



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

THURSDAY, APRIL 02, 2015 AT 9.30 A.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*. MOTION – PRESIDENTIAL ADDRESS – (4th and last day)
(The Leader of the Majority Party)

THAT, the thanks of the House be recorded for the exposition of public policy contained in the **Address of the President delivered on Thursday, March 26, 2015.**

(The Mover to reply)

9*. COMMITTEE OF THE WHOLE HOUSE

- (i) The Public Audit Bill (National Assembly Bill No. 38 of 2014)
(The Leader of the Majority Party)

*(Resumption of consideration interrupted on Wednesday, March 25, 2015)
(To commence from Clause 5)*

- (ii) The Public Procurement and Asset Disposal Bill (National Assembly Bill No. 40 of 2014)
(The Leader of the Majority Party)

10*. MOTION – RATIFICATION OF EIGHT (8) INTERNATIONAL CONVENTIONS & PROTOCOLS

(The Chairperson, Committee on Transport, Public Works & Housing)

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works & Housing on its consideration of Eight International Conventions and Protocols relating to the Maritime Industry laid on the Table of the House on Wednesday, 1 April 2015; and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, **approves** the ratification of:

- (i) The 1988 Protocol to the Load Lines Convention, 1966;
- (ii) The 1978 Protocol to the 1974 Safety of Life At Sea (Solas) Convention (Solas 78 Protocol);
- (iii) The Protocol of 1988 Relating to the International Convention for the Safety of Life At Sea, 1974;
- (iv) The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- (v) Convention on the Limitation of Liability for Maritime Claims 1976 (LLMC 1976) ;
- (vi) The 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976; ***subject to reservation of the right to exclude claims for damage within the meaning of the Hazardous and Noxious Substances (HNS) convention to avoid two systems of liability arising from the consolidated LLMC and the HNS Convention.***
- (vii) The Nairobi International Convention on Removal of Wrecks, 2007; and
- (viii) The International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001.

* Denotes Orders of the Day

N O T I C E S

I. THE PUBLIC AUDIT BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2014)

1. **Notice is given that the Chairperson, Departmental Committee on Finance, Planning and Trade, intends to move the following amendments to the Public Audit Bill, (National Assembly Bill No. 38 of 2014) at the Committee Stage—**

CLAUSE 4

THAT, clause 4 of the Bill be amended—

- (a) in subclause (1) (c) by deleting the word “things” and substituting therefor the word “duties;
- (b) in subclause (2) by deleting the expression “subject to Article 234(5) of the Constitution”;
- (c) in subclause (3) by deleting the words “ as far as it is appropriate to do so” appearing immediately after the words “ the Republic”.

CLAUSE 5

THAT, clause 5 of the Bill be amended in subclause (1) by deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) is a practising member of good standing of a professional body of accountants recognized by law.”

CLAUSE 7

THAT, clause 7 of the Bill be amended in subclause (1) (a) by deleting the words “financial systems of state organs” appearing immediately after the words “and overall” and substituting therefor the words “governance at national and county governments”.

CLAUSE 8

THAT, clause 8 of the Bill be amended—

- (a) in paragraph (a) by deleting the words “subject to section 11 of this Act”;
- (b) in paragraph (c) by deleting the expression “subject to Article 234(5) of the constitution”;
- (c) in paragraph (d) by deleting the expression “subject to Article 234(5) of the Constitution”;
- (d) in paragraph (j) by deleting the words “ and in consultation with the public Service Commission and the National Treasury,” appearing immediately after the words “relevant laws,”;
- (e) by inserting a new paragraph immediately after paragraph (k)—

“(ka) provide information that may be needed in investigation accordance with the provisions of this Act.”

CLAUSE 11

THAT, clause 11 of the Bill be amended—

(a) by deleting subclause (5) and substituting therefor the following new subclause—

“(5) The President shall, within fourteen days of the expiry of the period prescribed under subsection (2), constitute a selection panel comprising one representative from—

- (a) the Office of the President;
- (b) the Ministry for the time being responsible for matters relating to finance;
- (c) the office of the Attorney-General;
- (d) the Ministry for the time being responsible for matters relating to the public service;
- (e) the Institute of Certified Public Accountants of Kenya; and
- (f) the Association of Professional Societies of East Africa,

for the purpose of considering the applicants and selecting at least three persons qualified for appointment as Auditor- General:

