
- (p) Provisions related to the Judicial Service Act, 2011 (No.1 of 2011) – amendment proposed –

THAT, the Bill be amended in the Schedule-

In the proposed amendment to section 30 of the Judicial Service Act, 2011 by deleting the proposed amendment to subsection (3) and substituting therefor the following new provision in its proper numerical sequence—

Provision	Amendment
s. 30	Delete subsection 3 and substitute therefor the following—

(3) The provisions of this section shall apply to the appointment of the Chief Justice and Deputy Chief Justice except that—

- (a) the Secretary shall, within three days of the Commission's vote, forward the names of three qualified persons for each vacant position to the President;
- (b) the President shall, within fourteen days of receipt of the names forwarded select the person to fill the each vacant position and forward the name of the person to the National Assembly for approval;
- (c) the National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of a person nominated for appointment to the post of Chief Justice or Deputy Chief Justice vet and consider the person;
- (d) where the National Assembly approves of the appointment of a person to the post of Chief Justice or Deputy Chief Justice, the Speaker of the National Assembly shall forward the name of the person to the President for appointment;
- (e) where the National Assembly rejects the nomination of a person for appointment to the post of Chief Justice or Deputy Chief Justice, the Speaker shall within three days communicate its decision to the President and request the President to submit a fresh nomination;
- (f) where a nominee is rejected by the National Assembly the President shall within seven days, submit to the National Assembly a fresh nomination from amongst the three persons shortlisted and forwarded by the Commission under paragraph (a);and
- (g) if the National Assembly rejects all of the subsequent nominees submitted by the President for approval the Commission shall constitute a different selection panel and conduct the recruitment afresh.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Provisions related to the Judicial Service Act, 2011(No.1 of 2011) – as amended agreed to

(q) Provisions related to the National Police Service Act, 2011 (No.11A of 2011) – amendment proposed

THAT, the Bill be amended in the Schedule-

In the proposed amendments to the National Police Service Act, 2011 (No. 11A of 2011), by deleting the proposed amendment to section 10(1) (g) and substituting therefor the following-

Provision	Amendment
s.10(1)(g)	Delete and replace with the following new paragraph— “(g) determine the distribution and deployment of officers in the Service in the rank of Superintendent and below;”
New	Insert the following new paragraph immediately after paragraph (g)— “(ga) recommend to the Commission and the County Policing Authorities for distribution and deployment of officers above the rank of Superintendent;”

(Chairperson, Departmental Committee on Administration and National Security)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed—

THAT, the Bill be amended in the Schedule-

In the proposed amendments relating to the National Police Service Act, 2011(No 11A of 2011) by inserting the following new rows in proper alphabetical sequence-

s.33	Insert the words “drawn from the Service” immediately after the word “officers”
s.88(4)	Delete
s.110(1)	Insert the words “but not above the fifty five years” immediately after the word “years”.
s.112(1)	Delete and substitute therefor with the following- (1) Every reserve police officer enrolled under this Act shall serve for a period of five years and shall not be re-engaged.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Amendment to amendment proposed -

THAT, the amendment to section 112(1) proposed by the Departmental Committee on Justice and Legal Affairs be further amended by deleting the proposed amendment to section 112(1) and substituting therefor the following-

s.112(1) (2) Every reserve police officer enrolled under this Act shall serve for a period of ten years and shall be paid gratuity upon completion.

(Chairperson, Departmental Committee on Administration and National Security)

Proposed amendment to amendment withdrawn;

Provisions related to the National Police Service Act, 2011 (No.11A of 2011) - as amended agreed to

(r) **Provisions related to the Kenya Citizenship and Immigration Act, 2011 (No.12 of 2011) - agreed to**

(s) **Provisions related to the Environment and Land Court Act, 2011(No.19 of 2011) - amendment proposed -**

THAT, the Bill be amended in the Schedule-

In the proposed amendments to the Environment and Land Court Act, 2011—

- (i) by deleting the word “our” appearing immediately after the words “be admitted” and substituting therefor the word “out” in the proposed new section 16A (2);
- (ii) by deleting the words “of the Chief Magistrate as set out in section 5 of” appearing immediately after the words “pecuniary jurisdiction” and substituting therefor the words “as set out in” in the proposed new section 26 (4)(b).

