



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (THIRD SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**SUPPLEMENTARY**

**THURSDAY, AUGUST 20, 2015 AT 2.30 P.M**

**ORDER OF BUSINESS**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Statements

**8\*. PROCEDURAL MOTION – REDUCTION OF PUBLICATION PERIOD**

(The Leader of the Majority Party)

**THAT**, pursuant to the provisions of Standing Order 120, this House resolves to reduce the Publication Period of the Energy Bill (National Assembly Bill No. 50 of 2015) from 14 to 9 days:-

**9\*. THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2015)**

(The Leader of the Majority Party)

First Reading

**10\*. THE BUSINESS REGISTRATION SERVICE BILL (NATIONAL ASSEMBLY BILL NO.13 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Question to be put)*

**11\*. MOTION - THE MEDIATED REPORT ON THE FERTILIZERS AND ANIMAL FOODSTUFFS (AMENDMENT) BILL**

(The Chairperson, Mediation Committee)

**THAT**, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Fertilizers and Animal Foodstuffs (Amendment) Bill, laid on the Table of the House on Wednesday, 19<sup>th</sup> August 2015, and **approves** the mediated version of the Fertilizers and Animal Foodstuffs (Amendment) Bill (National Assembly Bill No.36 of 2013).

*(Question to be put)*

**12\* COMMITTEE OF THE WHOLE HOUSE**

- (i) Presidential Memorandum on the Ethics and Anti-Corruption Commission (Amendment) Bill (National Assembly Bill No. 33 of 2015)  
(The Leader of the Majority Party)
- (ii) The Fisheries Management and Development Bill (National Assembly Bill No. 20 of 2014)  
(The Leader of the Majority Party)

**13\* THE EXCISE DUTY BILL (NATIONAL ASSEMBLY BILL NO. 28 OF 2015)**  
(The Leader of the Majority Party)

Second Reading

**14\* THE POLITICAL PARTIES (AMENDMENT) BILL (SENATE BILL NO.3 OF 2014)**  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

**15\* THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (SENATE BILL NO. 6 OF 2014)**  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

**16\*. MOTION - THE REPORT ON THE RESETTLEMENT OF SQUATTERS IN MURI; MATHENGETA TUMUTUMU, RIAKANAU; DRAKE & KASEKU FARMS**  
(The Chairperson, Departmental Committee on Lands)

**THAT**, this House adopts the Report of the Departmental Committee on Lands on the Resettlement of Squatters in Muri Farm; Mathengeta Tumutumu/Riakanau Farm; and Drake Farm and Kaseku Farm, laid on the Table of the House on Thursday, 12<sup>th</sup> June, 2014.

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**\* Denotes Orders of the Day**

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# N O T I C E S

## I. THE ETHICS AND ANTI-CORRUPTION COMMISSION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 33 OF 2015)

### **PRESIDENT'S RECOMMENDATION:**

#### **Amendments recommended by H. E. the President to the Ethics and Anti- Corruption Commission (Amendment) Bill (National Assembly Bill No. 33 of 2015)**

#### **CLAUSE 4**

**THAT**, Clause 4 of the Bill be amended by deleting the proposed Section 10 and substituting therefor the following new section –

Filling of vacancy 10. Notwithstanding section 6, whenever a vacancy arises in the membership of the Commission, the Public Service Commission shall, within fourteen days after the vacancy arises, advertise, interview and shortlist three qualified applicants for each vacancy and forward the names of the applicants so qualified to the President for appointment

### **COMMITTEE'S AMENDMENT:**

#### **Amendments proposed to the President's Reservations by the Departmental Committee on Justice and Legal Affairs to Clause 4**

#### **Clause 4**

**THAT**, the Bill be further amended in the proposed Clause 4 by deleting Section 10 as proposed by H.E the President and substituting therefor the following—

- Filling of vacancy. **10. (1)** Whenever a vacancy arises in the membership of the Commission, the Public Service Commission shall, within fourteen days—
- (a) invite applications from persons who qualify for nomination and appointment by advertisement in at least two daily newspapers of national circulation;
  - (b) consider the applications received to determine their compliance with the provisions of the Constitution and this Act;
  - (c) short list the applicants;
  - (d) conduct interviews of the shortlisted persons in public;
  - (e) shortlist three qualified applicants for each vacancy; and
  - (f) forward the names of the qualified persons to the President.

- (2) The President shall, within fourteen days of receipt of the names of successful applicants forwarded under subsection (1) (f), select the person to fill the vacancy in the Commission and forward the name of the person to the National Assembly for approval.
- (3) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of an applicant under subsection (2), vet and consider the applicant, and may approve or reject applicants for any or all vacancies in the Commission.
- (4) Where the National Assembly approves of an applicant, the Speaker of the National Assembly shall forward the name of the approved applicant to the President for appointment.
- (5) The President shall, within seven days of receipt of the name of the approved applicant from the National Assembly, by notice in the *Gazette* appoint the applicant to the Commission.
- (6) Where the National Assembly rejects any nomination, the Speaker shall within three days communicate its decision to the President and request the President to submit fresh nominations.
- (7) Where a nominee is rejected by the National Assembly under subsection (6), the President shall within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the Public Service Commission under subsection (1)(f).
- (8) If the National Assembly rejects any or all of the subsequent nominees submitted by the President for approval under subsection (1), the provisions of subsections (1) and (2) shall apply.
- (9) In short listing, nominating or appointing persons to fill a vacancy in the Commission, the Public Service Commission, the National Assembly and the President shall ensure that not more than two-thirds of the members are of the same gender.

***(The Speaker has determined the proposed amendment as having the effect of fully accomodating the President's Reservations on Clause 4)***

#### **PRESIDENT'S RECOMMENDATION:**

#### **Amendments recommended by H. E. the President to the Ethics and Anti-Corruption Commission on Clause 6**

#### **CLAUSE 6**

**THAT**, the Bill be amended by deleting Clause 6 and substituting therefor the following new Clause-

Transitional  
provision

**6. (1)** Every person who immediately before the commencement of this Act was an employee of the Commission, shall upon such commencement continue to serve in his or her respective position in accordance with the contract of employment: Provided that the Commission shall, within the period of one year after the appointment of Commissioners under this Act, using criteria determined by the Commission,

vet such employee to ensure that he or she is fit and proper to continue serving as such.

(2) The services of any person who fails to meet the vetting criteria established by the Commission under this section shall be terminated in accordance with the contract of employment.

### **COMMITTEE'S AMENDMENT:**

#### **Amendments proposed to the President's Reservations by the Departmental Committee on Justice and Legal Affairs to Clause 6**

### **CLAUSE 6**

**THAT**, the Bill be further amended in the proposed Clause 6 by deleting clause 6 proposed by H.E the President and substituting therefor the following —

Transitional provision.

6. (1) Within six months of the commencement of this Act, the Commission shall—

(a) develop criteria to vet all employees of the Commission; and

(b) determine whether the employees are fit to continue serving the Commission.

(2) The Commission shall terminate the services of a person determined unfit to continue serving under subsection (1).

***(The Speaker has determined the proposed amendment as having the effect of negating the President's Reservations on Clause 6 and two-thirds majority of Members is required for its passage)***

### **PRIVATE MEMBER'S AMENDMENT:**

#### **Amendments proposed to the President's Reservations by the Member for Kiminini (Hon. Chris Wamalwa) to Clause 6**

### **CLAUSE 6**

**THAT**, the proposed new clause 6 be amended in subclause (1), by deleting the words "one year" appearing in the proviso and substituting therefor the words "six months".

***(The Speaker has determined the proposed amendment as having the effect of negating the President's Reservations on Clause 6 and two-thirds majority of Members is required for its passage)***

## **II. THE FISHERIES MANAGEMENT AND DEVELOPMENT BILL (NATIONAL ASSEMBLY BILL NO. 20 OF 2014)**

1. **Notice is given that Chairperson of the Agriculture Committee (Hon. Adan Mohammed Nooru), intends to move the following amendments to the Fisheries Management and Development Bill, 2014 at the Committee Stage—**

### **LONG TITLE**

**THAT** the long title of the Bill be amended by inserting the words “to enhance the livelihood of communities dependent on fishing” immediately after the words “aquatic resources”.

**(No.089)**

**THURSDAY, AUGUST 20, 2015**

**(741)**

**CLAUSE 1**

**THAT** the Bill be amended by deleting Clause 1 and substituting therefor the following new clause—

“1.This Act may be cited as the Fisheries Management and Development Act, 2015, and shall come into force on the fourteenth day after publication in the Gazette”

**CLAUSE 2**

**THAT** clause 2 of the Bill be amended—

- (a) by deleting the definition of the term “aircraft” and substituting therefor the following new definition—

“aircraft” means any propelled or remotely controlled airborne device capable of sustained movement through the atmosphere and includes helicopters and monitoring devices.”

- (b) in the definition of the term “artisanal fishing vessel” by deleting the expression “25 horsepower” and substituting therefor the expression “40 horsepower”;

- (c) in the definition of the term “aquaculture establishment” by inserting the word “ system” immediately after the words “or other”;

- (d) by inserting the following new definition in the proper alphabetical sequence—

“barter” means trade of fish and fish products by two or more persons with or without use of money;

- (e) by deleting the definition of the term “buy” and substituting therefor the following new definition—

“buy” includes—

- (i) barter;
- (ii) purchase;
- (iii) attempt to barter;
- (iv) attempt to purchase;
- (v) receive on account or consignment in consideration for value;
- (vi) receive in order to send, forward or deliver for sale;
- (vii) broker a sale;
- (viii) purchase or barter for future goods or for any consideration of value; and
- (ix) purchase or barter as an agent for another person”

- (f) by deleting the definition of the term “buyer” and substituting therefor the following new definition

“buyer” means any person who buys;

- (g) in the definition of the term “export” by—

- (i) deleting paragraph (b);

- (iii) in paragraph (d) by deleting the words “for the purpose of (a) or (b), when associated with any buying or selling of fish or fish products” and substituting therefor the words “out of the country”.
- (h) in the definition of the term “export facility” by deleting the word “food” and substituting therefor the words “fish and fish products”;
- (i) in the definition of the term “fish processing” by inserting the words “drying, chilling, salting, gutting, smoking,” immediately after the word “freezing”;
- (j) in the definition of the term “fishery” by inserting the words “existing in a delineated area” immediately after the words “or parts thereof” appearing in paragraph (a);
- (k) by inserting the following new definition in its proper alphabetic sequence—
  - “fish landing station” means a point on the shore of any waters or coastline of which the Director-General has by notice in the gazette designated as a point to land fish”;
- (l) by inserting the following new definition in proper alphabetical sequence—
  - “illegal fishing” includes—
    - (a) activity conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;
    - (b) activities conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which those states are bound, or relevant provisions of international law; and
    - (c) activities carried out in violation of national laws or international obligations, including those undertaken by co-operating states to a relevant regional fisheries management organization.”
- (m) in the definition of the term “international agreement” by inserting the words “that Kenya is a party to pursuant to the Treaty Making and Ratification Act, 2013” immediately after the word “arrangements”;
- (n) in the definition of the term “master” by—
  - (i) inserting the word “means” immediately after the words “in relation to a vessel, aircraft or vehicle”;
  - (ii) deleting the words “in relation to a vessel, aircraft or vessel the”.
- (o) by inserting the following new definition in proper alphabetical sequence—
  - “management” means an integrated process of information gathering, analysis, planning, consultation, decision making, allocation of resources, formulation and implementation of rules and regulation which govern fisheries activities in order to ensure the continued production of the resources and accomplishment of other fisheries objectives;