Provided that for the purposes of selection and shortlisting of the said three persons, the selection panel shall hold its proceedings in public and submit to Parliament a report of the interview proceedings, which should include inter alia, scores of each candidate interviewed by individual members of the interviewing panel together with the criteria used in selecting the names forwarded”;

- (b) in subclause (6) by deleting the words “public Service Commission” and substituting therefor the words “selection panel”;
- (c) in subclause (9) (b) by deleting the words “Public Service Commission” and substituting therefor the words “selection panel”;
- (d) in subclause (12) by deleting the words “ selection committee convened under subsection (4).” and substituting therefor the words “ selection panel convened under subsection (5).”

CLAUSE 14

THAT, clause 14 of the Bill be deleted and replaced with the following new clause—

Development and
approval of
organizational
structure.

14. The office of the Auditor-General shall develop an organizational structure for consideration and approval by the Audit Advisory Board.

CLAUSE 15

THAT, clause 15 of the Bill be amended—

- (a) in subclause (1), by deleting the words “Public Service Commission” and substituting therefor the “Advisory Board”;
- (b) In subclause (2), by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) holds the same minimum qualifications as required for the appointment of Auditor General as specified in section 5 of this Act”.

CLAUSE 16

THAT, clause 16 (1) of the Bill be amended by inserting the words “deputize the Auditor General and” immediately after the words “Auditor-General shall”.

CLAUSE 17

THAT, clause 17 of the Bill be amended—

- (a) in subclause (1) by deleting the words “and the Auditor-General may appoint such staff subject to Article 234 (5) of the Constitution” appearing immediately after the words “Salaries and Remuneration Commission” and substituting therefor “ and subject to Article 230 of the Constitution”;
- (b) in subclause (2) by deleting the words “ under this Act and approved by the Public Service Commission.” appearing immediately after the words “the Auditor-General”.

CLAUSE 21

THAT, clause 21 of the Bill be amended in subclause (1) by deleting the word “may” appearing immediately after the words “the Auditor-General” and substituting therefor “shall”.

CLAUSE 22

THAT, clause 22 of the Bill be amended in subclause (3) by deleting the words “What will happen if this is abused?” appearing immediately after the words “information so obtained”.

CLAUSE 25

THAT, clause 25 of the Bill be amended—

- (a) in subclause (1) by —

- (i) inserting a new paragraph immediately after paragraph (g)—

“(ga) the Senior Deputy Auditor General who shall be the secretary to the Board and an ex-officio member”;

- (ii) deleting paragraphs (e) and (g);

- (b) in subclause (2) by deleting the expression “subsection (2)(c) to (g)” and substituting therefor the expression “subsection (1)(c) to (g)”;

- (c) by deleting subclause (3) and substituting therefor the following new subclause—

“(3) The members under subsection (1) shall appoint a chairperson from amongst themselves.”

CLAUSE 27

THAT, clause 27 of the Bill be amended in subclause (1) by deleting the word “generally” appearing immediately before the words “to advice”.

CLAUSE 30

THAT, clause 30 of the Bill be amended by inserting the words “or information” immediately after the word “documents”.

CLAUSE 31

THAT, clause 31 of the Bill be amended by inserting the following new subclause immediately after subclause (6)—

“(6A) Where an audit report has been tabled, the Speaker of the National Assembly shall invite the Auditor General to present the report before the committee of the whole House.

NEW CLAUSE

THAT, the following new clause be inserted immediately after clause 31—

Audit reports to be submitted to Parliament and the relevant county assembly.

31A. (1) All reports of an audit shall be submitted to Parliament or the relevant county assembly and made available to any person who applies for information or part thereof, except in cases where access to such information is restricted by law.

CLAUSE 35

THAT, clause 35 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) inserting a new subclause immediately the renumbered subclause (1)—

“ (2) The Auditor-General may undertake a comprehensive performance audit within six months after the completion of any national or county project to evaluate whether the citizen has got value for money in the project and submit that report to Parliament or county assembly for tabling and debate.”

CLAUSE 36

THAT, clause 36 of the Bill be amended by inserting the words “by Parliament” immediately after the words “upon request.

CLAUSE 37

THAT, clause 37 of the Bill be deleted.

CLAUSE 38

THAT, Clause 38 of the Bill be amended by deleting the word “may” appearing immediately after the words “The Auditor-General” and substituting therefor “shall”.

