



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (THIRD SESSION)**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**THURSDAY, AUGUST 27, 2015**

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

The Speaker conveyed the following Communications –

(i) **The Fifth Leadership Retreat for the National Assembly**

The Deputy Speaker conveyed the following Communication –

"Honourable Members,

I wish to notify you that the National Assembly has planned a two-day Retreat for the Leadership of the House under the theme '*Building Synergies*'. The Retreat will be held from **13<sup>th</sup> to 16<sup>th</sup> September 2015** at a venue to be communicated in due course. The National Assembly periodically holds such Leadership Retreats to review the progress made in fulfilling our constitutional mandate. Participants of the fifth Leadership Retreat include Commissioners of the Parliamentary Service Commission, the Presidium of the House, Leaders of Majority and Minority Parties, other Political Party Leaders in the House, Chairpersons of Committees and Members of the House Business Committee.

Honourable Members, some of the Retreat objectives include taking stock of the business considered by the National Assembly during the second part of the Third Session, prioritizing business for the third part of the Third Session, issues touching on the welfare of members, among other important subjects.

The Leadership will also consider measures to deal with the huge backlog of Bills with constitutional timelines. I wish the participants fruitful engagements as we forge ahead in fulfilling our obligations.

Thank you".

(ii) Delegation from the Uganda District Council Speakers' Association

"Honourable Members,

I wish to introduce to you a delegation from the Uganda District Council Speakers' Association (UDISO), an association of all District Speakers and Deputy Speakers in Uganda, who are seated at the Speaker's Gallery. The delegation comprises the following Honourable Members:

Hon. Andrew Odongo	-	Chairperson, District Speakers Association/Leader of Delegation
Hon. Efrance Nakiguli	-	Vice Chairperson and District Speaker, Mubende District
Hon. Genesis Acema Dria	-	District Speaker, Arua District
Hon. Felix Yine	-	District Speaker, Apac District
Hon. Fredrick Apil	-	District Speaker, Kole District
Hon. Charles Kobong	-	District Speaker, Kaberamaido
Hon. Dan Nabimanya	-	District Speaker, Ntungamo District
Hon. Frederick Gerald Okello	-	District Speaker, Serere District
Hon. Alfred Balingas Oyollo	-	District Speaker, Abim District
Hon. Ronald Kyomuhendo	-	District Speaker, Masindi District
Hon. Aloysius Sserumaga	-	District Speaker, Mityana District
Hon. Haruna Mawanda	-	District Speaker, Butambala District
Hon. Enock Nyongore	-	District Speaker, Nakaseke District
Hon. George Damba	-	District Speaker, Namutumba District
Hon. Shakilla Mbabazi	-	Deputy Speaker, Masindi District
Hon. Geoffrey Wandera	-	District Speaker, Busia District
Hon. Meresi Mudenga	-	District Speaker, Sironko District

Honourable Members,

The delegation is accompanied by Ms. Hailen Mary Jagimere, Administrative Assistant, Uganda Local Governments and is in the country on a study visit to the Nairobi County Assembly and the Parliament of Kenya. They have been here since **Wednesday, 26<sup>th</sup> August, 2015** and will depart tomorrow for Uganda. In the spirit of the East African Community, I wish to welcome them to the National Assembly and wish them fruitful engagements.

Thank you".

(iii) Procedure for the application of Standing Order 62 concerning a further vote on instances requiring a fixed majority

"Honourable Members,

I wish to inform the House that I have received a Letter from the Hon. David Ochieng' dated August 26, 2015 in which he seeks to have the House undertake a further vote on the Question on the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 1 of 2015), of which the Member is the Sponsor. The request is based on failure by the Motion to obtain the stipulated threshold of two thirds of the House Membership when the Question was put on August 25, 2015. You will recall, Honourable Members, that upon the Question on the Motion for the

Second Reading of the aforementioned Bill being put, the Ayes totaled 216, the Nays were 28, with four abstentions being recorded.

Honourable Members, as you will recall two other Bills seeking to amend the Constitution together with a Special Motion for the Extension of Period in Respect to Legislation having Constitutional Timeline were also considered in the same sitting. Concerning the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No. 26 of 2013) sponsored by Hon. Lati Lelelit which failed to garner the stipulated majority support of 233 Members, I did make an instantaneous ruling directing that a further vote be taken within five sitting days pursuant to Standing Order 62(2).