- (p) by deleting the definition of the term “operator” and substituting therefor the following new definition—  
“operator” means any person responsible for the operations of, directs or controls a vessel, including the owner, charterer and master of the vessel;
- (q) by deleting the definition of the term “sell” and substituting therefor the following new definition—  
“sell” includes—  
(a) any method of disposition for consideration, of anything which has value or which can be exchanged for cash or barter;  
(b) disposition to an agent for sale on consignment;  
(c) offering or attempting to dispose of for value or receiving or having in possession for disposal for value or displaying for disposal for value, or sending or delivering for disposal for value, or causing or permitting to be disposed for value, offered or displayed for disposal for value; and  
(d) disposition by way of raffle, lottery or other game of chance under the Betting Control and Licensing Act, 2012.
- (r) by deleting the definition of the term “semi-industrial fishing vessel” and substituting therefor the following new definition—  
“semi-industrial fishing vessel” includes—  
(a) a decked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by an inboard engine; and  
(b) an undecked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by engines of at least forty horsepower.
- (s) by deleting the definition of the term “support vessel” and substituting therefor the following new definition—  
“support vessel” means a vessel carrying out operations in connection with and support of a fishing vessel including transport or supply;
- (t) by deleting the repeated set of definitions of the terms “subsistence fishing”, “support vessel”, and “surveillance”
- (u) by inserting the following new definition in the proper alphabetical sequence—  
“unregulated fishing includes—  
(a) activities conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing identity in a manner that is not in consistent with the conservation and management measures; and

(b) activities carried in areas or fish stocks in relation to which there are no applicable conservation or management measures in where the fishing activity is conducted.”

(v) by inserting the following new definition in the proper alphabetical sequence—

“unreported fishing includes activities which the relevant authority has not been notified ;”

### **CLAUSE 3**

**THAT**, Clause 3 of the Bill be amended by deleting sub-clause (2).

### **CLAUSE 5**

**THAT**, clause 5 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security” immediately after the words “sustainable development”;

(b) in sub-clause (2) by—

- (i) inserting the word “and” immediately after the words “allocation of” in paragraph (b);
- (ii) inserting the word “and” immediately after the word “biodiversity” in paragraph (e);
- (iii) deleting the words “general the” appearing in paragraph (g) and substituting therefor the words “the general”
- (iv) inserting the words “replenishing natural habitats through diversification from capture fisheries” immediately after the words “food security” in paragraph (m);
- (v) deleting paragraph (p) and substituting therefor the following new paragraph—

“(p) effective implementation of international agreements and relevant international laws in conformity with the Treaty Making and Ratification Act, 2013”;
- (vi) deleting the word “arrangements” appearing in paragraph (q);
- (vii) inserting the following new paragraph immediately after paragraph (q)—

“(r) ensuring that the livelihood of fishers is enhanced”.

(c) in sub-clause (2) by

- (i) renumbering the existing sub-clause (2) as sub-clause (3); and
- (ii) deleting the words “sub paragraph (1)(a)” and substituting therefor the words “ sub paragraph (2)(a)”

**CLAUSE 6**

**THAT**, clause 6 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting the words “the Cabinet Secretaries responsible for” appearing immediately after the words “consist of”
- (ii) deleting paragraphs “(a), (b), (c), (d), (e), (f) (g), (h), (i) ,(j), (k), (l), (m), (n) and (o) and substituting with the following new paragraphs—
  - (a)the Cabinet Secretary responsible for fisheries;
  - (b) the Cabinet Secretary responsible for interior and coordination of national government;
  - (c)the Cabinet Secretary responsible for transport and infrastructure;
  - (d) the Cabinet Secretary responsible for national treasury;
  - (e)the Cabinet Secretary responsible for foreign affairs and international trade;
  - (f) a representative from a university or a research institution with expertise in fisheries and who shall be nominated by the university Council;
  - (g)a representative from the consumer federation nominated by the national consumers federation;
  - (h) a designate from the Council of Governors with expertise in fisheries who shall be nominated by the Council of Governors; and
  - (i) a representative of fishers nominated by a national umbrella body of fishers.”

(b) in sub-clause (2) by—

- (i) inserting the word ‘national’ immediately after the word “government”.
- (ii) deleting the word “of” appearing in paragraph (b) and substituting thereforthe word “and”;
- (c) by inserting the following new sub-clauses immediately after sub-clause (2)—

“(2A) The Chairperson of the Council shall be appointed by the President from persons nominated under clause 6 (2) not being a Cabinet Secretary, upon recommendation by the Cabinet Secretary responsible for fisheries;”

“(2B) The Vice Chairperson of the Council shall be elected by members of the Council at their first sitting, provided that the Chair and the Vice Chairperson shall not be of the same gender;”

“(2C) in making appointments of the members to the Council, the Cabinet Secretary shall observe regional, gender, age, disability and ethnic balance;”

(d) in sub-clause (3) by inserting the word “to” immediately after the words “relevant”

**CLAUSE 9**

**THAT**, clause 9 of the Bill be amended by—

- (a) inserting the words “development of standards on” immediately after the words “conservation” in paragraph (a);
- (b) deleting the word “implement” appearing in paragraph (b) and substituting therefor the words “monitor the implementation of”;
- (c) deleting the word “manage” appearing in paragraph (c) and substituting therefor the words “develop standards for the management of”;
- (d) deleting the words “prepare and implement” appearing in paragraph (d) and substituting therefor the words “develop guidelines for the preparation of”;
- (e) in paragraph (e)—
  - (i) by deleting the words “and extension services” appearing after the word “education”
  - (ii) by deleting the words “and relevant policies” appearing immediately after the words “sustainable use”.
- (f) deleting the words “collaborate in and,” appearing in paragraph (g) and substituting therefor the words “either alone or in collaboration with other institutions nationally or internationally”
- (g) deleting the words “for fisheries conservation, management, development and aquaculture production” appearing in paragraph (i);
- (h) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately before the words “act on behalf” appearing in paragraph (k);
- (i) inserting the words “pursuant to the Treaty Making and Ratification Act, 2013” immediately after the words “Cabinet Secretary” appearing in paragraph (l);
- (j) inserting the words “and the Constitution” immediately after the words “this Act” appearing in paragraph (n);
- (k) inserting the words “that relates to its mandate under this Act and the Constitution” immediately after the words “infrastructure” appearing in paragraph (o);
- (l) inserting the words “and County governments” immediately after the word “ departments” appearing in paragraph (p);
- (m) inserting the words “County governments” immediately after the words “agencies” appearing in paragraph (q);
- (n) inserting the words “in collaboration with County governments and the Fish Marketing Authority established under section 201” at the beginning of paragraph (s); and
- (o) inserting the word “aquaculture” immediately after the words “coastal fisheries” appearing in paragraph (u).

**CLAUSE 10**

**THAT**, clause 10 of the Bill be amended—

(a) in sub-clause (1)—

- (i) by inserting the word “standards” appearing in paragraph (b) immediately after the word “management”;
- (ii) by deleting the words “to the Cabinet” appearing in paragraph (f) and substituting therefor the word “to Parliament”;
- (iii) by deleting the words “approve a” appearing in paragraph (g) and substituting therefor the words “establish an open, competitive,”;
- (iv) by inserting the words “open, competitive” immediately after the word “transparent” in paragraph (h);

(b) in sub-clause (3)—

- (i) by deleting paragraph (b) and substituting therefor following new paragraph—  
“ (b) comply with the provisions of this Act”;
- (ii) paragraph (d) by inserting the words “and other government entities” immediately after the words “Director-General”;

**CLAUSE 11**

**THAT**, clause 11 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting sub paragraph(iv),the repeated paragraph (vi) and(v) of paragraph (b);
- (ii) deleting paragraph (c);
- (iii) deleting the words “competitively recruited” appearing in paragraph (d)and substituting with the words “openly appointed” ;
- (iv) deleting paragraph (e) .

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause —

“(3) The members of the Board shall at their first meeting after appointment, elect a deputy Chairperson from amongst their number provided that the Chairperson and the deputy Chairperson shall not be of the same gender.”;

(c) in sub-clause (4) by

- (i) deleting the expression “or (e)” appearing immediately after the expression “(1 (d)”;
- (ii) inserting the words “age, regional and ethnic balance” immediately after the word “parity.”

(d) in sub-clause (5) by—

- (i) deleting the expression “or (e)” appearing immediately after the expression “(1) (d)”;
- (ii) deleting the word “oceanography” appearing in paragraph (e) and substituting therefor the words “aquatic science”.

#### **CLAUSE 12**

**THAT**, clause 12 of the Bill be amended—

(a) in sub-clause (1)—

- (i) by deleting paragraph (b);
- (ii) by deleting the words “ the permission of” appearing in paragraph (c ) (i) and substituting therefor the words “notifying the”;
- (iii) by deleting sub-paragraph (v) of paragraph (c), and substituting therefor the following new sub-paragraph—

“(v) is unable, by reason of mental or physical infirmity to discharge functions as a member of the Board”.

(b) in sub-clause (2) by deleting the word “Minister” appearing in paragraph (a) and substituting therefor the words “Cabinet Secretary”.

#### **CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A member of the Board shall declare his or her interest in any matter falling within the functions of the Board in which the member of the Board knows or ought to have reasonably known that an interest exists, as described in subsection (5);

(b) by deleting sub-clause (2);

(c) in sub-clause 5 by deleting the word “or” appearing in sub-paragraph (iii) of paragraph (a);

(d) in sub-clause (6) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) “family member” shall mean a parent, brother, sister, spouse, cousin, aunt, uncle, nephew, niece or child, including a person who is adopted legally or for whom care was given by the member such that there exists a relationship in the nature of parent and child, and shall also mean a spouse of any person referred to in this definition and their children, and any other member of a person’s immediate family;”

#### **CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended by—

(a) deleting the word “six” appearing in paragraph (a) of sub-clause (3) and substituting therefor the word “five”;

(b) deleting sub-clause (5) and substituting therefor the following new sub-clause—

- "(5) The Board may, in its discretion at any of its meetings—
- (a) invite a person or persons to attend; or
  - (b) receive or hear submissions or information from any person."
- (c) deleting sub-clause (7) and substituting therefor the following new sub-clause 7—
- "(7) The Board may from time to time, establish such advisory sub-committees as it considers necessary in relation to its functions and powers for the purpose of making reports and recommendations to the Board and such sub-committees shall be comprised of Board members."
- (d) deleting sub-clause (8) and substituting therefor the following new sub-clause 8—
- "(8) Any decision of a sub-committee established by the Board under subsection (7) shall be subject to ratification by a fully constituted Board meeting."