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Provisions related to the Environment and Land Court Act, 2011(No.19 of 2011) - as amended agreed to

(t) **Provisions related to the Power of Mercy Act, 2011(No.21 of 2011) - amendment proposed -**

THAT, the Bill be amended in the Schedule-

In the proposed amendments to the Power of Mercy Act, 2011 (No. 21 of 2011) by—

- (i) deleting the proposed amendment to section 2;
- (ii) deleting the proposed amendment to section 25.

(Chairperson, Departmental Committee on Administration and National Security)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Further amendment proposed –

THAT, the Bill be amended in the Schedule-

In the proposed amendments to the Power of Mercy Act, 2011 by deleting the proposed amendment to section 23 (1) and substituting therefor the following new provision in its proper numerical sequence—

Provision	Amendment
s. 23 (1)	"Delete the word "thirty" appearing immediately after the word "within" and substitute therefor the word "sixty".

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to

Provisions related to the Power of Mercy Act, 2011(No.21 of 2011) – as amended agreed to

(u) Provisions related to the Ethics and Anti-Corruption Commission Ac, 2015 (No.22 of 2011) – agreed to

(v) Provisions related to the Veterinary Surgeons and Veterinary Para-professionals Act 2011 (No.29 of 2011) – amendment proposed -

THAT, the Bill be amended in the Schedule-

In the proposed amendments relating to the Veterinary Surgeons and Veterinary Para Professionals Act, 2011(No. 29 of 2011) by —

(i) deleting the proposed amendment to section 23(3);

(ii) deleting the proposed amendment to section 44A

(Hon. Kimani Ichung'wa on behalf of Hon. Victor Munyaka)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Provisions related to the Veterinary Surgeons and VeterinaryPara-professionals Act 2011 (No.29 of 2011) – deleted

(w) Provisions related to the Public Appointments (Parliamentary Approval) Act 2011 (No. 33 of 2011) – amendment proposed

THAT, the Bill be amended in the Schedule-

In the proposed amendments to the Public Appointments (Parliamentary Approval) Act, 2011 by —

- (i) deleting the proposed amendment to section 2;
- (ii) deleting the proposed new section 7A.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Provisions related to the Public Appointments (Parliamentary Approval) Act 2011 (No. 33 of 2011) – deleted

(x) Provisions related to the Land Registration Act, 2012 (No. 3 of 2012) – agreed to

(y) Provisions related to the Land Act, 2012 (No. 6 of 2012) – agreed to

(z) Provisions related to the Kenya School of Law Act, 2012 (No. 6 of 2012) – amendment proposed -

THAT, the Bill be amended in the Schedule by deleting the proposed amendments to the Kenya School of Law Act, 2012

(Hon. Julius Melly)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Further amendment proposed -

THAT, the Bill be amended in the Schedule in the proposed amendments to the Kenya School of Law Act, 2012 by deleting the words “of Higher” appearing immediately after the word “Commission” in the proposed new paragraph 6(2)(e) and substituting therefor the words “for University”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Proposed amendment withdrawn by the Mover

Provisions related to the Kenya School of Law Act, 2012 (No. 6 of 2012) – deleted

(aa) Provisions related to the Prevention of Terrorism Act, 2012(No. 30 of 2012) – amendment proposed -

THAT, the Bill be amended in the Schedule in the proposed amendments to the Prevention of Terrorism Act, 2012 in section 12A (2) by deleting the word "improved" wherever it appears and substituting therefor the word "improvised"

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Debate arising;

Question put and agreed to;

Further amendment proposed-

THAT, the Bill be amended in the Schedule in the proposed amendments to the Prevention of Terrorism Act, 2012 (No. 30 of 2012) in the proposed amendment to section 12A(2) by—

- (i) deleting the word "prejuice" appearing at the beginning of the proposed new subsection (2) and substituting therefor the word "prejudice";
- (ii) deleting the word "improved" wherever it appears in the proposed new subsection (2) and substituting therefor the word "improvised".