CLAUSE 39

THAT, clause 39 of the Bill be deleted.

CLAUSE 40

THAT, clause 40 of the Bill be amended—

- (a) by renumbering subclause (1) as subclause (1A);
- (b) by inserting the following new subclause immediately before the renumbered subclause (1A)—

“(1) The Auditor General shall audit national security organs and confidential expenditure in the process of carrying out his or her mandate under the Constitution, this Act and any other written law”;
- (c) in the renumbered subclause (1A)(b), by—
 - (i) inserting the words “ in consultation with the National Security Council,” immediately before the words “has issued a certificate”;
 - (ii) deleting the words “Attorney General” appearing immediately after the words “opinion of the” and substituting therefore the words “ National Security Council”;
- (d) in subclause (2) by—
 - (i) deleting the words “or relations between the two levels of government” appearing in paragraph (c);
 - (ii) deleting paragraph (d);
 - (iii) inserting the word “foreign” immediately before the word “persons” appearing in paragraph (e);
- (e) in subclause (3), by deleting the words “special or joint committee of Parliament and the President” appearing immediately after the words “disclose to a” and substituting therefor the words “ a relevant committee of Parliament and the National Security Council”;
- (f) in subclause (5) by—
 - (i) deleting the words “carrying out” appearing immediately after the word “Auditor-General” and substituting therefor the words “ and staff of the relevant security organ involved in”;
 - (ii) deleting the words “and such officers shall be at a grade equivalent to deputy Director of Audit or above.” appearing immediately after the words “oath of confidentiality”;
- (g) in subclause (6), by deleting the word “Cabinet” appearing immediately after the words “purposes of this section” and substituting therefor the words “National Security Council”;
- (h) in subclause (7) by—
 - (i) deleting the word “ Cabinet” appearing immediately after the words “decision of the” and substituting therefor the words “ National Security Council”;
 - (ii) inserting the words “in charge” immediately after the words “the Cabinet Secretary”.

CLAUSE 48

THAT, clause 48 be amended in subclause (4) by deleting subclause the phrase "thirty (30)" and substituting therefor the word "sixty".

CLAUSE 54

THAT, clause 54 of the bill be deleted and replaced with the following new clause—

Observing code of
conduct.

54. The Auditor-General in discharging his or her functions and responsibilities shall determine the code of conduct and ethics for all the Public Officers of the Office of the Auditor General which shall be in line with those prescribed by the Constitution, this Act, the Public Officer Ethics Act, 2003 and the relevant professional bodies.

CLAUSE 57

THAT, clause 57 of the Bill be amended in subclause (1) by inserting the words "without prejudice" immediately after the words "bound to disclose".

CLAUSE 60

THAT, clause 60 of the Bill be amended—

(a) in subclause (1) by—

(i) inserting the words "contrary to the Official Secrets Act or any other relevant law" immediately after the words "national security organs" appearing in paragraph (e);

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

"(f) knowingly and willfully discloses, publishes or publicizes the Auditor-General's report or its contents to third parties including the media before the report is finalized and formally submitted to Parliament or county assembly and copied to the audited entity and other authorized offices; or";

(iii) deleting paragraph (g);

(b) in subclause (2) by—

(i) deleting the words "ten million shillings" and substituting therefor the words "five million shillings";

(ii) deleting the words "five years" and substituting therefor the words "three years".

CLAUSE 61

THAT, clause 61 of the Bill be amended —

(a) in subclause (1) by inserting a new paragraph immediately after paragraph (b)—

"(ba) without justification, fail to provide information within reasonable time that is required under this Act";

(b) in subclause (2) by—

(i) deleting the words "two million shillings" and substituting therefor the words "five million shillings";

(ii) deleting the words "one year" and substituting therefor the words "three years".

CLAUSE 65

THAT, clause 65 of the Bill be amended by deleting the word “ten” appearing immediately after the words “a period of” and substituting therefor “five”.

CLAUSE 68

THAT, clause 68 of the Bill be amended by—

- (a) deleting the words “ The Cabinet Secretary responsible for finance, in consultation with the Auditor-General” and substituting therefor the words “The Auditor-General, in consultation with the Cabinet Secretary responsible for finance”;
- (b) by renumbering the existing provision as subclause (1);
- (c) by inserting a new subclause immediately after the renumbered subclause (1)—

“(2) The power to make regulations shall be exercised only after a draft of the proposed regulations has been approved by the National Assembly.”