### **CLAUSE 15**

**THAT**, clause 15 of the Bill be amended—

- (a) by inserting the words "openly and transparently, and" immediately after the words "Board" in sub-clause (1);
- (b) in sub-clause (2) by—
  - (i) deleting the word "development " appearing immediately after the word "environmental management " in paragraph (a);
  - (ii) deleting the word "oceanography " appearing in paragraph ( c ) and substituting therefor the word "aquatic science";
  - (iii) deleting the words "area which the Board is satisfied is relevant to the position" appearing in paragraph (d) and substituting therefor the words "related field"; and
  - (iv) deleting the words "fifteen years" appearing in the proviso and substituting therefor the words "ten years".

### **CLAUSE 16**

**THAT**, Clause 16 of the Bill be amended by—

- (a) deleting paragraph (d) in sub-clause (2) and substituting therefor the following new paragraph—

"(d) collaborate with the Fish Marketing Authority established under section 204 and other agencies to identify marketing and investments opportunities for the fisheries sector;"
- (b) deleting the words "or other person in the service of the Service" appearing in sub-clause (3)

**CLAUSE 18**

**THAT** Clause 18 of the Bill be amended in sub-clause (1) by deleting the words “armed force” and substituting therefor the words “Defence Forces”

**CLAUSE 20**

**THAT**, clause 20 of the Bill be amended—

(a) in sub-clause (2) (a) by—

(i) deleting the word “and” appearing immediately after the word “including”

(ii) deleting the word “of” appearing immediately after the word “enforcement”

(b) in sub-clause (2) (b) by —

(i) deleting the words “as appropriate” at the beginning of the paragraph; and

(ii) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately after the word “directs”.

**CLAUSE 21**

**THAT** Clause 21 of the Bill be amended in sub-clause (2) by—

(a) deleting the word “Second” and substituting therefor the word “First”;

(b) inserting the word “Secretary” immediately after the word “Cabinet”

**CLAUSE 22**

**THAT**, clause 22 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “provided” and substituting therefor the word “appropriated”.

(b) in sub-clause (2) by—

(i) deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) contracts for technical consultants, observers, researchers and other personnel, activities or operations which support the functions and programmes of the Service;

(ii) by deleting the words “of the Director General and staff and members of the Board and Cabinet Secretary in accordance with the budget and approved rates approved by the Board” appearing in paragraph (d)

(c) by deleting sub-clause (4); and

(d) by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) The Service may open and maintain an account with a bank approved by the National Treasury under the Public Finance and Management Act 2012 and shall at all times maintain one account and shall pay all its moneys into such account.”



**CLAUSE 24**

**THAT**, clause 24 of the Bill be amended in sub-clause (3) by deleting the words “or in pursuance of the Board’s approval given with prior written approval of the Cabinet Secretary to the Treasury”

**CLAUSE 25**

**THAT**, clause 25 sub-clause (2) of the Bill be amended by deleting the expression “2003” and substituting therefor the expression “2015”.

**CLAUSE 26**

**THAT**, Clause 26 of the Bill be amended in sub-clause (4) by inserting the word “Secretary” after the word “Cabinet”.

**CLAUSE 27**

**THAT**, Clause 27 of the Bill be amended in sub-clause (3) by deleting the word “facilitate” and substituting therefor the words “provide supplementary funding for”.

**CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended by—

(a) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) The trust shall be administered by a five member Board of Trustees nominated through an open and competitive process and they shall meet requirements of Chapter six of the Constitution.”;

(b) inserting the following new sub-clause immediately after sub- clause (4)—

“(5) The Members of the Board of Trustees shall include—

(i) two fisherpersons from fresh waters and marine waters;

(ii) two persons nominated by the traders exporters association and fish processors;

(iii) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science.

**CLAUSE 29**

**THAT**, clause 29 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Nothing in this Act shall be deemed to prevent any member of the community from using, subject to such conditions as may be prescribed under this Act, such fisheries or fisheries resources as it has been the custom of that community to use.”

**CLAUSE 30**

**THAT**, clause 30 of the Bill be amended by—

(a) inserting the words “County governments” immediately after the words “in consultation with”; at the opening clause;

- (b) inserting the following new paragraph immediately after paragraph (g)—  
“(gg) promote the development of other sustainable methods of *insitu* and *exsitu* fishing;”

**CLAUSE 32**

**THAT**, clause 32 of the Bill be amended in sub-clause (1) by deleting the words “the Director-General shall” appearing immediately after the expression “section 31(1)”.

**CLAUSE 37**

**THAT**, the Bill be amended by deleting clause 37.

**CLAUSE 38**

**THAT**, clause 38 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (e)—

“(ea) the protection of vulnerable groups, especially youth and women;”

“(eb) processes necessary to ensure that not more than two thirds of the Beach Management Units are of the same gender and to ensure the inclusion of youth and persons with disability in the leadership.”

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended—

- (a) in sub-clause (1) by inserting the word “special” immediately after the word “requires” appearing in paragraph (b);
- (b) in sub-clause (3) by deleting the opening paragraph and substituting therefor the following new opening paragraph—

“The Director-General shall, in consultation with the counties and other stakeholders, develop guidelines and standards for the development of fisheries management plans that must conform to this Act and shall include—”
- (c) in sub-clause (3) by inserting the following new paragraph immediately after paragraph (m)—

“(mm) social impact assessment of the plan with reference to disadvantaged groups including women, persons with disability and the youth”;
- (d) by deleting sub-clause (9) and substituting therefor the following new sub-clause—

“(9) Any person who fails to comply with the management plan commits an offence and shall be liable—

  - (i) in case of industrial fishing, to a fine not exceeding five hundred thousand shillings; or
  - (ii) in case of artisanal fishing, to a fine not exceeding one hundred thousand shillings.”
- (e) in sub-clause (10) by deleting the words “not exceeding six months, and in respect of all other activities not exceeding two years or both” and substituting therefor the words “not exceeding three months, and in respect of all other activities not exceeding six months or both”.

**CLAUSE 41**

**THAT**, clause 41 of the Bill be amended—

(a) in sub-clause (1)—

(i) by inserting the words “in accordance with the best scientific advice and such other relevant information as may be available” immediately after the words “The Director General may”;

(ii) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) closed seasons and or areas for species of fish or methods of fishing provided that customary fishing rights are protected”;

(iii) in paragraph (d) by inserting the words “provided that customary fishing rights are protected” immediately after the words “engage in fishing”;

(iv) by deleting paragraph (i) and substituting therefor the following new paragraph—

“(i) regulate trade in endangered species of fish and fish products”;

(v) by inserting the following new paragraph immediately after paragraph (j)—

“(jj) prohibit the possession, trade in or manufacture of prohibited gear in a specified area or areas”;

(b) by deleting sub-clause (2);

(c) in sub-clause (3) by inserting the words “in respect of industrial fishing, and to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding three months or to both in respect of artisanal fishing” at the end of the sentence; and

(d) by inserting the following new sub-clause immediately after sub-clause (3)—

“(4) The measures referred to in this section may include, inter alia—

(i) refusal to issue or renew licences;

(ii) imposition of special licence or catch fees; and

(iii) preferential licensing.”

**CLAUSE 42**

**THAT**, clause 42 of the Bill be amended—

(a) by deleting sub-clause (2);

(b) by deleting sub-clause (3).

**CLAUSE 43**

**THAT**, the Bill be amended by deleting clause 43.

**CLAUSE 44**

**THAT**, clause 44 of the Bill be amended—

(a) in sub-clause (l)—

- (i) by deleting paragraph (l) and substituting therefor the following new paragraph—

“(l) firearms or other electrical shock devices for the purpose of fishing, including stunning, disabling or killing fish, or in any way rendering fish to be caught more easily”;
- (ii) in paragraph (m) by deleting the words “in a fisheries management plan” and substituting therefor the words “by regulations established under this part”;
- (b) in sub-clause (7) by inserting the following new words after the words “or to both”—

“in respect of industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both in respect of artisanal fishing”; and
- (c) by deleting sub-clause (8).

#### **CLAUSE 45**

**THAT**, clause 45 of the Bill be amended—

- (a) in sub clause (1) by deleting the opening paragraph and substituting therefor the following new opening paragraph—

“(1) No person shall while using a vessel, wilfully and negligently damage, destroy, interfere with, endanger or cause injury in respect of in sub-clause (1)”;
- (b) in sub clause (3)—
  - (i) by deleting paragraph (a);
  - (ii) by deleting paragraph (d) in sub-clause (3) and substituting therefor the following new paragraph—

“(d) make a full report of the incident and steps taken to the police”
- (c) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) A person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both, and in addition that person shall fully compensate the owner of the fishing gear for any damage or injury caused under civil law as a consequence of the action unless there is sufficient proof that the damage, destruction, interference or endangerment took place in an area where the person or vessel that caused such consequences were legally entitled to be at that time and it was not reasonably possible to detect the fishing gear or vessel and any relevant fishing gear was not marked in accordance with the requirements pursuant to this Act.”;
- (d) by inserting the following new sub clause immediately after sub-clause (4)—

“(4A) Where human life is lost as a consequence of any negligent or wilful action under sub-section (1), the responsible person shall be liable on conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding ten years or to both, and in addition that person shall fully compensate the estate of the deceased under civil law.”;

- (e) in sub-clause (5) by deleting the words “as soon as possible and in any case within a reasonable time after the damage, destruction, interference or endangerment took place, and shall produce all available evidence” and substituting therefor the words “within a period of three years”.

**CLAUSE 46**

**THAT**, the Bill be amended by deleting clause 46.

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in sub-clause (2) by inserting the words “in respect of industrial fishing or to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months in respect of artisanal fishing” immediately after the words “or to both”.

**CLAUSE 48**

**THAT**, clause 48 of the Bill be amended by—

- (a) deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or to a term of imprisonment not exceeding three years or to both in respect of industrial fishing, or to a fine not exceeding fifty thousand shillings or a term of imprisonment not exceeding six months, or to both.”;

- (b) inserting the following new sub-clause immediately after sub-clause (3)—

“(3A) where a species of fish has been declared as endangered under subsection (1), the Cabinet Secretary shall take special measures for its protection.”

**CLAUSE 50**

**THAT**, clause 50 of the Bill be amended—

- (a) in subsection (1) by

(i) inserting the words “stakeholders” immediately after the words “Advisory Council” in the opening paragraph—

(ii) deleting paragraph (k);

- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) The Cabinet Secretary may, subject to approval by the National Assembly, make regulations to give effect to this subsection”;

- (c) by deleting sub-clause (3)

**CLAUSE 51**

**THAT**, clause 51 of the Bill be amended by—

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) Any person or Government Ministry or other agency that plans to conduct any commercial activity other than fishing which is likely to have an adverse impact on fish and their habitat, shall apply to the Director-General in the prescribed form prior to the commencement of the planned activity with a view to ensuring the conservation and protection of such resources.”;

(b) deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Where an application is made under subsection (1), the Director-General shall refer the matter to the National Environment Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat, and possible means of preventing or minimizing adverse impact.”;

(c) inserting the following new sub-clause immediately after sub-clause (3)—

“(3A) Any report made under sub-section (2) must be completed within six months of the making of the application.”;

(d) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) Any person who violates any provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both, and in addition such person shall be liable to pay compensation in respect of any resulting loss or damage as well as the full cost of restoring the affected habitat to its previous state.”

**CLAUSE 52**

**THAT**, clause 52 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “or accidentally”;

(b) in sub-clause (2) by deleting the words “five hundred thousand shillings or to a term of imprisonment not exceeding five years” and substituting therefor the words “five million shillings or to a term of imprisonment not exceeding ten years or to both.”