(Chairperson, Departmental Committee on Administration and National Security)

Question of the amendment proposed;

Debate arising;

Part (ii) of the proposed further amendment withdrawn by the Mover;

Question put and agreed to;

Provisions related to the Prevention of Terrorism Act, 2012(No. 30 of 2012) – as amended agreed to

(bb) Provisions related to the Universities Act, 2012(No. 42 of 2012) – amendment proposed –

THAT, the Bill be amended in the Schedule-

In the proposed amendments to the Universities Act, 2012 by inserting the words "in regulations" immediately after the word "prescribed in the proposed new section 39 (1A)";

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, the Bill be amended in the Schedule-

In the proposed amendments relating to the Universities Act, 2012 (No. 42 of 2012) by inserting the following new row immediately after the row relating to the proposed amendment to section 20(1) –

Amendment
of section 22
of No.42 of
2012

Section 22 of the principal Act is amended-

(i) by deleting subsection (1) and substituting therefor the following new subsection-

(1) The President may, on the recommendation of the Cabinet Secretary revoke a Charter if in the opinion of the President that the revocation is in the best interests of university education in Kenya.

(ii) by deleting subsection (2) and substituting therefor the following new subsection-

(2) The recommendation referred to under subsection (1) shall be made with the prior concurrence of the Commission which shall satisfy itself that the revocation is in the best interests of university education in Kenya.

New s. 22A

Inserting the following new section immediately after section 22-

Variation of Charter

22A. (1) The Cabinet Secretary may, upon an initiation made under subsection (3), vary a Charter if in the opinion of the Cabinet Secretary that the variation is in the best interests of university education in Kenya.

(2) The recommendation referred to under subsection (1) shall be made based on a need to-

- (a) align the particular Charter to the Constitution or any written law;
- (b) align the university to the training and research priority of the national government that would develop expertise in a specified academic field, including instilling of skills with bias in employment creation;
- (c) in the case of a private university, to reflect changes in sponsorship of the university;
- (d) align the university to the dynamics in research, technology and prevailing academic requirements recommended by the body which by law represents employers; or,
- (e) align the charter to the best interests of university education in Kenya.

(3) A variation under subsection (1) may be initiated-

- (a) by the Commission upon request by a university, in the case of a public university; or
- (b) by the sponsor in the case of a private university, and may include the introduction of such mechanisms as shall enable the university concerned to better carry out its functions.

(4) A decision for the variation by the Cabinet Secretary shall be made without unreasonable delay, but in any case-

- (a) within three months from the date a recommendation for variation is made by the Commission, if the process is initiated by the Commission; or
- (b) within six months from the date a formal request for variation is made by a university, if the process is initiated by a university;

(5) If a Charter is varied under subsection (1) the Cabinet Secretary shall forthwith cause a notice of the variation to be published in the *Gazette*, and the variation shall come into effect on such date as may be specified in the notice.

(6) Notwithstanding subsection (5) the variation of a Charter shall not affect the validity of any academic award made by the University before the variation.

(7) For the purposes of this section, "vary" includes a review or amendment.

(Hon. Kimani Ichung'wah)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed -

THAT, the Bill be amended in the Schedule by deleting the proposed amendments to the Universities Act, 2012.

(Hon. Julius Melly)

Proposed further amendment dropped;

Provisions related to the Universities Act, 2012(No. 42 of 2012) - as amended agreed to

(cc) Provisions related to the Treaty Making and Ratification Act, 2012(No. 45 of 2012)-

THAT, the Bill be amended in the Schedule, in the proposed amendments relating to the Treaty Making and Ratification Act, 2012 (No 45 of 2012) by —

- (i) deleting the proposed amendment to section 2;
- (ii) deleting the proposed amendment to section 8(1);
- (iii) deleting the proposed amendment to section 8(4);
- (iv) deleting the proposed amendment to section 8(7);
- (v) deleting the proposed amendment to section 8(8);
- (vi) deleting the proposed amendment to section 9;
- (vii) deleting the proposed amendment to section 13(1);

(Chairperson, Departmental Committee Defence and Foreign Relations)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, the Bill be amended in the Schedule, in the proposed amendments relating to the Treaty Making and Ratification Act, 2012(No 45 of 2012) by —