CLAUSE 72

THAT, clause 72 of the Bill be amended by—

- (a) inserting the words “the national or county” immediately after the words “policy objective of”;
- (b) deleting the words “or any other state organ or public entity” appearing immediately after the word “government”.

CLAUSE 74

THAT, clause 74 of the Bill be amended in subclause (2) by deleting paragraph (f) and substituting therefor the following new paragraph—

“(f) a contract subsisting between the Kenya National Audit Office and any other person before the commencement of this Act shall continue to exist as a contract entered into between the office of the Auditor-General and that other person”.

2. Notice is given that the Member for Rarieda (Hon. Eng. Gumbo), intends to move the following amendments to the Public Audit Bill, (National Assembly Bill No. 38 of 2014) at the Committee Stage—

CLAUSE 2

THAT, clause 2 of the Bill be amended in the definition of “effectiveness” by inserting the word “cost effective” immediately after the word “means”.

CLAUSE 4

THAT, clause 4 of the Bill be amended —

- (a) in subclause (2) by deleting the phrase “subject to Article 234(5) of the Constitution” and substituting therefor the words “to be recruited through an open, transparent and competitive process which promotes fair competition and merit and observes all the values and principles of public service as contemplated in Article 232 of the Constitution.”
- (b) in subclause (3) by inserting the words “and shall have a presence in all counties” immediately after the words “appropriate to do so”

CLAUSE 5

THAT, clause 5(1) of the Bill be amended—

- (a) in paragraph (a), by inserting the words “ and of sound mind” immediately after the word “Kenya”;
- (b) in paragraph (c), by inserting the words “ and demonstrates a verifiable and logical progression in the attainment of his or her educational qualifications” immediately after the word “Kenya”.

CLAUSE 7

THAT, clause 7(1) (a) of the Bill be amended by—

- (a) inserting the words “ and governance” immediately after the word “ financial”;
- (b) deleting the words “and public entities” and substituting therefor the words “national and county governments, and all public entities, in order to achieve the objects set out in Article 249(1) of the Constitution.”

CLAUSE 11

THAT, clause 11 of the Bill be amended—

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

“(2) Where a vacancy occurs under subsection (1), the President shall within fourteen days, by notice in the Gazette, nominate a person to be appointed as Auditor-General and forward the name for approval by the National Assembly in accordance with Article 229(1) of the Constitution”;

- (b) by deleting subclause (3);
- (c) by deleting subclause (4);
- (d) by deleting subclause (5);
- (e) by deleting subclause (6);
- (f) by deleting subclause (7);
- (g) by deleting subclause (8) and substituting therefor the following new subclause—

“(8) The National Assembly shall, within seven days of receiving the nominations, consider and approve or reject the nominations”;

- (h) in subclause (9) (b) by deleting the words “ from amongst the candidates forwarded by the Public Service Commission under subsection (6)” and substitute therefor “ within fourteen days of receipt of the same”;
- (i) in subclause (10) by —
 - (i) deleting the words “all or” appearing immediately after the words “Assembly rejects”;
 - (ii) deleting the expression “subsections (1) to (7) shall, with necessary modifications, apply ” and substituting therefor the expression “ subsections (2) to (3) shall apply”;
- (j) by deleting subclause (12);

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

(a) in subclause (1)—

(i) by inserting the words “ for a period of six months” immediately after the words “ his or her office” in paragraph (d);

(ii) by deleting the words “twelve months” and substituting therefor the words “ eight months”;

(b) in subclause (2), by deleting the words “three months” and substituting therefor the words “two months”.

CLAUSE 13**THAT**, clause 13 be amended by deleting the words “Chief Justice” and substituting therefor the word “President”.**CLAUSE 14****THAT**, clause 14 of the Bill be deleted and replaced with the following new clause—Development and
approval of
organizational
structure.**14.** The office of the Auditor-General shall develop the organizational structure for consideration and approval by the Audit Advisory Board’**CLAUSE 15****THAT**, clause 15 of the Bill be deleted and replaced with the following new clause—Recruitment of the
Senior Deputy
Auditor General**15.** (1) There shall be a Senior Deputy Auditor-General who shall be competitively recruited by the office of the Auditor-General and appointed by the Audit Advisory Board.