**CLAUSE 53**

**THAT**, clause 53 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)—

“(2A) No person other than a sport fisherman shall land any fish at any point except at a fish landing station or port.

(2B) A person who contravenes the provisions of subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both in the case of fish landing stations, or to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or to both in the case of ports.”

**CLAUSE 56**

**THAT**, clause 56 of the Bill be amended—

- (a) in sub-clause (2) by inserting the words “or to areas where the boundaries are disputed or not clear” immediately after the word “flag” appearing at the end of the sub-clause;
- (b) in sub-clause (3) by inserting the following new words immediately after the words “or both”—

“in relation to industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both in relation to artisanal fishing.”

**CLAUSE 57**

**THAT**, clause 57 of the Bill be amended in sub clause (1) by inserting the following new words immediately after the word “prescribed” —

“and the approval shall only be given upon production of an Environmental Impact Assessment report on the effect of each introduction.”

**CLAUSE 58**

**THAT**, clause 58 of the Bill be amended in sub-clause (1) by deleting the words “such procedures as the Director-General may notify to the public or as may be prescribed” and substituting therefor the word “regulations”.

**CLAUSE 60**

**THAT**, clause 60 of the Bill be amended by inserting the words “in consultation with the Fish Marketing Authority and” after the word “may” appearing in the opening paragraph.

**CLAUSE 61**

**THAT**, clause 61 of the Bill be amended—

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) The Cabinet Secretary shall establish a technical committee on Fish Quality and Safety”
- (b) in sub-clause (3) by—
  - (i) by deleting the words “competent authority” appearing in the opening sentence and substituting therefor the word “Committee”;
  - (ii) deleting paragraph (a);
  - (iii) deleting paragraph (e);
  - (iv) deleting paragraph (k);
  - (v) inserting the following new paragraph after paragraph (l)—

“(m) maintain a register of fishers”

(c) by deleting the repeated sub-clause (3) and substituting therefor the following new sub-clause—

“(4) The Cabinet Secretary may for the purposes of subsection (2), make regulations with regard to conduct of the affairs of the technical committee”

#### **CLAUSE 62**

**THAT**, clause 62 of the Bill be amended by inserting the words “Pursuant to the Treaty Making and Ratification Act” immediately before the words “The Director-General may”.

#### **CLAUSE 63**

**THAT**, clause 63 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) A person who knowingly and wilfully contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years or to both, and in addition any fish or fish products involved in the transaction and those owned or controlled by such person shall be forfeited.”

#### **CLAUSE 65**

**THAT**, clause 65 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Any aquaculture development plan developed under sub-section (1) shall be for a duration of three years”;

#### **CLAUSE 67**

**THAT**, clause 67 of the Bill be amended in sub-clause (1) by inserting the words “and without first consulting the affected community” at the end of the sub-clause.

#### **CLAUSE 68**

**THAT**, clause 68 of the Bill be amended—

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) County governments shall monitor aquaculture and mariculture practices and operations in areas under their respective jurisdiction pursuant to this Act.”

(b) by deleting sub-clause (2) and substituting therefor following new sub-clause—

“(2) Where any person or any county government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such county government shall, in consultation with the Cabinet Secretary, give notice in writing to the owner of the relevant waters requiring the destruction of all fish or fish products in the said waters or the taking of such other measures as the county government may specify in the notice.”;



- (c) by deleting sub-clause (3);
- (d) in sub-clause (5) deleting the words “Director-General’s”; and
- (e) by inserting the following new sub-clause immediately after sub-clause (5)–

“(5A) Where an officer wilfully, negligently or without justifiable cause issues a notice under sub-section (2), the officer shall be held personally liable for any resultant loss.”

#### **CLAUSE 69**

**THAT**, clause 69 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “with the endorsement” and substituting therefor the words “on the advice”;
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Permission for any activity in sub-section (1) may be granted subject to such conditions as the Director-General, with the written approval of the Board, considers appropriate and after an impact assessment has been undertaken.”

#### **CLAUSE 80**

**THAT**, Clause 80 of the Bill be amended in sub-clause (3) by deleting the words “five hundred thousand” and substituting therefor the words “one million”.

#### **CLAUSE 81**

**THAT**, Clause 81 of the Bill be amended in sub-clause (1)—

- (a) by inserting the word “Kenya” immediately after the words “harvested in the” appearing in the opening paragraph;
- (b) inserting the word “Kenya” before the word “fishery” appearing in paragraph (a).

#### **CLAUSE 83**

**THAT**, Clause 83 of the Bill be amended—

- (a) by deleting the word “Minister” wherever it appears and substituting therefor the word “Secretary”
- (b) in sub-clause (8) by deleting the words “three hundred and fifty thousand” and substituting therefor the words “one million”

#### **CLAUSE 87**

**THAT**, Clause 87 of the Bill be amended in sub-clause (2) by deleting the word “Kenyan” and substituting therefor the word “Kenya”.

**CLAUSE 88**

**THAT**, Clause 88 of the Bill be amended in sub-clause (1) by inserting the words “but shall require to apply for registration” immediately after the word “licence”

**CLAUSE 97**

**THAT**, Clause 97 of the Bill be amended in paragraph (a) of sub-clause (1) by inserting the words “or relevant applicable law of a third country” immediately after the word “measures”

**CLAUSE 101**

**THAT**, Clause 101 of the Bill be amended in sub-clause (2) by —

- (a) deleting the words “one million” and substituting therefor the words “fifty million”.
- (b) deleting the word “three years” and substituting therefor the words “five years”.

**CLAUSE 102**

**THAT**, Clause 102 of the Bill be amended in sub-clause (2) by—

- (a) deleting the words “one million” and substituting therefor the words “fifty million”.
- (b) deleting the word “three years” and substituting therefor the words “five years”.

**CLAUSE 105**

**THAT**, Clause 105 of the Bill be amended in sub-clause (2) by deleting the words “five hundred thousand” and substituting therefor the words “five million”.

**CLAUSE 110**

**THAT**, Clause 110 of the Bill be amended in sub-clause (8) by deleting the words “one million” and substituting therefor the words “fifty million”.

**CLAUSE 114**

**THAT**, Clause 114 of the Bill be amended in sub-clause (2) by deleting the words “five hundred thousand” and substituting therefor the words “ten million”.

**CLAUSE 116**

**THAT**, Clause 116 of the Bill be amended in sub-clause (1) by deleting the words “ten years” and substituting therefor the words “one year”.

**CLAUSE 128**

**THAT**, Clause 128 of the Bill be amended by deleting the words “two million shillings” and substituting therefor the words “fifty million shillings or to an imprisonment of a term of more than one year or to both”.

**CLAUSE 129**

**THAT**, Clause 129 of the Bill be amended in sub-clause (2) by—

- (a) deleting the words “not exceeding one million” and substituting therefor the words “not less than five million”;
- (b) deleting the words “not exceeding five years” and substituting therefor the words “not less than five years”.

**CLAUSE 130**

**THAT**, Clause 130 of the Bill be amended in sub-clause (2) by—

- (a) deleting the words “not exceeding one million” and substituting therefor the words “not less than ten million”;
- (b) deleting the words “not exceeding five years” and substituting therefor the words “not less than ten years”.

**CLAUSE 131**

**THAT**, Clause 131 of the Bill be amended in sub-clause (1) by deleting the words “Oceans and”.

**CLAUSE 132**

**THAT**, Clause 132 of the Bill be amended by—

- (a) inserting the word “fishing” immediately after the word “unregulated” in paragraph (e);
- (b) deleting the word “section 139” and substituting therefor the words “ section 137 in paragraph (f)”.

**CLAUSE 133**

**THAT**, Clause 133 of the Bill be amended in sub-clause (2) by inserting the words “Advisory Council and “immediatelybefore the words “Director General”.

**CLAUSE 134**

**THAT**, Clause 134 of the Bill be amended in sub-clause (1) by inserting the words “Kenya” immediately before the words “fishery waters”.

**CLAUSE 139**

**THAT**, Clause 139 of the Bill be amended by —

- (a) inserting the words “or ordering” immediately after the word “bringing” in sub-clause (3).
- (b) inserting the following new sub-clause immediately after sub-clause (6)—

“(6A). Monitoring Control and Surveillance(MCS) in this section means the mechanism for implementation of agreed policies, plans or strategies for oceans and fisheries management and includes collection, measurement and analysis of data and information on fishing activities and using the same to specify the terms and conditions under which fisheries resources can be harvested ;checking and supervising fishing activities to ensure all applicable laws and regulations are being observed by the fishers and all licence holders and the components include surveillance on land, air and at sea.”

**CLAUSE 146**

**THAT**, Clause 146 of the Bill be amended in paragraph (a) sub-clause (1) by deleting the words "take" and substituting therefor the word "order".

**CLAUSE 150**

**THAT**, Clause 150 of the Bill be amended in sub-clause (1) by deleting the words "The shall establish" appearing in the opening paragraph and substituting therefor the words "There shall be established".

**CLAUSE 151**

**THAT**, Clause 151 of the Bill be amended in paragraph (b) sub-clause (1) by deleting the word "section 152" and substituting therefor the words "section 150".

**CLAUSE 154**

**THAT**, Clause 154 of the Bill be amended in sub-clause (3) by—

- (a) deleting the words "not exceeding five hundred thousand" and substituting therefor the words "not less than ten million";
- (b) deleting the words "not exceeding three years" and substituting therefor the words "not less than five years".

**CLAUSE 159**

**THAT**, Clause 159 of the Bill be amended in sub-clause (3) by deleting the words "not exceeding two million" and substituting therefor the words "not less than fifty million".

**CLAUSE 160**

**THAT**, Clause 160 of the Bill be amended in sub-clause (7)—

- (a) by deleting the words "not exceeding five million" and substituting therefor the words "not less than ten million";
- (b) deleting the words "not exceeding five years" and substituting therefor the words "not less than ten years".

**CLAUSE 162**

**THAT**, Clause 162 of the Bill be amended in sub-clause (3) —

- (a) by deleting the words "not exceeding one million" and substituting therefor the words "not less than fifty million".
- (b) deleting the words "not exceeding five years" and substituting therefor the words "not less than ten years".

**CLAUSE 163**

**THAT**, Clause 163 of the Bill be amended—

(a) in sub-clause (3)-

- (i) by deleting the words “not exceeding two million” and substituting therefor the words “not less than fifty million”;
- (ii) deleting the words “ not exceeding ten years” and substituting therefor the words “ not less than ten years”.

(b) in sub-clause (4)-

- (i) by deleting the words “not exceeding two million” and substituting therefor the words “not less than fifty million”;
- (ii) deleting the words “ not exceeding ten years” and substituting therefor the words “ not less than ten years”.

**CLAUSE 189**

**THAT** Clause 189 of the Bill be amended in paragraph of (d) of sub-clause (1) by deleting the expression “section171” and substituting therefor the expression “section169”.

**CLAUSE 197**

**THAT**, Clause 197 of the Bill be amended by—

- (a) renumbering the existing provision as sub-clause (1);
- (b) inserting a new sub-clause immediately after the renumbered sub-clause (1);
  - “(2) Where the person charged has committed a similar offence in the past, a fine of an amount not less than that previously penalized plus an additional ten percent shall be imposed.”