Honourable Members,

For the avoidance of doubt, Standing Order 62(2) and (3) provides as follows, and I quote:

*(62) (2) Notwithstanding paragraph (1), whenever a Bill or a special Motion the passage of which requires a special majority in the Assembly fails to obtain the required majority and the vote results in a majority of the "Ayes" but the "Noes" have not numbered at least one third of all the Members of the Assembly, the Speaker may, direct that a further vote be taken on the particular question, and the further vote shall be taken within five sitting days from the day the first vote was taken.*

*(3) If the Speaker does not so direct any further vote, or if on such further vote the fixed majority is not obtained, the Speaker shall declare that the Motion is negatived.*

Honourable Members, it is important to note that the provisions of Standing Order 62 have been in existence since the 7<sup>th</sup> Parliament and my predecessors applied the provisions of the Standing Order in relation to Bills or Special Motions which required a fixed majority sparingly. Indeed, during the ruling I made on July 28, 2015, I did mention that the provisions of Standing Order 62 ought to be sparingly referred to and seldom used. Similar provisions also exist in other jurisdictions which allow for reconsideration of House decisions upon a motion to bring back for further consideration a matter previously decided. For instance, according to the Robert's Rules of Order referred to in the United States, a motion to reconsider must be made after the action on the original motion. Until the motion to reconsider is disposed of or lapses, the effect of the original vote is suspended, and no action may be taken to implement it. Further, in the U.S. House of Representatives, immediately following a vote, the Speaker typically announces that, *"without objection, a motion to reconsider is laid on the table."*

Honourable Members, the Mason's Manual for Legislative Procedure, which is the official parliamentary authority in most US legislatures, also states that, and I quote: *".....every legislative body has the inherent right to reconsider a vote on any action previously taken by it. When not otherwise provided by law, all public bodies have a right during the session to reconsider action taken by them as they think proper, and it is the final result only that it is to be regarded as the thing done."* This provision is also replicated in the Rules of Procedure of Canada and in particular, Rule 9A.11 which provides for reconsideration Stage for Private Bills. From the foregoing, it is therefore clear that the provisions of Standing Order 62(2) not only exist but are also applied in a number of jurisdictions.

Honourable Members, allow me now to examine the issue at hand which is that the Hon. David Ochieng' seeks to have the House undertake a further vote on the Question on the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 1 of 2015). Indeed, during the afternoon Sitting on Wednesday, August 26, 2015, the same issue of undertaking a further vote on the Hon. Ochieng'-sponsored Bill was brought up, with a substantial majority of the Members who contributed to the resultant debate supporting calls for a further vote. Various reasons were forwarded as the basis for the further vote, including the premise that the drafters of the Standing Orders foresaw the possibility of crucial Bills and Motions being shot down by a small minority and hence created a window of opportunity for the House to re-think its stance. There were also considerable views by Members that there was need to allow for a further vote as the Bill was of great national interest and hence it would be fair for the Speaker to allow members to deliberate on the Bill again.

Honourable Members, before I make a determination on the issue arising, allow me to examine the provisions of Standing Order 62(2) which I had referred to earlier. A close reading of the provision indicate that the provision does not state expressly the procedure for prompting the Speaker to rule on whether or not a further vote is to be taken. Indeed, in the case of the Bill sponsored by Hon. David Ochieng', the Member did not request for a further vote on the floor immediately after the vote. However, as mentioned earlier, I have in my possession a Letter from the Sponsor of the Bill seeking to have the House take a further vote on the Motion. The Letter was delivered to my Office on August 26, 2015, more than fifteen hours after the vote had taken place. In the case of the Constitution of Kenya (Amendment) (No.2) Bill (National Assembly Bill No. 26 of 2013) by Hon. Lati Lelelit, the member requested for a further vote soon after the vote had taken place. In addition, a number of Members supporting his request also stood in their places as though claiming a division.