(2) A person shall be qualified for appointment as the Senior Deputy Auditor-General if that person meets all the qualifications for appointment as outlined in section 5 of this Act.

CLAUSE 17**THAT**, clause 17 of the Bill be amended in—

(c) in subclause (1) by deleting the expression “Article 234(5)” and substituting therefor the expression “Article 230”;

(d) in subclause (2) by deleting the words “and approved by the Public Service Commission”;

(e) in subclause (3) by inserting the words “ and shall comply with the values and principles of public service as contemplated in Article 232 of the Constitution” immediately after the words “marginalized groups”.

CLAUSE 18**THAT**, clause 18 of the Bill be amended in—

(a) subclause (2) by inserting the word “be” immediately after the words “ an officer of the office and”;

(b) subclause (3) by deleting the words “thirty-six” and substituting therefor “twenty-four”.

CLAUSE 20

THAT, clause 20 of the Bill be amended by—

(a) deleting subclause (2) and substituting therefor the following new subclause—

“(2) The Auditor-General shall submit and discuss the budget estimates before the relevant committee of the National Assembly together with the Cabinet Secretary responsible for finance and agree on the budgetary allocations for the coming year, not later than 30th November each year”;

(b) inserting the following new subclauses immediately after subclause (2)—

“(2A) The budget estimates agreed to under subsection (2) shall be included in the Budget Policy Statement without alterations.

(2B) If changes are made to the agreed budget estimates, the Auditor-General shall inform the chairperson of the relevant committee of the National Assembly in writing not later than the 15th January in every year”;

(c) inserting a new clause immediately after clause (3)—

“(3A) Funds meant for the recurrent expenditure of the Auditor General under this section shall be disbursed to the office in equal quarterly installments.”

CLAUSE 21

THAT, clause 21 be amended in subclause (3) by deleting the word “may” and substituting therefor the word “shall”.

CLAUSE 22

THAT, clause 22 of the Bill be amended in subclause (3) by deleting the phrase “What will happen if this is abused?” appearing immediately after the words “information so obtained.”

CLAUSE 23

THAT, clause 23 of the Bill be amended—

(a) in subclause (1) by inserting the words “and the public service” immediately after the words “of the office of the Auditor-General”;

(b) in subclause (7) by—

(i) deleting the expression “thirty-six (36)” and substituting therefor the expression “twenty-four ”;

(ii) inserting a new subclause immediately after subclause (7)—

“(8) Outsourcing of any audit services under this section shall not absolve the Auditor-General of any responsibility concerning the exercise of his or her powers under this Act.”

CLAUSE 24

THAT, clause 24 of the Bill be amended in subclause (1) by inserting a new subclause immediately after subclause (1)—

“(2) The engagement of service under subsection (1) shall be for purposes of ensuring effectiveness in the application of public funds.”

CLAUSE 25

THAT, clause 25 of the Bill be amended—

(i) in subclause (1) by —

(i) inserting a new paragraph immediately after paragraph (a)—

“(aa) the Auditor-General”;

(ii) inserting the following proviso immediately after paragraph (g)—

“Provided that the nominee under paragraph (c) shall not be a member of a professional body provided for under subsection (1) (b), (d) or (e)”;

(j) in subclause (3) by deleting the words “appoint a chairperson from among the persons” and substituting therefor “ chair the Board established”.

CLAUSE 27

THAT, clause 27 of the Bill be amended in subclause (1)—

(a) by deleting the word “advice” and substituting therefor the word “advise”;

(b) by inserting a new paragraph immediately after paragraph (a)—

“(aa) develop, review and advise on organizational development issues”;

(c) in paragraph (c) by deleting the words “review and make recommendations on” and substitute therefor “ consider and approve the”;

(d) by inserting a new paragraph immediately after paragraph (c)—

“(ca) determine the remuneration and other terms of appointment of the staff of the Office of the Auditor General in consultation with the Salaries and Remuneration Commission”;

(e) by deleting paragraph (d);

(f) by deleting paragraph (f).

CLAUSE 30

THAT, clause 30 of the Bill be amended by inserting the words “and information “immediately after the word “documents”.

CLAUSE 31

THAT, clause 31 of the Bill be amended by inserting a new subclause immediately after subclause (6)—

“(6A) The Speaker of the National Assembly shall convene a special sitting of the committee of the whole House where the Auditor-General shall present his or her final report without debate or questions being put.”