**SECOND SCHEDULE**

**THAT**, the Second schedule to the Bill be amended—

- (a) by deleting the word “Vanga” and substituting therefor the word “Shimoni”;
- (b) by deleting the word “Mkongoni” and substituting therefor the word “Mkokoni”;
- (c) by deleting the word “Old Port” and substituting therefor the word “Mombasa”.

2. Notice is given that Hon. Millie Odhiambo Mabona, M. P. intends to move the following amendments to the Fisheries Management and Development Bill, 2014 (National Assembly Bill No. 18 of 2014) at the Committee Stage—

### LONG TITLE

**THAT** the long title of the Bill be amended by inserting the words “to enhance the livelihood of communities dependent on fishing” immediately after the words “aquatic resources”.

### CLAUSE 1

**THAT** the Bill be amended by deleting Clause 1 and substituting therefor the following new clause—

“1.This Act may be cited as the Fisheries Management and Development Act, 2015, and shall come into force on the fourteenth day after publication in the Gazette”

### CLAUSE 2

**THAT** clause 2 of the Bill be amended—

(a) by deleting the definition of the term “aircraft” and substituting therefor the following new definition—

“aircraft” means any propelled or remotely controlled airborne device capable of sustained movement through the atmosphere and includes helicopters and monitoring devices.”

(b) in the definition of the term “artisanal fishing vessel” by deleting the expression “25 horsepower” and substituting therefor the expression “40 horsepower”;

(c) in the definition of the term “aquaculture establishment” by inserting the word “ system” immediately after the words “or other”;

(d) by inserting the following new definition in the proper alphabetical sequence—

“barter” means trade of fish and fish products by two or more persons with or without use of money;

(e) by deleting the definition of the term “buy” and substituting therefor the following new definition—

“buy” includes—

- (i) barter;
- (ii) purchase;
- (iii) attempt to barter;
- (iv) attempt to purchase;
- (v) receive on account or consignment in consideration for value;
- (vi) receive in order to send, forward or deliver for sale;
- (vii) broker a sale;
- (viii) purchase or barter for future goods or for any consideration of value; and
- (ix) purchase or barter as an agent for another person”

- (f) by deleting the definition of the term “buyer” and substituting therefor the following new definition

“buyer” means any person who buys;

- (g) in the definition of the term “export” by—

(i) deleting paragraph (b);

(ii) deleting paragraph (c); and

(iii) in paragraph (d) by deleting the words “for the purpose of (a) or (b), when associated with any buying or selling of fish or fish products” and substituting therefor the words “out of the country”.

- (h) in the definition of the term “export facility” by deleting the word “food” and substituting therefor the words “fish and fish products”;

- (i) by inserting the following new definition in its proper alphabetic sequence—

“fish aggregating device” means a man-made, permanent, semi-permanent or temporary structure or object made from any material used to attract fish;

- (j) in the definition of the term “fish processing” by inserting the words “drying, chilling, salting, gutting, smoking,” immediately after the word “freezing”;

- (k) in the definition of the term “fishery” by inserting the words “existing in a delineated area” immediately after the words “or parts thereof” appearing in paragraph (a);

- (l) by inserting the following new definition in its proper alphabetic sequence—

“fish landing station” means a point on the shore of any waters or coastline of which the Director-General has by notice in the gazette designated as a point to land fish”;

- (m) by inserting the following new definition in its proper alphabetic sequence—

“fish port” means a place on a lake shore or sea front where fishing vessels may resort for shelter, servicing, loading and off- loading of fish and fishing equipment”;

- (n) by inserting the following new definition in proper alphabetical sequence—

“illegal fishing” includes—

(d) activity conducted by national or foreign vessels in waters under the jurisdiction of a state, without the permission of that state, or in contravention of its laws and regulations;

(e) activities conducted by vessels flying the flag of states that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which those states are bound, or relevant provisions of international law; and

(f) activities carried out in violation of national laws or international obligations, including those undertaken by co-operating states to a relevant regional fisheries management organization.”

- (o) in the definition of the term “international agreement” by inserting the words “that Kenya is a party to pursuant to the Treaty Making and Ratification Act, 2013” immediately after the word “arrangements”;

- (p) in the definition of the term “master” by—

(iii) inserting the word “means” immediately after the words “in relation to a vessel, aircraft or vehicle”;

- (iv) deleting the words "in relation to a vessel, aircraft or vessel the".
- (q) by inserting the following new definition in proper alphabetical sequence—
- "management" means an integrated process of information gathering, analysis, planning, consultation, decision making, allocation of resources, formulation and implementation of rules and regulation which govern fisheries activities in order to ensure the continued production of the resources and accomplishment of other fisheries objectives;
- (r) by deleting the definition of the term "operator" and substituting therefor the following new definition—
- "operator" means any person responsible for the operations of, directs or controls a vessel, including the owner, charterer and master of the vessel;
- (s) by deleting the definition of the term "sell" and substituting therefor the following new definition—
- "sell" includes—
- (e) any method of disposition for consideration, of anything which has value or which can be exchanged for cash or barter;
  - (f) disposition to an agent for sale on consignment;
  - (g) offering or attempting to dispose of for value or receiving or having in possession for disposal for value or displaying for disposal for value, or sending or delivering for disposal for value, or causing or permitting to be disposed for value, offered or displayed for disposal for value; and
  - (h) disposition by way of raffle, lottery or other game of chance under the Betting Control and Licensing Act, 2012.
- (t) by deleting the definition of the term "semi-industrial fishing vessel" and substituting therefor the following new definition—
- "semi-industrial fishing vessel" includes—
- (c) a decked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by an inboard engine; and
  - (d) an undecked fishing vessel with an overall length of not less than ten meters and not more than twenty meters, less than fifty GRT and powered by engines of at least forty horsepower.
- (u) by deleting the definition of the term "support vessel" and substituting therefor the following new definition—
- "support vessel" means a vessel carrying out operations in connection with and support of a fishing vessel including transport or supply;
- (v) by deleting the repeated set of definitions of the terms "subsistence fishing", "support vessel", and "surveillance"
- (w) by inserting the following new definition in the proper alphabetical sequence—
- "unregulated fishing includes—
- (c) activities conducted by vessels without nationality, or by those flying the flag of a state not party to that organization, or by a fishing identity in a manner that is not in consistent with the conservation and management measures; and



(d) activities carried in areas or fish stocks in relation to which there are no applicable conservation or management measures in where the fishing activity is conducted."

(x) by inserting the following new definition in the proper alphabetical sequence—

"unreported fishing includes activities which the relevant authority has not been notified ;"

### **CLAUSE 3**

**THAT**, Clause 3 of the Bill be amended by deleting sub-clause (2).

### **CLAUSE 5**

**THAT**, clause 5 of the Bill be amended—

(a) in sub-clause (1) by inserting the words "to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security" immediately after the words "sustainable development";

(b) in sub-clause (2) by—

- (i) inserting the word "and" immediately after the words "allocation of" in paragraph (b);
- (ii) inserting the word "and" immediately after the word "biodiversity" in paragraph (e);
- (iii) deleting the words "general the" appearing in paragraph (g) and substituting therefor the words "the general"
- (iv) inserting the words "replenishing natural habitats through diversification from capture fisheries" immediately after the words "food security" in paragraph (m);
- (v) deleting paragraph (p) and substituting therefor the following new paragraph—  
"(p) effective implementation of international agreements and relevant international laws in conformity with the Treaty Making and Ratification Act, 2013";
- (vi) deleting the word "arrangements" appearing in paragraph (q);
- (vii) inserting the following new paragraph immediately after paragraph (q)—  
"(r) ensuring that the livelihood of fishers is enhanced".

(c) in sub-clause (2) by

- (i) renumbering the existing sub-clause (2) as sub-clause (3); and
- (ii) deleting the words "sub paragraph (1)(a)" and substituting therefor the words " sub paragraph (2)(a)"

### **CLAUSE 6**

**THAT**, clause 6 of the Bill be amended—

(b) in sub-clause (1) by—

- (i) deleting the words "the Cabinet Secretaries responsible for" appearing immediately after the words "consist of"

- (ii) deleting paragraphs “(a), (b), (c), (d), (e), (f) (g), (h), (i) ,(j), (k), (l), (m), (n) and (o) and substituting with the following new paragraphs—
  - (j) the Cabinet Secretary responsible for fisheries;
  - (k) the Cabinet Secretary responsible for interior and coordination of national government;
  - (l) the Cabinet Secretary responsible for transport and infrastructure;
  - (m) the Cabinet Secretary responsible for national treasury;
  - (n) the Cabinet Secretary responsible for foreign affairs and international trade;
  - (o) a representative from a university or a research institution with expertise in fisheries and who shall be nominated by the university Council;
  - (p) a representative from the consumer federation nominated by the national consumers federation;
  - (q) a designate from the Council of Governors with expertise in fisheries who shall be nominated by the Council of Governors; and
  - (r) a representative of fishers nominated by a national umbrella body of fishers.”
- (e) in sub-clause (2) by—
  - (i) inserting the word ‘national” immediately after the word “government”.
  - (ii) deleting the word “of” appearing in paragraph (b) and substituting therefor the word “and”;
- (f) by inserting the following new sub-clauses immediately after sub-clause (2)—
  - “(2A) The Chairperson of the Council shall be appointed by the President from persons nominated under clause 6 (2) not being a Cabinet Secretary, upon recommendation by the Cabinet Secretary responsible for fisheries;”
  - “(2B) The Vice Chairperson of the Council shall be elected by members of the Council at their first sitting, provided that the Chair and the Vice Chairperson shall not be of the same gender;”
  - “(2C) in making appointments of the members to the Council, the Cabinet Secretary shall observe regional, gender, age, disability and ethnic balance;”
- (g) in sub-clause (3) by inserting the word “to” immediately after the words “relevant”

## **CLAUSE 9**

**THAT**, clause 9 of the Bill be amended by—

- (a) inserting the words “development of standards on” immediately after the words “conservation” in paragraph (a);
- (b) deleting the word “implement” appearing in paragraph (b) and substituting therefor the words “monitor the implementation of”;
- (c) deleting the word “manage” appearing in paragraph (c) and substituting therefor the words “develop standards for the management of”;
- (d) deleting the words “prepare and implement” appearing in paragraph (d) and substituting therefor the words “develop guidelines for the preparation of”;

- (e) in paragraph (e)-
  - (iii) by deleting the words “and extension services” appearing after the word “education”
  - (iv) by deleting the words “and relevant policies” appearing immediately after the words “sustainable use”.
- (f) deleting the words “collaborate in and,” appearing in paragraph (g) and substituting therefor the words “either alone or in collaboration with other institutions nationally or internationally”
- (g) deleting the words “for fisheries conservation, management, development and aquaculture production” appearing in paragraph (i);
- (h) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately before the words “act on behalf” appearing in paragraph (k);
- (i) inserting the words “pursuant to the Treaty Making and Ratification Act, 2013” immediately after the words “Cabinet Secretary” appearing in paragraph (l);
- (j) inserting the words “and the Constitution” immediately after the words “this Act” appearing in paragraph (n);
- (k) inserting the words “that relates to its mandate under this Act and the Constitution” immediately after the words “infrastructure” appearing in paragraph (o);
- (l) inserting the words “and County governments” immediately after the word “ departments” appearing in paragraph (p);
- (m) inserting the words “County governments” immediately after the words “agencies” appearing in paragraph (q);
- (n) inserting the words “in collaboration with County governments and the Fish Marketing Authority established under section 201” at the beginning of paragraph (s); and
- (o) inserting the word “aquaculture” immediately after the words “coastal fisheries” appearing in paragraph (u).