Honourable Members, in view of the foregoing, and pursuant to Standing Order 62(2), I am of the view that in the absence of an explicit procedure of prompting the Speaker to rule on whether or not a further vote is to be taken, the request by Hon. David Ochieng' for the House to undertake a further vote on the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 1 of 2015) should be granted. Indeed to determine otherwise, Honourable Members, the Speaker would be in clear violation of Standing Order 62(2). Furthermore, the issue for determination by the Speaker is one that involves a question on the power of the House to take a further vote and to that extent the constitutional right of the House. According to the Practice of the House of Representatives of Australia and I quote-

*"In any matter which might involve or touch on the constitutional rights or powers of the House, the view has been taken that, other things being equal, the Speaker should not take decisions which could have the effect of limiting these rights and powers .....as the House is a master of its own destiny"*

It is for this reason that I am of the view that to rule that the House cannot take a further vote on the Bill would be not only in contravention of well-founded principles of Parliamentary Practice but also the Constitution, in particular, on the powers of the House to make decisions in terms of Articles 95 and 122 of the Constitution.

Honourable Members, however, there is need for a procedure to be established for prompting the Speaker to invoke the provisions of Standing Order 62(2) to be used in future if such a case arises again. This is to avoid a scenario which creates uncertainty on

the fate of Bills. Indeed, as seen in the case of the Hon. David Ochieng, after the Motion failed to attain the two-thirds threshold when the House was adjourned, Honourable Members went away with the knowledge that the Motion for the Second Reading of the Bill had been defeated, and with it the Bill itself.

Honourable Members, allow me to refer to Erskine May on Parliamentary Practice in relation to the procedure of prompting the Speaker in the House. Standing Order No. 59 of the House of Lords in relation to the right of a Lord to record a protest against any decision of the House provides that the *"entry of a protest must be made not later than the end of business on the next sitting day...."* Further, the Robert's Rules of Order referred to in the United States which I had alluded to earlier, also provides that a motion to reconsider must be made within a limited time after the action on the original motion, usually at the same sitting or on the next day within the session.

Honourable Members, it is for this reason that I am of the view that in future any Member wishing to prompt the Speaker to invoke the provisions of Standing Order 62(2) must do so on the floor of the House immediately the Speaker announces the result of the vote and must also be supported by other Members in rising. Indeed, the Bill by Hon. David Ochieng is one of national interest and as such Kenyans should be in full knowledge and aware of the debate and in particular be certain of its fate at all stages to avoid eliciting a debate on its existence. This debate could as a matter of fact have arisen in the case of Honourable David Ochieng's Bill between the time at which the Motion was defeated and the time in which he delivered the Letter to the Speaker requesting the House to take a further vote as a considerable period of time had lapsed. The requirement that certain number of members should support a member wishing to invoke the provisions Standing Order 62(2) is also paramount to avoid an abuse of the process and deter Members from making frivolous and vexatious requests on the premise of invoking Standing order 62(2) even on Motions or Bills that do not need a fixed majority.

Honourable Members, in summary therefore, it is my finding-

- i) THAT, the request by Hon. David Ochieng' for the House to undertake a further vote on the Motion for the Second Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 1 of 2015) be granted and consequently executed within five sitting days from the day of the first vote in terms of Standing Order 62(2) in this case being 1<sup>st</sup> October, 2015 to be preceded by the further vote on the Third Reading of the Constitution of Kenya (Amendment) Bill (National Assembly Bill No. 26 of 2013) proposed by the Hon. Lati Leleit, MP
- ii) THAT, in future any Member wishing to request for a further vote on a Question on a Special Motion or a Bill the passage of which requires a fixed majority of the House membership shall only be granted-
  - (a)if the Sponsor of the said Special Motion or Bill rises in his or her place immediately the Speaker announces the vote results and seeks the further vote;
  - (b)if at least thirty (30) Members stand in their places indicating their support for the further vote.

Honourable Members,

As the House dispenses with further votes on the Bills seeking to amend the Constitution sponsored by Hon. David Ochieng' and Hon. Lati Lelelit, I wish to refer Honourable Members back to my aforementioned ruling of July 28, 2015 in which I expressly pointed out that any legislation to amend the supreme law of the land requires sufficient and extensive consultations and consensus-building. I call upon all Members to make use of this window of opportunity to decide with FINALITY whether you wish to amend the Constitution in the manner proposed by your two Honourable Colleagues.

Thank you".

## 5. PETITIONS

(i) The Speaker conveyed the following Petition –

"Honourable Members,

I wish to convey to the House that I have received a petition, signed by one Mithamo Muchiri, on behalf of seven (7) concerned citizens, regarding the imminent removal of the portrait of Kenya's First President from the face of the country's currency.