CLAUSE 37

THAT, clause 37 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) inserting a new sub clause immediately after the renumbered subclause (1)—

“(2) The Auditor-General may seek professional assistance in conducting an environmental audit as provided for under subsection (1).”

CLAUSE 38

THAT, clause 38 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) inserting a new sub clause immediately after the renumbered subclause (1)—

“(2) The Auditor-General may seek professional assistance in examining a public procurement and asset disposal process under subsection (1).”

CLAUSE 40

THAT, clause 40 of the Bill be amended —

- (a) in subclause (1) by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) such information has been agreed upon between the Auditor-General and the respective national security organ or their representatives, not to be covered in the scope of audit”;

- (b) in subclause (2) by deleting paragraph (d);
- (c) in subclause (4) by deleting the words “ because the Attorney-General has issued a certificate under paragraph (1) (b) in relation to the information” and substitute therefor “for reasons cited under subsection (1)”;
- (d) by deleting subclause (6);
- (e) by deleting subclause (7).

CLAUSE 41

THAT clause 41 of the Bill be amended in subclause (1) (c) by deleting the words “and approved by Parliament”.

CLAUSE 42

THAT, clause 42 of the Bill be amended by inserting a new subclause immediately after subclause (1)—

“(1A) Procedures prescribing the appointment of external auditors under this section shall be as provided for in the regulations”.

CLAUSE 48

THAT, clause 48 of the Bill be amended —

- (a) in subclause (2) by deleting the word “it” appearing immediately after the words “county assembly”;
- (b) by deleting subclause (5).

CLAUSE 50

THAT, clause 50 of the Bill be amended by deleting the word “publicization” and substituting therefor “publication”.

CLAUSE 54

THAT clause 54 of the bill be deleted and replaced with the following new clause—

Observing the code
of conduct

54. The Auditor General, in discharging his or her functions and responsibilities shall strictly observe the code of conduct for all public officers as relates to the Office of the Auditor General, which shall be in line with those prescribed by the Constitution, this Act, Public Officers Ethics Act, 2003 and the relevant professional bodies.

CLAUSE 56

THAT clause 56 of the Bill be amended by inserting the words “any way in” immediately after the words “or corrupted in”.

CLAUSE 57

THAT, clause 57(2) of the Bill be amended by inserting the word “as” immediately after the words “for official purposes”.

CLAUSE 58

THAT, clause 58(1) of the Bill be amended by deleting the words “for consideration in” and substituting therefor “under consideration by”

CLAUSE 60

THAT, clause 60 of the Bill be amended—

(a) in subclause (1)—

(i) by deleting paragraph (e);

(ii) in paragraph (f) by inserting the words “ knowingly” immediately before the word “Discloses”;

(iii) in paragraph (g) by deleting the words “ or decision”;

(b) in subclause (2) by deleting the words “ liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years, or to both” and substituting therefor “ disciplined in line with the established code of ethics and liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both”

CLAUSE 61

THAT, clause 61 of the Bill be amended in subclause (1) in—

(a) paragraph (a) by inserting the words “ or a professional” immediately after the words “Auditor-General”;

(b) paragraph (d) by inserting the words “ or a professional” immediately after the words “Auditor-General”.

CLAUSE 62

THAT, clause 62 of the Bill be amended by deleting the words “for committing” appearing immediately after the words “found guilty” and substituting therefor the word “of”.

CLAUSE 67

THAT, clause 67 of the Bill be deleted.

CLAUSE 68

THAT, clause 68 of the Bill be amended by—

(a) renumbering the existing provision as subclause (1);

(b) inserting a new subclause immediately after the renumbered subclause (1)—

“(2) The regulations made under this section shall be tabled before the National Assembly pursuant to the provisions of the Statutory instruments Act”.

CLAUSE 72

THAT, clause 72 of the Bill be deleted.

SCHEDULE

THAT, the Schedule be amended by deleting the words “Chief Justice” and substituting therefor the words “President of the Republic of Kenya”.

3. **Notice is given that the Member for Tongaren (Hon. (Dr.) Eseli Simiyu) intends to move the following amendments to the Public Audit Bill, (National Assembly Bill No. 38 of 2014) at the Committee Stage-**

CLAUSE 4

THAT clause 4 of the Bill be amended in sub-clause 3 by deleting the words “as far as it is appropriate to do so” appearing immediately after the word “Republic”.