#### **CLAUSE 10**

**THAT**, clause 10 of the Bill be amended—

- (a) in sub-clause (1)—
  - (i) by inserting the word “standards” appearing in paragraph (b) immediately after the word “management”;
  - (ii) by deleting the words “to the Cabinet” appearing in paragraph (f) and substituting therefor the word “to Parliament”;
  - (iii) by deleting the words “approve a” appearing in paragraph (g) and substituting therefor the words “establish an open, competitive,”;
  - (iv) by inserting the words “open, competitive” immediately after the word “transparent” in paragraph (h);
- (b) in sub-clause (3)—
  - (i) by deleting paragraph (b) and substituting therefor following new paragraph—

“(b) comply with the provisions of this Act”;

- (ii) paragraph (d) by inserting the words “and other government entities” immediately after the words “Director-General”;

### **CLAUSE 11**

**THAT**, clause 11 of the Bill be amended—

(a) in sub-clause (1) by—

- (i) deleting sub paragraph (iv), repeated sub paragraph (iv) and (v) of paragraph (b)
- (ii) deleting paragraph (c);
- (iii) deleting the words “competitively recruited” appearing in paragraph (d) and substituting with the words “openly appointed” ;
- (iv) deleting paragraph (e) .

(b) by deleting sub-clause (3) and substituting therefor the following new sub-clause —

“(3) The members of the Board shall at their first meeting after appointment, elect a deputy Chairperson from amongst their number provided that the Chairperson and the deputy Chairperson shall not be of the same gender.”;

(c) in sub-clause (4) by

(iii) deleting the expression “or (e)” appearing immediately after the expression “(1) (d)”;

(iv) inserting the words “age, regional and ethnic balance” immediately after the word “parity.”

(d) in sub-clause (5) by—

- (i) deleting the expression “or (e)” appearing immediately after the expression “(1) (d)”;
- (ii) deleting the word “oceanography” appearing in paragraph (e) and substituting therefor the words “aquatic science”.

### **CLAUSE 12**

**THAT**, clause 12 of the Bill be amended—

(a) in sub-clause (1)—

- (i) by deleting paragraph (b);
- (ii) by deleting the words “ the permission of” appearing in paragraph (c ) (i) and substituting therefor the words “notifying the”;
- (iii) by deleting sub-paragraph (v) of paragraph (c), and substituting therefor the following new sub-paragraph—;

“(v) is unable, by reason of mental or physical infirmity to discharge functions as a member of the Board”.

(b) in sub-clause (2) by deleting the word “Minister” appearing in paragraph (a) and substituting therefor the words “Cabinet Secretary”.

**CLAUSE 13**

**THAT**, Clause 13 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A member of the Board shall declare his or her interest in any matter falling within the functions of the Board in which the member of the Board knows or ought to have reasonably known that an interest exists, as described in subsection (5);
- (b) by deleting sub-clause (2);
- (c) in sub-clause 5 by deleting the word “or” appearing in sub-paragraph (iii) of paragraph (a);
- (d) in sub-clause (6) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) “family member” shall mean a parent, brother, sister, spouse, cousin, aunt, uncle, nephew, niece or child, including a person who is adopted legally or for whom care was given by the member such that there exists a relationship in the nature of parent and child, and shall also mean a spouse of any person referred to in this definition and their children, and any other member of a person's immediate family;”

**CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended by—

- (a) deleting the word “six” appearing in paragraph (a) of sub-clause (3) and substituting therefor the word “five”;
- (b) deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) The Board may, in its discretion at any of its meetings—

  - (c) invite a person or persons to attend; or
  - (d) receive or hear submissions or information from any person.”
- (c) deleting sub-clause (7) and substituting therefor the following new sub-clause 7—

“(7) The Board may from time to time, establish such advisory sub-committees as it considers necessary in relation to its functions and powers for the purpose of making reports and recommendations to the Board and such sub-committees shall be comprised of Board members.”
- (d) deleting sub-clause (8) and substituting therefor the following new sub-clause 8—

“(8) Any decision of a sub-committee established by the Board under subsection (7) shall be subject to ratification by a fully constituted Board meeting.”

**CLAUSE 15**

**THAT**, clause 15 of the Bill be amended—

- (a) by inserting the words “openly and transparently, and” immediately after the words “Board” in sub-clause (1);
- (b) in sub-clause (2) by—

- (i) deleting the word “development ” appearing immediately after the word “environmental management ” in paragraph (a);
- (ii) deleting the word “oceanography ” appearing in paragraph ( c) and substituting therefor the word “aquatic science”;
- (iii) deleting the words “area which the Board is satisfied is relevant to the position” appearing in paragraph (d) and substituting therefor the words “related field”; and
- (iv) deleting the words “fifteen years” appearing in the proviso and substituting therefor the words “ten years”.

**CLAUSE 16**

**THAT**, Clause 16 of the Bill be amended by—

- (a) deleting paragraph (d) in sub-clause (2) and substituting therefor the following new paragraph—

“(d) collaborate with the Fish Marketing Authority established under section 204 and other agencies to identify marketing and investments opportunities for the fisheries sector;”
- (b) deleting the words “or other person in the service of the Service” appearing in sub-clause (3)

**CLAUSE 18**

**THAT** Clause 18 of the Bill be amended in sub-clause (1) by deleting the words “armed force” and substituting therefor the words “Defence Forces”

**CLAUSE 20**

**THAT**, clause 20 of the Bill be amended—

- (a) in sub-clause (2) (a) by—
  - (iii) deleting the word “and” appearing immediately after the word “including”
  - (iv) deleting the word “of” appearing immediately after the word “enforcement”
- (b) in sub-clause (2) (b) by —
  - (iii) deleting the words “as appropriate” at the beginning of the paragraph; and
  - (iv) inserting the words “subject to the Treaty Making and Ratification Act, 2013” immediately after the word “directs”.

**CLAUSE 21**

**THAT** Clause 21 of the Bill be amended in sub-clause (2) by—

- (a) deleting the word “Second” and substituting therefor the word “First”;
- (b) inserting the word “Secretary” immediately after the word “Cabinet”

**CLAUSE 22**

**THAT**, clause 22 of the Bill be amended—

(a) in sub-clause (1) by deleting the word “provided” and substituting therefor the word “appropriated”.

(b) in sub-clause (2) by—

(i) deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) contracts for technical consultants, observers, researchers and other personnel, activities or operations which support the functions and programmes of the Service;

(ii) by deleting the words “of the Director General and staff and members of the Board and Cabinet Secretary in accordance with the budget and approved rates approved by the Board” appearing in paragraph (d)

(c) by deleting sub-clause (4); and

(d) by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) The Service may open and maintain an account with a bank approved by the National Treasury under the Public Finance and Management Act 2012 and shall at all times maintain one account and shall pay all its moneys into such account.”

**CLAUSE 24**

**THAT**, clause 24 of the Bill be amended in sub-clause (3) by deleting the words “or in pursuance of the Board’s approval given with prior written approval of the Cabinet Secretary to the Treasury”

**CLAUSE 25**

**THAT**, clause 25 sub-clause (2) of the Bill be amended by deleting the expression “2003” and substituting therefor the expression “2015”.

**CLAUSE 26**

**THAT**, Clause 26 of the Bill be amended in sub-clause (4) by inserting the word “Secretary” after the word “Cabinet”.

**CLAUSE 27**

**THAT**, Clause 27 of the Bill be amended in sub-clause (3) by deleting the word “facilitate” and substituting therefor the words “provide supplementary funding for”.

**CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended by—

(a) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) The trust shall be administered by a five member Board of Trustees nominated through an open and competitive process and they shall meet requirements of Chapter six of the Constitution.”;

(b) inserting the following new sub-clause immediately after sub-clause (4)—  
 “(5) The Members of the Board of Trustees shall include—

- (i) two fisherpersons from fresh waters and marine waters;
- (ii) two persons nominated by the traders exporters association and fish processors;
- (iii) one person appointed by the Cabinet Secretary responsible for fishing with background in aquatic science.

### **CLAUSE 29**

**THAT**, clause 29 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Nothing in this Act shall be deemed to prevent any member of the community from using, subject to such conditions as may be prescribed under this Act, such fisheries or fisheries resources as it has been the custom of that community to use.”

### **CLAUSE 30**

**THAT**, clause 30 of the Bill be amended by—

(a) inserting the words “County governments” immediately after the words “in consultation with”; at the opening clause;

(b) inserting the following new paragraph immediately after paragraph (g)—

“(gg) promote the development of other sustainable methods of *insitu* and *exsitu* fishing;”

### **CLAUSE 32**

**THAT**, clause 32 of the Bill be amended in sub-clause (1) by deleting the words “the Director-General shall” appearing immediately after the expression “section 31(1)”.

### **CLAUSE 33**

**THAT**, the Bill be amended by deleting Clause 36 and substituting therefore the following new Clause”.

Intergovernmental  
Fisheries  
Coordinating  
Committee

“33.(1) Subject to Article 186 and 187 of the Constitution, there is hereby established an Intergovernmental Fisheries Coordinating Committee whose membership shall be—

- (a) the Cabinet Secretary responsible for Fisheries;
- (b) the Cabinet Secretary responsible for Environment;
- (c) the Cabinet Secretary responsible for Finance;
- (d) three Governors or their designates being executive members in charge of Fisheries; and
- (e) a representative of Fishers appointed by the Cabinet Secretary nominated by the umbrella association of fishers.



- (2) The Committee shall be responsible for—
- (a) the development of joint measures for conservation , management and utilization of fisheries resources specific to counties;
  - (b) intergovernmental dispute resolution on issues under this Act
  - (c) development of shared management agreements or plans;
  - (d) development of regulations of shared responsibility for management of artisanal fisheries, marine protected areas and areas within the jurisdiction of each county; and
  - (e) approval of County Plans on fisheries in conformity with this Act.

(3) The shared management plans under sub-section(2) shall include—

- (a) a statement of the objectives of the agreement;
- (b) a description of the area covered;
- (c) a description of the management activities to be covered;
- (d) rules governing the access to and use of the areas by other fishers;
- (e) rules governing the requirements for information and data;
- (f) rules governing the enforcement of the agreed activities;
- (g) the duration of the agreement;
- (h) provisions for monitoring the implementation of the agreement;
- (i) provision for revision of the agreement;
- (j) provision for settlement of disputes as provided for under the Act .

(4) In undertaking its functions, the committee shall consult fishers organizations including Beach Management.

### **CLAUSE 35**

**THAT**, clause 35 of the Bill be by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) be approved by the Intergovernmental Fisheries Co-ordinating Committee established under section 33”

**CLAUSE 36**

**THAT**, clause 36 of the Bill be amended by deleting Clause 36 and substituting therefore the following new Clause”.

Conflict resolution

“36.(1) where there is a conflict between a county fisheries management plan and the management relating to the provisions of this Act, it shall be referred to the Intergovernmental Fisheries Co-ordinating Committee established under section 33 for resolution.