Honourable Members, the Petitioners prays that the National Assembly to amend Article 231(4) of the Constitution, which provides that that *"Notes and coins issued by the Central Bank of Kenya may bear images that depict or symbolize Kenya or an aspect of Kenya but shall not bear the portrait of any individual"*. The Petitioners are concerned that the implementation of this Article would occasion removal of the portrait of the founding President on Kenya's from the face of our currency. The Petitioners have cited a number of jurisdictions whose currencies have portraits of their founding Presidents, as an honour for their distinguished contribution to their countries. They are further proposing that the huge cost that would be incurred in effecting this change be re-allocated to other development projects.

The Petitioners are therefore praying that the National Assembly, through the Departmental Committee on Finance and Planning and Trade:-

- i) Initiate the process of amending Article 231 of the Constitution by deleting Sub-Article 4; and;
- ii) Amends Section 22 of the Central Bank of Kenya Act, Cap 491 so as to provide for symbols, portraits or images to appear on Kenya's currency and the manner in which such symbols, images or portraits would be determined.

Honourable Members, pursuant to the provisions of Standing Order 227(1), this Petition stands committed to the Departmental Committee on Finance and Planning and Trade for consideration.

I thank you"

- (ii) The Member for Tharaka Nithi County (Hon. Beatrice Nkatha) presented a Petition on behalf of the residents of Tharaka Nithi on non-refunded cash bail monies at Marimanti Law Courts;

- (ii) The Member for Laikipia North (Hon. Mathew Lempurkel) presented a Petition on behalf of the residents of Segera Ward in Laikipia North Constituency regarding cases of abuse, torture and land conflict in Segera Ward; and,
- (iii) The Member for Gilgil (Hon. Samuel Ndiritu) on behalf of the representatives of the Kenya Health Professionals Society (KHPS) on the recommendations for the review of and amendments to the Health Bill, 2015

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(2)

6. **PAPERS LAID**

The following Papers were laid on the Table -

- (i) The Report of the Auditor-General on the Financial Statements of Kenya Bureau of Standards for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (ii) The Report of the Auditor-General on the Financial Statements of the University of Eldoret for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (iii) The Report of the Auditor-General on the Financial Statements of Tea Board of Kenya for the year ended 31<sup>st</sup> July, 2014 and the certificate therein;
- (iv) The Report of the Auditor-General on the Financial Statements of Judges and Magistrates Vetting Board for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (v) The Report of the Auditor-General on the Financial Statements of Kenya Revenue Authority for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (vi) The Report of the Auditor-General on the Financial Statements of registration of Certified Public Secretaries Board for the year ended 30<sup>th</sup> June, 2014 and the certificate therein;
- (vii) The Report of the Auditor-General on the Financial Statements of Eldoret Polytechnic for the year ended 30<sup>th</sup> June, 2013 and the certificate therein; and,
- (viii) The Report of the Auditor-General on the Financial Statements of Kenya National Trading Corporation for the year ended 30<sup>th</sup> June, 2014 and the certificate therein.

*(The Leader of the Majority Party)*

- (ix) Reports of the Departmental Committee on Health on its consideration of –
  - a. Petition on Non- Payment of the Clinical Officers Interns;
  - b. Petition on Delay of Payment for Interlink Industries for the Construction of an Out Patient Block at Igegania Sub-District Hospital;
  - c. Petition By Kenya Association of Private Hospitals on their recognition by the National Hospital Insurance Fund; and

- d. Petition by Mr. Benard Kiprotich Cheruiyot on the Review of the Healthcare System in Kenya through Constitutional Amendment.

*(Chairperson, Departmental Committee on Health)*

- (x) Report of the Departmental Committee on Lands on Land Dispute in Awendo Township and Land Adjudication issues in Rangwe.

*(Chairperson, Departmental Committee on Lands)*

7. **NOTICE OF MOTION – REPORT ON LAND DISPUTE IN AWENDO TOWNSHIP AND LAND ADJUDICATION ISSUES IN RANGWE**

*(Chairperson, Departmental Committee on Lands)*

THAT, this House adopts the Report of the Departmental Committee on Lands on Land Dispute in Awendo Township and Land Adjudication issues in Rangwe, laid on the Table of the House on Thursday, August 27, 2015

8. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2) (a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, September 29, 2015.