- (i) deleting the proposed amendment to section 2;
- (ii) deleting the proposed amendment to section 8(1);
- (iii) deleting the proposed amendment to section 8(4);
- (iv) deleting the proposed amendment to section 8(7);
- (v) deleting the proposed amendment to section 8(8);
- (vi) deleting the proposed amendment to section 9;
- (vii) deleting the proposed amendment to section 13(1);

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Proposed further amendment withdrawn by the Mover

Provisions related to the Treaty Making and Ratification Act, 2012(No. 45 of 2012) – deleted

(dd) Provisions related to the Medical Supplies Authority Act, 2013(No. 20 of 2013) – amendment proposed -

THAT, the Bill be amended in the Schedule, in the proposed amendments to the Kenya Medical Supplies Authority Act, 2013 (No 20 of 2013) by inserting a new row as follows-

- s.8(4) Delete the words “three years and shall be eligible for re-appointment for one further term of three years” and substitute therefor the words “four years and shall be eligible for re-appointment by the Cabinet Secretary for one further term”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Further amendment proposed –

THAT, the Bill be amended in the Schedule, in the proposed amendments to the Kenya Medical Supplies Authority Act, 2013 (No 20 of 2013) by inserting a new row as follows-

- s. 8(4) Delete the words “three years and shall be eligible for re-appointment for one further term of three years” and substitute therefor the words “four years and shall be eligible for re-appointment by the Cabinet Secretary for one further term”

(Hon. Victor Munyaka)

Proposed further amendment dropped;

Provisions related to the Medical Supplies Authority Act, 2013(No. 20 of 2013)– as amended agreed to

(ee) **Provisions related to the Statutory Instrument Act, 2013(No. 23 of 2013) - agreed to**

Clause 1 - amendment proposed –

THAT Clause 1 of the Bill be amended by inserting the words “and shall come in to force upon publication in the Gazette” immediately after the expression “2015”.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 1 - as amended agreed to;

Title - agreed to

Bill to be reported with amendments.

(ii) The Tax Procedures Bill (National Assembly Bill No. 29 of 2015)

Clauses 3, 4, 5, 6, 7, 8 & 9 - agreed to

Clause 10 - amendment proposed –

THAT clause 10 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (6) —

“(6A) Where the Commissioner fails to respond to the application for deregistration within six months, the applicant shall be deemed to be deregistered.”

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 10 - as amended agreed to

Clauses 11,12, 13, 14, 15, 16 & 17 - agreed to

Clause 18 - amendment proposed –

THAT clause 18 of the Bill be amended by deleting sub-clause (1).

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to

Clauses 19, 20,21,22,23,24, 25, 26, 27,28,29,30,31,32, 33 & 34 - agreed to

Clause 35 - amendment proposed –

THAT clause 35 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) —

“(3) Where the penalty or interest payable under this section accrues, the aggregate payable penalty or interest shall not exceed the principal tax liability.”

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the amendment proposed;

Debate arising;

Amendment to amendment proposed –

THAT, the proposed amendment be further amended by deleting the words “penalty or”appearing in the first and second lines.

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Clause 35 - as amended agreed to

Clauses 36 & 37 - agreed to

Clause 38 - amendment proposed –

THAT clause 38 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (7) —

“(8) The accrued late payment interest shall not, in aggregate, exceed the principal tax liability.”

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 38 - as amended agreed to

Clauses 39,40,41,42,43,44,45 & 46 - agreed to

Clause 47 - amendment proposed -

THAT clause 47 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4) —

“(5) Where a tax refund under subsection (4) (c) is contemplated, the Commissioner shall—

- (a) upon receiving the application for refund, notify the tax payer of the refund due within ninety days;
- (b) pay the refund due to taxpayer within ninety days of the notification of the refund;
- (c) where the refund is not paid within six months be liable to pay interest on such outstanding refunds, computed on the Kenya Bankers Reference Rate as published from time to time.”

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Proposed amendment withdrawn;

Clause 47 - agreed to

Clauses 48 & 49 - agreed to

Clause 50 - amendment proposed -

THAT clause 50 of the Bill be amended in sub-clause (1) by deleting paragraph (a).

