



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, OCTOBER 28, 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) **Withdrawal of proposed amendments to the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.57 of 2015)**

"Honourable Members,

Before proceeding to business under Order No. 12 in today's Order Paper, I wish to bring to the attention of the House that I have received a letter from the Leader of the Majority Party, dated October 27, 2015, requesting the withdrawal of several proposed amendments to the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 57 of 2015). In the letter, the Leader of the Majority Party requests to withdraw proposed amendments to the Independent Policing Oversight Authority Act, 2011 and part of the proposed amendments to the Universities Act, 2012.

Honourable Members, as regards the Independent Policing Oversight Authority Act, 2011, the letter notes, and I quote, *"...the proposed amendments though not unconstitutional, significantly erode the independence of the Authority without which, the Authority would find it difficult to perform its functions free from Executive interference. In this regard, those changes ought to be addressed in a substantive amendment Bill to the Independent Policing Oversight Authority Act and not as miscellaneous amendment. It is my observation that, the amendments to the Independent Policing Oversight Authority Act, 2011 should be introduced substantively on their own not through a miscellaneous amendment law."*

Regarding the Universities Act, 2012, the Leader of the Majority Party proposes to withdraw all amendments to the Act except those related to sections 22 and 39. It is noted that, *"...the Bill proposes to amend Sections 2,5,20, 35, 39, 51(a) of the Act. My Office has received a draft proposal for publication of a separate Bill to amend the same Sections except for Sections 39. The proposed Bill is quite comprehensive and includes other proposed amendments to the Universities Act. In this regard I wish to drop all proposed*

amendments to the Act, save for amendments to Sections 22 and 39 in favour of the proposed new Bill."

Honourable Members, it is worth mentioning that this is not the first time that a request of this nature has been made during the consideration of a Bill of this kind. Having considered the request, I am persuaded that there is merit in the withdrawal and I have consequently acceded to the request. Hon. Members, the effect of this is that the proposed amendments to the specific sections of the two Acts will not be considered in the Second Reading, Committee Stage and the Third Reading of the Bill. For that reason, the Bill will be dealt with as though the said sections were not part of the Bill.

I thank you".

(ii) **Appointment of Members to the Mediation Committee**

"Honourable Members,

You may recall that last week, the National Assembly rejected part of the Senate's amendments to the Mining Bill (National Assembly Bill No. 9 of 2014) and also part of the Senate's amendments to the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013). Consequently, these Bills stand referred to a Mediation Committee in accordance with the provisions of Article 112 of the Constitution and Standing Order 149 of the National Assembly Standing Orders.

Honourable Members, in consultation with the Leaders of the Majority and Minority Parties, I have appointed Members to represent in the Mediation Committees which will consider the said Bills. On the Mediation Committee to consider the Mining Bill (National Assembly Bill No. 9 of 2014), the National Assembly will be represented by the following Members -

- (i) The Hon. Joyce Emanikor, MP;
- (ii) The Hon. (Dr.) Wilbur Ottichilo, MP;
- (iii) The Hon. Chachu Ganya, MP;
- (iv) The Hon. Juma Zuleikha Hassan, MP; and
- (v) The Hon. Elmi Mohamed Ibrahim, MP.

On the Mediation Committee to consider the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013), the following Members will represent the National Assembly –

- (i) The Hon. Amina Abdala, MP;
- (ii) The Hon. Ajidius Njogu Barua, MP;
- (iii) The Hon. Chachu Ganya, MP;
- (iv) The Hon. George Peter Opondo Kaluma, MP; and
- (v) The Hon. Andrew Mwadime, MP.

Honourable Members, in attempting to develop an agreed version of the said Bills, the respective Mediation Committees are advised to confine themselves to the contested clauses in the two Bills. For avoidance of doubt, the Committees have thirty (30) days to table Reports on their consideration of the said Bills.

I thank you".

5. **PETITION**

The Member for Chuka/Igamba Ng'ombe (Hon. Muthomi Njuki) presented a Petition regarding the delayed creation of a new administrative unit in Karingani Location, Meru South Sub-County;

Petition referred to the Departmental Committee on Administration and National Security pursuant to Standing Order 227(1).

6. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Reports of the Auditor General on the Financial Statements of the Constituencies Development Fund for the year ended 30th June, 2014 and the certificate therein, in respect of the following constituencies –

- Alego
- Kisumu Central
- Westlands
- Ugenya
- Bobasi
- Matungu
- Kitutu Chache North
- Nyaribari Chache; and,
- Rongo

- (ii) The Annual Reports and Financial Statements of the Engineers Board of Kenya for the years ended 30th June, 2013 and 30th June, 2014 and the certificates of the Auditor-General therein.

(The Majority Party Whip)

- (ii) The Report of the Departmental Committee on Agriculture, Livestock and Co-operatives on –

- The Public Petition by Nyeri County coffee farmers in the matter of production and marketing of their coffee and payment of dues owed to them; and
- Visit to Mauritius for the First Indian Ocean RIM Association (IORA) Blue Economy Conference held from 2-3 September, 2015

(Vice Chairperson, Departmental Committee on Agriculture, Livestock & Co-operatives)

- (iii) The Report of the Departmental Committee on Energy, Communication and Information on –

- The visit to the Atomic Energy Corporation (ROSATOM) in Moscow, Russia, between 7-13 July, 2015; and
- The Commonwealth Telecommunication Broadband Forum held in Abuja, Nigeria from 15-19 June, 2015

(Chairperson, Departmental Committee on Energy, Communication & Information)