9. **PROCEDURAL MOTION – REDUCTION OF PUBLICATION PERIOD**

Motion made and Question proposed –

THAT, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period of the Land Laws (Amendment) Bill (National Assembly Bill No. 55) from 14 to 9 days.

*(The Leader of the Majority Party)*

There being no Members wishing to debate;

Question put and agreed to.

10. **THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 43 OF 2015)**

*(The Leader of the Majority Party)*

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

11. **THE LAND LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.55 OF 2015)**  
*(The Leader of the Majority Party)*

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)



12. **THE COMPANIES AND INSOLVENCY LEGISLATION (CONSEQUENTIAL AMENDMENTS) BILL (NATIONAL ASSEMBLY BILL NO. 25 OF 2015)**

Motion made and Question proposed –

THAT, Companies and Insolvency Legislation (Consequential Amendments) Bill (National Assembly Bill No.25 of 2015) be now read a Third Time

*(The Leader of the Majority Party)*

Question put and agreed to

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

13. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

**IN THE COMMITTEE**

The Fourth Chairperson of Committees in the Chair

**(i) The Finance Bill (National Assembly Bill No. 27 of 2015)**

**(RECOMMITAL)**

Clause 5 as amendment (during the Morning Sitting)

Further amendment proposed –

THAT, clause 5 be further amended –

(a) in paragraph (b) in the proposed new item 54 by deleting the words “Kenya Film Commission” and substituting therefor the words “local film producers or local filming agents”;

(b) in Part II in the proposed new paragraph 21 by inserting the words “local film producers or local film agents certified by the Cabinet Secretary for National Treasury” immediately after the words “for use by the”.

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the further amendment proposed –

Debate arising;

Question put and agreed to;

Clause 5 - as further amended agreed to.

Clause 43 - amendment proposed –

THAT, clause 43 be deleted

*(Hon. Jakoyo Midiwo)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 43 - deleted

Re-committal to be reported;

**(ii) The Excise Duty Bill (National Assembly Bill No.28 of 2015)**

Clause 3 - amendment proposed –

**THAT** clause 3 of the Bill be amended in subclause (2) by deleting the words appearing immediately after the words “price the goods and services” and substituting therefor “according to the Fourth Schedule of the East African Community Customs Management Act.”

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to.

Clauses 4 & 5 - agreed to

Clause 6 - amendment proposed –

**THAT** clause 6 of the Bill be amended in subclause (6) by deleting the expression “34” and substituting therefor the expression “35”;

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - as amended agreed to.

Clause 7 - agreed to

Clause 8 - amendment proposed –

**THAT** clause 8 of the Bill be amended in subclause (1) by deleting the word “twenty-five” and substituting therefor the word “ten”;

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 8 - as amended agreed to.

Clause 9 - amendment proposed –

**THAT** clause 9 of the Bill be amended in subclause (6) by deleting the expression “7 of Part III” and substituting therefor the expression “4 of Part II”;

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 9 - as amended agreed to.

Clauses 10, 11, 12, 13, 14, 15, 16, 17, 18, 19 & 20 - agreed to.

Clause 21 - amendment proposed –

**THAT** the Bill be amended in clause 21 by—

(a) deleting the opening phrase in subclause (1) and substituting therefor the following new phrase—

“(1) The Cabinet Secretary shall, by notice in writing detailing the grounds for cancellation of license, cancel the license of a person when—

(b) inserting the following new subclauses immediately after subclause (1)—

“(1A) Despite subsection (1), the cancellation of a license by the Cabinet Secretary shall be preceded by a suspension for a period not exceeding sixty days, or such further period that the Commissioner may determine which shall not exceed one hundred and twenty days.

“(1B) A person served with a notice of cancellation of a license under subsection (1) may, by notice in writing and within fourteen days of the notice, or within such further time as the Cabinet Secretary may allow, appeal against the cancellation of the license if there is new information that was not availed by the licensed person during suspension.

“(1C) Where a licensed person lodges a notice of appeal in accordance with subsection (1B), the Cabinet Secretary shall, within fourteen days after receipt of notice, either—

(a) accept the appeal and revoke the notice of cancellation of the license; or

(b) reject the appeal and confirm the notice of cancellation of the license.