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 50 - as amended agreed to

Clauses 51,52,53,54,55,56,57,58,59,60,61,62,63,64 & 65 - agreed to

Clause 66 - amendment proposed -

THAT clause 66 of the Bill be amended in sub-clause (1) by deleting the word “avoidance” appearing in paragraph (g) and substituting therefor the word “evasion.”

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Proposed amendment withdrawn;

Clause 66 - agreed to

Clauses 67,68,69,70,71,72,73,74,75,76,77,78,79,80,81,82 & 83 - agreed to

Clause 84 - amendment proposed -

THAT clause 84 of the Bill be amended—

(a) in sub-clause (1), paragraph (a)—

- (i) by inserting the word “knowingly” immediately after the words “if that person” ;
- (ii) by inserting the word “knowingly” immediately after the words “material particular or”

(b) deleting sub-clause (6).

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the amendment proposed;

Debate arising;

Part (b) of the proposed amendment withdrawn;

Question put and agreed to;

Clause 84 - as amended agreed to

Clause 85 - amendment proposed -

THAT the Bill be amended by deleting clause 85 and inserting the following new clause—

Tax evasion
penalty.

85. Where the Commissioner has applied a tax evasion provision in assessing a tax payer, the tax payer, is subject to Article 50 of the Constitution, liable for a tax evasion penalty equal to double the amount of the tax that would have been evaded but for the application of the tax evasion provision.

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Proposed amendment withdrawn

Clause 85 - agreed to

Clauses 86, 87, 88, 89, 90 & 91 - agreed to

Clause 92 - amendment proposed -

THAT clause 92 of the Bill be amended in paragraph (c) by deleting the word “avoidance” and substituting therefor with the word “evasion.”

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Proposed amendment withdrawn;

Clause 92 - agreed to

Clauses 93,94,95,96,.97,98,99,100,101,102,103,104,105,106,107,108,109,110 & 111-
agreed to

Clause 112 - amendment proposed -

THAT clause 112 of the Bill be amended in sub-clause (2)—

(a)by inserting the words “to be paid” immediately after the word “tax” in paragraph (b);

(b)by deleting paragraph (c);

(c)by deleting paragraph (g).’

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 112 - as amended agreed to

First Schedule - agreed to

Second Schedule - agreed to

Clause 2 - amendment proposed -

THAT clause 2 of the Bill be amended by—

(a) inserting the following new definitions in their proper alphabetical sequence—

“tax evasion” in relation to an individual or company means engaging in deliberate and deceptive actions with a clear intent to minimize tax liability through misrepresentation of the true value of assets, concealment of ownership, underreporting of income, false accounting, failure to declare profits on domestic and foreign investments or false accounting under any tax law;”

(b) deleting the definition on “tax avoidance”.

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Proposed amendment withdrawn;

Clause 2 - agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments

10. **HOUSE RESUMED** - the Third Chairperson in the Chair

(i) **The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.57 of 2015)**

Bill reported with amendments;

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question put and agreed to

Motion made and Question proposed –

THAT, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.57 of 2015) be now read a Third Time

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question put and agreed to

Bill read a Third Time and **passed.**

(ii) The Tax Procedures Bill (National Assembly Bill No. 29 of 2015)

Bill reported with amendments;

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report

(Chairperson of the Departmental Committee on Finance Planning and Trade)

Question put and agreed to

Motion made and Question proposed –

THAT, the Tax Procedures Bill (National Assembly Bill No. 29 of 2015) be now read a Third Time

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question put and agreed to

Bill read a Third Time and **passed.**

11. **THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT TO RATIFICATION) BILL (NATIONAL ASSEMBLY BILL NO.54 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Natural Resources (Classes of Transactions Subject to Ratification) Bill (National Assembly Bill No.54 of 2015) be now read a Second Time

(Leader of the Majority Party)

Debate arising;

And the time being thirty minutes past Six O'clock, the Third Chairperson adjourned the House without Question put pursuant to the Standing Orders.

12. HOUSE ROSE - at thirty minutes past Six O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Wednesday, December 02, 2015 at 9.30 a.m.

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