(2) any Conflict referred to the Committee under section 33(1) (a) shall be resolved within 30 days”

**CLAUSE 37**

**THAT**, the Bill be amended by deleting clause 37.

**CLAUSE 38**

**THAT**, clause 38 of the Bill be amended in sub-clause (2) by—

a) inserting the words “and any other allowances deemed necessary” immediately after the word “administration” in paragraph (b);

b) inserting the following new paragraphs immediately after paragraph (e)—

“(ea) the protection of vulnerable groups, especially youth and women;”

“(eb) processes necessary to ensure that no more than one third of the Beach Management Units are of the same gender and to ensure the inclusion of youth and persons with disability in the leadership.”

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended by—

(a) inserting the word “special” immediately after the word “requires” appearing in paragraph (b) of sub-clause (1) ;

(b) deleting the words “The Director General shall ensure that stakeholders are consulted in the development of each fisheries management plan , that such plan is consistent with this Act and the following are included in each plan” in sub-clause (3) and substituting therefor the following new words —

“The Director-General shall, in consultation with the counties and other stakeholders, develop guidelines and standards for the development of fisheries management plans that must conform to this Act and shall include—”

(c) inserting the following new paragraph immediately after paragraph (m) in sub-clause (3)—

“(n) social impact assessment of the plan with reference to disadvantaged groups including women, persons with disability and the youth”;

(d) deleting sub-clause (9) and substituting therefor the following new sub-clause—

“(9) Any person who fails to comply with the management plan commits an offence and shall be liable—

(i) in case of industrial fishing, to a fine not exceeding five hundred thousand shillings; or

(ii) in case of artisanal fishing, to a fine not exceeding one hundred thousand shillings.”

(e) deleting the words “not exceeding six months, and in respect of all other activities not exceeding two years or both” and substituting therefor the words “not exceeding three months, and in respect of all other activities not exceeding six months or both in sub-clause (10)”.

#### **CLAUSE 41**

**THAT**, clause 41 of the Bill be amended—

(a) in sub-clause (1)—

(i) by inserting the words “in accordance with the best scientific advice and such other relevant information as may be available” immediately before the words “The Director General may”;

(ii) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) closed seasons and or areas for species of fish or methods of fishing provided that customary fishing rights are protected”;

(iii) in paragraph (d) by inserting the words “provided that customary fishing rights are protected” immediately after the words “engage in fishing”;

(iv) by deleting paragraph (i) and substituting therefor the following new paragraph—

“(i) regulate trade in endangered species of fish and fish products”;

(v) by inserting the following new paragraph immediately after paragraph (j)—

“(jj) prohibit the possession, trade in or manufacture of prohibited gear in a specified area or areas”;

(b) by deleting sub-clause (2);

(c) in sub-clause 3 by inserting the words “in respect of industrial fishing, and to a fine not exceeding twenty thousand shillings or imprisonment for a term not exceeding three months or to both in respect of artisanal fishing” at the end of the sentence; and

(d) by inserting the following new sub-clause immediately after sub-clause (3)—

“(4) The measures referred to in this section may include, inter alia—

(i) refusal to issue or renew licences;

(ii) imposition of special licence or catch fees; and

(iii) preferential licensing.”

**CLAUSE 42**

**THAT**, clause 42 of the Bill be amended by deleting sub-clauses (2) and (3).

**CLAUSE 43**

**THAT**, clause 43 of the Bill be deleted.

**CLAUSE 44**

**THAT**, clause 44 of the Bill be amended—

(a) in sub-clause (l)—

(i) by deleting paragraph (l) and substituting therefor the following new paragraph—

“(l) firearms or other electrical shock devices for the purpose of fishing, including stunning, disabling or killing fish, or in any way rendering fish to be caught more easily”;

(ii) in paragraph (m) by deleting the words “in a fisheries management plan” and substituting therefor the words “by regulations established under this part”;

(b) in sub-clause (7) by inserting the following words after the words “or to both” —

“in respect of industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both in respect of artisanal fishing”; and

(c) by deleting sub-clause (8).

**CLAUSE 45**

**THAT**, clause 45 of the Bill be amended—

(a) in sub clause (1) by deleting the words “No person shall, using a vessel, wilfully, negligently, unintentionally or otherwise damage, destroy, interfere with, endanger, injure or cause loss of life in respect of” and substitute with the words

“No person shall while using a vessel, wilfully and negligently damage, destroy, interfere with, endanger or cause injury in respect of in sub-clause (1)”;

(b) in sub clause (3)—

(i) by deleting paragraph (a) in sub clause (3);

(ii) by deleting paragraph (d) in sub-clause (3) and substituting therefor the following new paragraph—

“(d) make a full report of the incident and steps taken to the police”

(c) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“(4) A person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both, and in addition that person shall fully compensate the owner of the fishing gear for any damage or injury caused under civil law as a consequence of the action unless there is sufficient proof that the damage, destruction, interference or endangerment took place in an area where the person or vessel that caused such consequences were legally entitled to be at that time and it was not reasonably possible to detect the fishing gear or vessel and any relevant fishing gear was not marked in accordance with the requirements pursuant to this Act.”;

(d) by inserting the following new clause immediately after sub-clause (4)–

“(4A) Where life is lost as a consequence of any negligent or wilful action under sub-section (1), the responsible person shall be liable on conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding ten years or to both, and in addition that person shall fully compensate the estate of the deceased under civil law.”;

(e) deleting the words “as soon as possible and in any case within a reasonable time after the damage, destruction, interference or endangerment took place, and shall produce all available evidence appearing in sub-clause (5)” and substituting therefor the words “within a period of three years”.

#### **CLAUSE 46**

**THAT**, clause 46 of the Bill be deleted.

#### **CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in sub-clause (2) by inserting the words “in respect of industrial fishing or to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months in respect of artisanal fishing” immediately after the words “or to both”.

#### **CLAUSE 48**

**THAT**, clause 48 of the Bill be amended by—

(a) deleting sub-clause (3) and substituting therefor the following new sub-clause—

“(3) A person who contravenes subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding two hundred and fifty thousand shillings or to a term of imprisonment not exceeding three years or to both in respect of industrial fishing, or to a fine not exceeding fifty thousand shillings or a term of imprisonment not exceeding six months, or to both.”;

(b) inserting the following new sub-clause immediately after sub-clause (3)–

“(4) where a species of fish has been declared as endangered under subsection (1), the Cabinet Secretary shall take special measures for its protection.”

#### **CLAUSE 50**

**THAT**, clause 50 of the Bill be amended by—

(a) inserting the words “stakeholders” immediately after the words “Advisory Council” in the opening sentence; –

(b) deleting paragraph (k);

(c) deleting sub-clause (2) and substituting therefor the following new sub-clause–

“(2) The Cabinet Secretary may, subject to approval by the National Assembly, make regulations to give effect to this subsection”;

(d) deleting sub-clause (3)

**CLAUSE 51**

**THAT**, clause 51 of the Bill be amended by—

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) Any person or Government Ministry or other agency that plans to conduct any commercial activity other than fishing which is likely to have an adverse impact on fish and their habitat, shall apply to the Director-General in the prescribed form prior to the commencement of the planned activity with a view to ensuring the conservation and protection of such resources.”;

(b) deleting sub-clause (2) and substituting therefor the following new sub-clause—

“Where an application is made under subsection (1), the Director-General shall refer the matter to the National Environment Management Authority who shall give a report regarding the likely impact of such activity on the fishery resources, including their habitat, and possible means of preventing or minimizing adverse impact.”;

(c) inserting the following new sub-clause immediately after sub-clause (3)—

“(3A) Any report made under sub-section (2) must be completed within six months of the making of the application.”;

(d) deleting sub-clause (4) and substituting therefor the following new sub-clause—

“Any person who violates any provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both, and in addition such person shall be liable to pay compensation in respect of any resulting loss or damage as well as the full cost of restoring the affected habitat to its previous state.”

**CLAUSE 52**

**THAT**, clause 52 of the Bill be amended by—

(a) deleting the words “or accidentally” appearing in sub-clause (1);

(b) deleting the words “five hundred thousand shillings or to a term of imprisonment not exceeding five years” and substituting therefor the words “five million shillings or to a term of imprisonment not exceeding ten years or to both in sub-clause (2).”

**CLAUSE 53**

**THAT**, clause 53 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)—

“(3) No person other than a sport fisherman shall land any fish at any point except at a fish landing station or port.

(4) A person who contravenes the provisions of subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months or to both in the case of fish landing stations, or to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or to both in the case of ports.”

**CLAUSE 56**

**THAT**, clause 56 of the Bill be amended by—

- (a) inserting the words “or to areas where the boundaries are disputed or not clear” immediately after the word “flag”; in sub-clause (2);
- (b) inserting the following new words immediately after the words “or both” —  
“in relation to industrial fishing, and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both in relation to artisanal fishing in sub-clause (3).”

**CLAUSE 57**

**THAT**, clause 57 of the Bill be amended in sub clause (1) by inserting the following new words immediately after the word “prescribed” —

“and the approval shall only be given upon production of an Environmental Impact Assessment report on the effect of each introduction.”

**CLAUSE 58**

**THAT**, clause 58 of the Bill be amended in sub-clause (1) by deleting the words “such procedures as the Director-General may notify to the public or as may be prescribed” and substituting therefor the word “regulations”.

**CLAUSE 60**

**THAT**, clause 60 of the Bill be amended by inserting the words “in consultation with the Fish Marketing Authority and” after the word “may”

**CLAUSE 61**

**THAT**, clause 61 of the Bill be amended—

- (a) by deleting sub-clause (2) and substituting therefor the following new sub-clause—  
“(2) The Cabinet Secretary shall establish a technical committee on Fish Quality and Safety”
- (b) in sub-clause (3) by—
  - (i) by deleting the words “competent authority” appearing in the opening sentence and substituting therefor the word “Committee”;
  - (ii) deleting paragraph (a);
  - (iii) deleting paragraph (e);
  - (iv) deleting paragraph (k);
  - (v) inserting the following new paragraph after paragraph (l)—  
“(m) maintain a register of fishers”
- (c) by deleting sub-clause (3) and substituting therefor the following new sub-clause—  
“The Cabinet Secretary may for the purposes of subsection (2), make regulations with regard to conduct of the affairs of the technical committee”

**CLAUSE 62**

**THAT**, clause 62 of the Bill be amended by inserting the words "Pursuant to the Treaty Making and Ratification Act" immediately before the words "The Director-General may".

**CLAUSE 63**

**THAT**, clause 63 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

"(2) A person who knowingly and wilfully contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding ten years or to both, and in addition any fish or fish products involved in the transaction and those owned or controlled by such person shall be forfeited."

**CLAUSE 65**

**THAT**, clause 65 of the Bill be amended by—

(a) deleting sub-clause (2) and substituting therefor the following new sub-clause—

"(2) Any aquaculture development plan developed under sub-section (1) shall be for a duration of three years";

(b) deleting the words "at least" in sub-clause (3).