“(1D) If the Cabinet Secretary fails to take action under subsection (1C) within the time specified in that subsection, the notice of cancellation of the license shall stand revoked.

“(1E) A licensed person aggrieved by any decision of the Cabinet Secretary, may appeal to the High Court.

*(Hon. Kimani Ichung’wah)*

Proposed amendment withdrawn;

Clause 21 - agreed to.

Clauses 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44 & 45 - agreed to.

New Clause 19A proposed –

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 19 under Sub-part C —

Notice of  
suspension  
of  
license.

**“19A.**(1)The Commissioner shall suspend a license issued under this Act upon issuing a seven days notice in writing to the licensed person of the intent to suspend, detailing the grounds for the intended suspension and any remedial measures required to be undertaken by the licensed person.

(2) The Commissioner shall, upon issuing the notice under subsection (1), allow the licensed person a period of twenty-one days to take remedial measures and confirm if the licensed person has complied with the remedial measures within seven days of the expiry of the twenty-one days.

(3) The Commissioner shall, upon the expiry of the period referred to in subsection (2), confirm notice of suspension in writing if the licensed person has not fully undertaken remedial measures required under subsection (1).

(4) A person served with a notice of confirmation to suspend a license under subsection (1) may, by notice in writing and within twenty-one days of the notice, or within such further time as the Commissioner may allow, appeal against the notice of confirmation to suspend the license.

(5) Where a licensed person lodges a notice of appeal in accordance with subsection (4), the Commissioner shall, within fourteen days after receipt of notice, either—

(a) accept the appeal and revoke the notice of confirmation of suspension of the licence;

(b) provide the licensed person with written notice of the action required to be taken before the date specified in the notice to remedy the deficiencies that led to the confirmation of notice of suspension of the license and revoke the confirmation of notice of suspension if the action is taken within the specified time: or

(c) reject the appeal and confirm the notice of suspension.

(6) If the Commissioner fails to take action under subsection (5) within the time specified in that subsection, the notice of confirmation of suspension of the license shall stand revoked.

*(Hon. Kimani Ichung'wah)*

Proposed amendment withdrawn.

New Clause 22A proposed –

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 22—

Commissioner to notify licensee prior to suspension, revocation, cancellation or refusal of renewal of a licence.

22A. (1) Where the Commissioner seeks to suspend, revoke, cancel or not renew a license under this Act, he or she shall give twenty-one days' notice to the licensee prior to taking the intended action, giving the grounds upon which such intended action shall be taken, and requiring the licensee to remedy any circumstances which may require to be remedied.

(2) The licensee shall, within twenty-one days of receipt of the notice, take action as required by the Commissioner.

(3) The Commissioner shall, within fourteen days, acknowledge in writing the action taken by the licensee or proceed to confirm the effect of the intended notified action.

(4) Upon receipt of such notification of confirmation of the intended action, where the licensee is dissatisfied with the decision of the Commissioner, the licensee may appeal to the Tax Appeals Tribunal within fourteen days of receipt of notification and shall serve the Commissioner with the appeal application within seven days of filing.

(5) The Tax Appeals Tribunal shall hear and determine the appeal without undue delay and its decision shall be binding on the Commissioner.

(6) Any party aggrieved by the decision of the Tax Appeals Tribunal may appeal to the High Court.

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Motion made and Question proposed –

THAT, the New Clause 22A be now read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed;

THAT, the New Clause 22A be part of the Bill

Question put and agreed to;

New Clause 22A - agreed to.

First Schedule - amendment proposed –

**THAT** the First Schedule be Bill be amended—

(a) In paragraph 1 by amending the following items in Part 1—

- (i) by deleting the item on “Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit whether or not containing added sugar or other sweetening matter” and the corresponding rate of excise duty;
- (ii) by deleting the expression “10” appearing in the column under Rate of Excise Duty and substituting therefor the expression “5” in the description of “Waters and other non-alcoholic beverages not including fruit or vegetable juices”;
- (iii) by deleting the item on “Cigarettes containing tobacco or tobacco substitutes” and the corresponding rate of excise duty and replacing it with the following new items—