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (1) by deleting paragraph (c).

CLAUSE 11

THAT clause 11 of the Bill be amended –

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

“(2) Where a vacancy occurs under subsection (1), the President shall within fourteen days nominate a suitable candidate and forward the name to the National Assembly”.

(b) by deleting sub clauses (3), (4), (5), (6), (7), (11), (12) and (13);

(c) by deleting the words “from amongst the candidates forwarded by the Public Service Commission under subsection (6)” appearing immediately after the word “nominee” in paragraph (b) of sub clause (9);

(d) in sub clause (10) by –

(i) deleting the words “all or” appearing immediately after the word “rejects”;

(ii) deleting the word “subsequent” appearing immediately after the word “any”;

(iii) deleting the expression “subsections (1) to (7)” appearing immediately after the word “of” and substituting therefore the expression “subsections (1) and (2)”.

CLAUSE 12

THAT clause 12 of the Bill be deleted.

CLAUSE 17

THAT clause 17 of the Bill be amended by inserting the following new sub clause immediately after sub clause (1) –

“(1A) The remuneration of such staff should reflect the prevailing remuneration of such staff performing similar duties in the audit profession in other public and private institutions in Kenya”.

CLAUSE 22

THAT clause 22 of the Bill be amended in sub clause (3) by deleting the words “What will happen if this is abused?” appearing immediately after the words “information so obtained”.

CLAUSE 27

THAT clause 27 of the Bill is amended in sub clause (1) by –

- (a) deleting the words “and shall, in particular but without prejudice comprise of the foregoing” appearing immediately after the word “Act”;
- (b) deleting paragraphs (a), (b), (c), (d), (e), (f) and (g).

CLAUSE 35

THAT clause 35 of the Bill be amended by deleting the word “may” appearing immediately after the word “Auditor-General” and substituting therefore the word “shall”.

CLAUSE 36

THAT clause 36 of the Bill be amended by deleting the word “may” appearing immediately after the word “Auditor-General” and substituting therefore the word “shall”.

CLAUSE 37

THAT clause 37 of the Bill be deleted.

CLAUSE 40

THAT clause 40 of the Bill be amended –

- (a) in sub clause (1) by –
 - (i) deleting the words “for any of the reasons set out in subsection (2); and” appearing immediately after the word “interest” in paragraph (a);
 - (ii) deleting paragraph (b);
- (b) by deleting sub clause (2);
- (c) by deleting sub clause (3) and substituting therefor the following new sub clause –

“(3) The Auditor-General shall be required, at a closed door session, to disclose to a committee of Parliament and to the President information that has been withheld under subsection (1)(a)”;
- (d) in sub clause (4) by –
 - (i) deleting the words “because the Attorney-General has issued a certificate under paragraph (1)(b) in relation to the information” appearing immediately after the words “public report”;
 - (ii) deleting paragraph (b) and substituting therefor the following new paragraph –

“(b) the reason for that omission.”
- (e) in sub clause (5) by deleting the words “and such officers shall be at a grade equivalent to Deputy Director of Audit or above” appearing immediately after the word “confidentiality”;
- (f) by deleting sub clauses (6), (7) and (8).

CLAUSE 72

THAT clause 72 of the Bill be deleted.

4. **Notice is given that the Member for Ugenya (Hon. David Ochieng'), intends to move the following amendments to the Public Audit Bill, (National Assembly Bill No. 38 of 2014) at the Committee Stage—**

CLAUSE 4

THAT clause 4 be amended in sub clause (2) by deleting the expression "subject to Article 234(5) of the Constitution".

CLAUSE 7

THAT clause 7 be amended in sub clause (1) by—

- (a) deleting the words "financial systems of the state organs and public entities" appearing in paragraph (a) and substituting therefor the words "governance at National County Government and public entities";
- (b) by deleting paragraph (f)

CLAUSE 8

THAT, clause 8 be amended—

- (f) in paragraph (a) by deleting the words "subject to section 11 of this Act";
- (g) in paragraph (c) by deleting the words " subject to Article 234(5) of the constitution";
- (h) in paragraph (d) by deleting the words " subject to Article 234(5) of the Constitution";
- (i) by deleting paragraph (f);
- (j) in paragraph (j) by deleting the words " and in consultation with the public Service Commission and the National Treasury".