**CLAUSE 67**

**THAT**, clause 67 of the Bill be amended in sub-clause (1) by inserting the words "and without first consulting the affected community" at the end of the sentence.

**CLAUSE 68**

**THAT**, clause 68 of the Bill be amended by—

(a) deleting sub-clause (1) and substituting therefor the following new sub-clause—

"(1) County governments shall monitor aquaculture and mariculture practices and operations in areas under their respective jurisdiction pursuant to this Act."

(b) deleting sub-clause (2);

(c) deleting sub-clause (3);

(d) inserting the following new sub-clause immediately after sub-clause (1)—

"(2) Where any person or any county government has cause to believe that any fish and fish products from any waters used for aquaculture activities are infected with a disease which can reasonably be foreseen to become, or which has become, of epidemic proportions, such county government shall, in consultation with the Cabinet Secretary, give notice in writing to the owner of the relevant waters requiring the destruction of all fish or fish products in the said waters or the taking of such other measures as the county government may specify in the notice.";



- (e) deleting the words "Director-General's" in sub-clause (5); and
- (f) inserting the following new sub-clause immediately after sub-clause (5)—
  - "(6) Where an officer wilfully, negligently or without justifiable cause issues a notice under sub-section (2), the officer shall be held personally liable for any resultant loss."

**CLAUSE 69**

**THAT**, clause 69 of the Bill be amended by—

- (a) deleting the words "with the endorsement" appearing in sub-clause (1) and substituting therefor the words "on the advice";
- (b) deleting sub-clause (2) and substituting therefor the following new sub-clause—
  - "Permission for any activity in sub-section (1) may be granted subject to such conditions as the Director-General, with the written approval of the Board, considers appropriate and after an impact assessment has been undertaken."

**CLAUSE 73**

**THAT**, clause 73 of the bill be amended in sub-clause (1) by inserting the words " and such approval shall only be given after an impact assessment has been undertaken as provided for in section 74 of the Act" immediately after the words "Director General".

**CLAUSE 77**

**THAT**, clause 77 of the bill be amended in sub-clause (1) by deleting the word "Act" and substituting therefor the word "Part".

**CLAUSE 78**

**THAT**, Clause 78 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words "specified under sub-section (2)" immediately after the word "person";
- (b) in sub-clause (2)—
  - (i) by deleting the words "fishing otherwise than for purposes of sale of the fish caught, including" appearing in paragraph (g);
  - (ii) paragraph (h) by inserting the words "category of" immediately after the words "such other"
- (c) in sub-clause (4) by deleting the word "of" appearing after the words "conviction to a fine" and substituting therefor the words "not exceeding".

**CLAUSE 80**

**THAT**, clause 80 of the Bill be amended in sub-clause (4) by deleting the word "of" appearing immediately after the words "conviction to a fine" and substituting therefor the words "not exceeding".

**CLAUSE 82**

**THAT**, clause 81 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words "and no such information shall be false, misleading or inaccurate"

- (b) in sub-clause (2) by deleting the word “of” appearing after the words “conviction to a fine” and substituting therefor the words “not exceeding”.

### **CLAUSE 83**

**THAT**, clause 83 of the Bill be amended—

- (a) by deleting the word “Minister” wherever it appears and substituting therefor the word “Secretary”.
- (b) in sub-clause (6) by deleting the words “he/she” appearing in paragraph (b) and substituting therefor the words “he or she”;
- (c) in sub-clause (7) by deleting the words “or more as they may deem necessary” appearing immediately after the words “up to five years”;
- (d) in sub-clause (8) by inserting the words “or to a term of imprisonment of not more than six months or to both” immediately after the word “shillings”.

### **CLAUSE 84**

**THAT**, clause 84 of the Bill be amended in sub-clause (1) by deleting the word “Minister” and substituting therefor the words “Cabinet Secretary”.

### **CLAUSE 90**

**THAT**, clause 90 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “e.t.c” appearing in paragraph (h).
- (b) in sub-clause (3) by deleting the words “industrial/semi” and substituting therefor the words “industrial or semi”;

### **CLAUSE 97**

**THAT**, clause 97 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “has/have” appearing in sub-paragraph of paragraph (a) and substituting therefor the words “has or have”;
- (b) in sub-clause (2) by deleting the words “a fisheries management plan, aquaculture development plan” appearing in paragraph (a).

### **CLAUSE 99**

**THAT**, clause 99 of the Bill be amended in sub clause (2) by deleting the word “endorsement” appearing immediately after the words “Director-General and” and substituting therefor the words “approval”.

### **CLAUSE 102**

**THAT**, clause 102 of the Bill be amended in sub clause (1) by deleting the expression “EEZ” appearing in paragraph (k) and substituting therefor the words “Exclusive Economic Zone”.

**CLAUSE 106**

**THAT**, Clause 106 of the Bill be amended in sub-clause (3) by inserting the word “shilling” immediately after the words “hundred thousand”.

**CLAUSE 107**

**THAT**, Clause 107 of the Bill be amended in sub-clause (2) by deleting the word “fishing” appearing immediately after the word “recreational” and substituting therefor the words “or under customary fishing rights”.

**CLAUSE 114**

**THAT**, Clause 114 of the Bill be amended in sub-clause (2) by adding the words “in respect of industrial fishing and to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months or to both in respect of industrial fishing” immediately after the words “one year or to both”.

**CLAUSE 118**

**THAT**, Clause 118 of the Bill be amended in sub clause (3) by adding the words “in respect of industrial fishing and to a fine not exceeding twenty thousand shillings or to a term of imprisonment not exceeding six months or to both in respect of industrial fishing” immediately after the words “one year or to both” .

**CLAUSE 119**

**THAT**, Clause 119 of the Bill be amended in sub-clause (2) by deleting the words “not exceeding two hundred thousand” appearing immediately after the word “fine” and substituting therefor the words “not less than five hundred thousand”.

**CLAUSE 127**

**THAT**, Clause 127 of the Bill be amended in sub clause (1) by deleting the expression (d) appearing in paragraph (d).

**CLAUSE 128**

**THAT**, Clause 128 of the Bill be amended by inserting the words “or to imprisonment of a term not exceeding one year or to both” at the end of the clause.

**CLAUSE 137**

**THAT**, Clause 137 of the Bill be amended in sub clause (5)—

- (a) by deleting the words “a notice of demand; and” appearing in paragraph (a); and
- (b) by deleting paragraph (b).

**CLAUSE 139**

**THAT**, Clause 139 of the Bill be amended in sub clause (2) by—

- (a) inserting the words “subject to Article 29 of the Constitution” at the start of the sub-clause;
- (b) deleting the words “his/her” and substituting therefor the words “his or her”.

**CLAUSE 140**

**THAT**, Clause 140 of the Bill be amended in sub clause (1) by deleting the words “he/she” and substituting therefor the words “he or she”.

**CLAUSE 144**

**THAT**, Clause 144 of the Bill be amended in sub clause (2) by deleting paragraph (a).

**CLAUSE 145**

**THAT**, Clause 145 of the Bill be amended in paragraph (b) of sub clause (1) by—

- (a) deleting the word “assault” and substituting therefor the word “assault”.
- (b) deleting the word “poers” and substituting therefor the word “power”

**CLAUSE 148**

**THAT**, Clause 148 of the Bill be amended in sub clause (1) by inserting the words “where the operator is un co-operative but in any event, the authorized officer shall take measures to ensure that such removal shall not cause a permanent or material damage to the vessel” at the end of the sub-clause.

**CLAUSE 149**

**THAT**, Clause 149 of the Bill be amended by inserting the following new sub clause immediately after sub clause (2)—

“(2A) any fish impounded under subsection (1) shall, if found to be fit for human consumption, be distributed to the public”

**CLAUSE 150**

**THAT**, Clause 150 of the Bill be amended in sub clause (1) by deleting the word “establish” and substituting therefor the words “be established”.

**CLAUSE 155**

**THAT**, the Bill be amended by deleting Clause 155 and substituting therefor the following new Clause

Regulations in respect  
of observers

“155. The Cabinet Secretary shall make regulations for the safety and protection of observers while on board and for conditions that must be complied with by the operator or the license owner in respect of any vessel on which an observer is placed”.

**CLAUSE 157**

**THAT**, Clause 157 of the Bill be amended in sub clause (3) by deleting the words “unless such person would incur liability for the act or omission” appearing immediately after the word “officer”.

**CLAUSE 159**

**THAT**, Clause 159 of the Bill be amended by —

- (a) deleting sub clause (1)

(b) in sub clause (2)

- (i) by deleting the word "fail" appearing in paragraph (a) and substituting therefor the words "who fails";
  - (ii) by deleting sub paragraphs (ii), (iii), (iv), and (v) of paragraph (a);
  - (c) deleting paragraphs (b), (c), and (e);
  - (d) renumbering the remaining sub clauses.
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The House resolved on Wednesday, February 11, 2015 as follows:-

- III. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on any **Motion**, including a Special motion shall be limited in the following manner:- A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and that ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that Order.
- IV. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and that priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that Order.
- V. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on a **Report of a Committee**, including a Report of a Joint Committee of the Houses of Parliament, a Sessional Paper or any other Report submitted to the House, shall be limited as follows: - A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each; and that priority shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.

The House also resolved on Wednesday, July 29, 2015 as follows:-

- VI. **THAT**, notwithstanding the resolution of the House of Wednesday, February 11, 2015 regarding limitation of time in debates, each speech in a debate on any **Sessional Paper** shall be limited in the following manner: - A maximum of sixty (60) minutes with not more than ten (10) minutes for the Mover in moving and five (5) minutes for any other Member speaking, **including** the Leader of the Majority Party and the Leader of the Minority Party and that five (5) minutes before the expiry of the time, the Mover shall be called upon to reply; and further that priority in speaking shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.
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# NOTICE PAPER

Tentative business for

Tuesday, August 25, 2015

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*(Published pursuant to Standing Order 38(1))*

It is notified that the House Business Committee, at their last meeting, approved the following **tentative** business to appear in the Order Paper for Tuesday, August 25, 2015:-

**A. COMMITTEE OF THE WHOLE HOUSE**

- (i) The Special Economic Zones Bill (National Assembly Bill No. 6 of 2015)  
(The Leader of the Majority Party)
- (ii) The Prohibition of Anti-Personnel Mines Bill (National Assembly Bill No. 7 of 2014)  
(The Leader of the Majority Party)

**B. THE EXCISE DUTY BILL (NATIONAL ASSEMBLY BILL NO. 28 OF 2015)**  
(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, August 20, 2015 - Afternoon Sitting)*

**C. THE POLITICAL PARTIES (AMENDMENT) BILL (SENATE BILL NO.3 OF 2014)**  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

*(If not concluded on Thursday, August 20, 2015 - Afternoon Sitting)*

**D. THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (SENATE BILL NO. 6 OF 2014)**  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

*(If not concluded on Thursday, August 20, 2015 - Afternoon Sitting)*

**E. MOTION - THE REPORT ON THE RESETTLEMENT OF SQUATTERS IN MURI; MATHENGETA TUMUTUMU, RIAKANAU; DRAKE & KASEKU FARMS**  
(The Chairperson, Departmental Committee on Lands)

*(If not concluded on Thursday, August 20, 2015 - Afternoon Sitting)*

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