- (iv) (a) The Reports of the Departmental Committee on Justice and Legal Affairs on:
- Petition on the matter of the Election of the Chairperson of the Agricultural Society of Kenya;
 - Petition for introduction of "Anti-Homosexuality Bill";
 - Petition to amend the Constitution of Kenya, 2010;
 - Petition on enactment of legislation to provide for the registration of all properties in Kenya;
 - Petition on review of Criminal Laws (Penal Code and Criminal Procedure Code) to align them with the provisions of the Constitution of Kenya; and,
 - Petition for mandatory voter registration and compulsory voting.
- (b) The Reports of the Departmental Committee on Justice and Legal Affairs on its consideration of:
- The Legal Aid Bill, 2015;
 - The Statute Law (Miscellaneous Amendments) Bill, 2015;
 - The Statute Law (Miscellaneous Amendments)(No.2) Bill, 2015;
 - The Constitution of Kenya (Amendment)(No. 5) Bill, 2015.

*(Hon. Florence Kajuku – Member, Departmental Committee on
Justice and Legal Affairs)*

- (v) In accordance with the Speaker's Communication of 14th October, 2015, the Chairpersons of the following Committees appraised the House on the status of the Business pending before their respective Committees -
- Chairperson, Departmental Committee on Defence and Foreign Relations;
 - Chairperson, Departmental Committee on Education, Research and Technology; and,
 - Chairperson, Departmental Committee on Energy, Communication and Information

6. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The First Chairperson in the Chair

THE EXCISE DUTY BILL (NATIONAL ASSEMBLY BILL NO. 28 OF 2015)

Amendments recommended by H. E. the President to the Excise Duty Bill (National Assembly Bill No.28 of 2015)

FIRST SCHEDULE

THAT, Part I of paragraph 1 of the First Schedule be amended by –

- (i) inserting the following items and the corresponding rate of excise immediately before the item on "Food supplements" as follows:-

Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	Shs.10 per litre
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(The Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Further amendment proposed –

Part I of Paragraph 1 of the First Schedule: *Fruit juices and corresponding rate of excise duty*

THAT, the recommendation by H.E the President to insert a new item in Part I of Paragraph 1 of the First Schedule, relating to *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 corresponding rate of excise duty*, be deleted

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

Question of the further amendment proposed;

Debate arising;

Pursuant to Standing Order 72 (2) several Members claimed to move for a Division;

And there being requisite number of Members required rising in support of the claim;

And the First Chairperson acceding to the claim directed the Division Bell to be rung;

And after expiry of ten minutes, the Bar having been drawn and the doors closed;

And there being insufficient number of Members to raise the two-thirds Constitutional requirement;

Proposed amendment dropped;

Question of the recommendation by H. E. the President put and agreed to;

Other amendments to the Scheduled by Hon. Benjamin Langat dropped;

Thereafter, the Chairperson pronounced that all other amendments relating to Cigarettes, Motor Vehicles, Motor Cycles *and their corresponding rate of excise duty* by the Hon. Benjamin Langat will stand dropped since there was less than 233 members required before the Question is put.

QUORUM OF THE HOUSE

Rising in his place on a Point of Order, the Member for Mvita (Hon. Abdulswamad Nassir) drew the attention of the First Chairperson to the fact that there was no Quorum in the House;

And the Chairperson having counted the Honourable Members present and confirmed that there was no Quorum caused the Division Bell to be rung;

And there being a Quorum after expiry of ten minutes;

Debate interrupted resumed;

Question put and agreed to.

Amendment proposed -

- (ii) inserting the following items and the corresponding rate of excise immediately before the item on "Food supplements" as follows:-

Fruit juices (including grape must), and vegetable juices, unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter.	Shs. 10 per litre
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(The Leader of the Majority Party)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

- (iii) deleting the items relating to cigarettes appearing immediately after the item on "catridge for use in electronic cigarettes" and substituting therefor the following item and the corresponding rate of excise duty:

Cigarettes containing tobacco or tobacco substitutes	Shs. 2500 per mille

(The Leader of the Majority Party)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Amendment proposed –

- (iv) inserting the following item and its corresponding rate of excise duty immediately before the item referring to “Plastic shopping bags”:

Motor cycles of tariff 87.11 other than motor cycles ambulances	Shs. 10,000 per unit.
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(The Leader of the Majority Party)

Question of the amendment proposed –

Debate arising;

Question put and agreed to;

Consideration to be reported without amendments;

7. **HOUSE RESUMED** - the Speaker in the Chair

Motion made and Question proposed;

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

(The Leader of the Majority Party)

Debate arising;

Question put agreed to.

Amendments recommended by H. E. the President to the Excise Duty Bill (National Assembly Bill No.28 of 2015) - agreed to

8. **MOTION - REPORT ON THE PETITION FOR REMOVAL OF A MEMBER OF THE NATIONAL POLICE SERVICE COMMISSION**

Motion made and Question proposed -

THAT, this House adopts the Report of the Departmental Committee on Administration and National Security on the Petition for the Removal of a Member of the National Police Service Commission, laid on the Table of the House on Thursday, 22nd October, 2015, and in accordance with the provisions of Article 251(3) of the Constitution and Standing Order 230(5), finds that the Petition **does** disclose sufficient ground for the **removal** of Major (Rtd) Muiu Shadrack Mutia as a Member of the National Police Service Commission.

(Chairperson, Departmental Committee on Administration & National Security)

Debate arising;

(Change of Chair from the Speaker to the Second Chairperson)

Mover replied;

Question deferred.

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

9. 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
Thursday, October 29, 2015 at 2.30 p.m.

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