Plain cigarettes or cigarettes with ex-factory selling price of up to Shs.2,750 per mille	Shs.900 per mille
Soft cup cigarettes with ex-factory selling price of Shs. 2,751 to Shs. 3,750 per mille	Shs.1200 per mille
Soft cup cigarettes with ex-factory selling price of Shs.3,751 to Shs. 4,750 per mille	Shs.1,800 per mille
Hinge lid cigarettes or cigarettes with ex-factory selling price of more than Shs.4,750 per mille	Shs.2,800 per mille

- (iv) in the description of "Motor Vehicles of tariff heading 87.02, 87.03 and 87.04—
  - (a) by deleting the expression "150,000" appearing in the column under Rate of Excise Duty and substituting therefor the expression "100,000" ;
  - (b) by deleting the expression "200,000" appearing in the column under Rate of Excise Duty and substituting therefor the expression "150,000";
- (v) by deleting the item on Motor Cycles of tariff 87.11 other than motor cycles, ambulances and the corresponding rate of excise duty.
- (b) in paragraph 2 under Part 1 by deleting the words " B is the adjustment factor for the adjustment day calculated as one plus annual average rate of inflation of the preceding financial year" appearing in proposed formula in subparagraph (2) and substituting therefor "B is the adjustment factor for the adjustment day, calculated as the average rate of monthly inflation of the preceding financial year";
- (c) in Part III by—
  - (a) deleting the definition of the term "other fees" and substituting therefor the following new definition—

"other fees" includes any fees, charges or commissions charged by financial institutions relating to their licensed financial institutions, but does not include interest on loan or return on loan or an insurance premium or premium based or related commissions;
  - (b) inserting the following new definitions in its proper alphabetical sequence—

"rate of monthly inflation in each month" means the movement in the consumer price index number published by the Kenya National Bureau of Statistics for that month when compared to the same month in the preceding year;

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

First Schedule - as amended agreed to.

Second Schedule - agreed to.

Clause 2 - amendment proposed –

**THAT** clause 2 be amended in the definition of "open market value" by deleting the expression "4" and substituting therefor the expression "3";

*(Chairperson, Departmental Committee on Finance, Planning & Trade)*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to.

Title - agreed to.

Clause 1 - agreed to.

Bill to be reported with amendments.

14. **HOUSE RESUMED** - the Deputy Speaker in the Chair

(i) **The Finance Bill (National Assembly Bill No. 27 of 2015)**

Motion made and Question proposed –

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

*(The Leader of the Majority Party)*

Question put and agreed to.

Motion made and Question proposed -

THAT, the Finance Bill (National Assembly Bill No. 27 of 2015) be now read a Third Time

*(The Leader of the Majority Party)*

Debate arising;

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

(ii) **The Excise Duty Bill (National Assembly Bill No. 28 of 2015)**

Motion made and Question proposed –

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

*(The Leader of the Majority Party)*

Question put and agreed to.

Motion made and Question proposed -

THAT, the Excise Duty Bill (National Assembly Bill No. 28 of 2015) be now read a Third Time

*(The Leader of the Majority Party)*

Debate arising;

Question put and agreed to.

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



15. MOTION -THE REPORT ON EAST AFRICAN COMMUNITY (EAC) PEACE AND SECURITY PROTOCOL, AND THE MUTUAL PEACE AND SECURITY PACT

Motion made and Question proposed –

THAT, this House adopts the Report of the Committee on Regional Integration on East African Community (EAC) Peace and Security Protocol and the Mutual Peace and Security Pact, laid on the Table of the House on Wednesday, 29<sup>th</sup> April, 2015 and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, **approves** the East African Community (EAC) Peace and Security Protocol and the Mutual Peace and Security Pact.

*(Chairperson, Committee on Regional Integration)*

Debate arising;

Debate interrupted;

16. ADJOURNMENT OF THE HOUSE IN ACCORDANCE WITH THE CALENDAR OF THE NATIONAL ASSEMBLY (2015)

Motion made -

THAT, pursuant to the provisions of Standing Order 28, this House adjourns until Tuesday, 29<sup>th</sup> September, 2015 in accordance with the Calendar of the Assembly (Regular Sessions)

*(The Leader of the Majority Party)*

Debate arising;

And the time being thirty minutes past Six O'clock, the Deputy Speaker interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

17. 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  
Tuesday, September 29, 2015 at 2.30 p.m.

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