CLAUSE 11

THAT, clause 11 be amended—

- (a) in subclause (5) by—
 - (i) inserting a new paragraph immediately after paragraph (e)—

"(f) Association of Professional Societies of East Africa."
 - (ii) deleting the words "Public Service Commission shall hold it proceedings in public and submit to Parliament" appearing in the proviso and substituting therefor the words " selection committee shall hold it proceedings in public and submit to the President and the National Assembly"
- (b) in subclause (6) by deleting the expression "subsection (4)" and substituting therefor the expression " subsection (5)";

CLAUSE 14

THAT, clause 14 be deleted and replaced with the following new clause—

Development of
organizational
structure.

14. The office of the Auditor-General shall develop the organizational structure for consideration and approval by the Audit Advisory Board."

CLAUSE 15

THAT, clause 15 be amended by—

- (c) deleting sub clause (1) and substituting therefor the following new sub clause (1)—
“(1) There shall be a Senior Deputy Auditor-General who shall be competitively recruited by the office of the Auditor-General and appointed by the Advisory Board”;
- (d) deleting subclause (2) (b) and substituting the following new paragraph(b)—
“(b) has the qualifications of an Auditor-General as outlined in the Independent Offices Appointment Act;”.

CLAUSE 17

THAT, clause 17 be amended—

- (i) in sub clause (1) by deleting the words “and the Auditor-General may appoint such staff subject to Article 234 (5) of the Constitution” and substituting therefor the words “subject to Article 230 of the Constitution”;
- (f) in subclause (2) by deleting the words “ under this Act and approved by the Public Service Commission.”.

CLAUSE 20

THAT, clause 20 be amended by —

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

“(2) The Auditor General shall discuss, in a tripartite meeting, the budget estimates with the chairman of the Budget and Appropriations Committee together with the Cabinet Secretary responsible for finance and agree on the budgetary allocation to the office of the Auditor - General not later than 30th November each year.”

- (e) inserting the following new sub clauses immediately after sub clause (2)—

“(2A) Pursuant to the tripartite meeting referred to in sub section (1), the budget estimates shall be included in the Budget Policy Statement, without alterations by the Cabinet Secretary responsible for Finance.

(2B) In the event of any alteration on the agreed budget estimates, the Auditor-General shall inform the Chairman of the Budget and Appropriations Committee in writing not later than 15th January every year.

(2C) Funds for the recurrent expenditure of the Auditor General under this section shall be disbursed to the office in equal quarterly installments.”

CLAUSE 25

THAT, clause 25 be amended—

- (k) in sub clause (1) by inserting the following new paragraph immediately after paragraph (a)—

“(aa) the Auditor-General.”

- (l) by deleting sub clause (3) and replacing therefor the following new paragraph—

“(3) The Auditor-General shall be the chairperson of the Board.”

CLAUSE 27

THAT, clause 27 be amended by deleting sub clause (1) and substituting therefor the following new sub clause (1)—

“(1) The principal function of the Audit Advisory Board shall be generally to advise the Auditor-General on the following—

- (a) review and advise the organizational development issues;
- (b) recruitment of top management into the office of the Auditor-General;
- (c) consider and approve the estimates for the Office of the Auditor General;
- (d) determine the remuneration and other terms of appointment of the staff of the Office of the Auditor General; and
- (e) give any advice that may be sought by the Auditor General from time to time."

CLAUSE 30

THAT, clause 30 be amended by deleting the word "documents" and substituting therefor the word "information".

CLAUSE 31

THAT, clause 31 of the Bill be amended by inserting the following new sub clause immediately after sub clause (6)—

"(7) The Speaker of the National Assembly shall determine and invite the Auditor General to table the report before the committee of the whole House."

NEW CLAUSE

THAT the following new clause be inserted immediately after clause 31—

Audit reports to be submitted to Parliament and the relevant county assembly.

31A. (1) All reports of an audit shall be submitted to Parliament or the relevant county assembly.

(2) Within seven days of receiving the report, Parliament or the relevant county assembly shall publicise it on their official website and other public spaces.

(3) Within fourteen days after the expiry of days upon submitting the report to Parliament or the relevant county assembly, the Auditor-General shall publicise the report on their official website and other public spaces.

CLAUSE 39

THAT, clause 39 be deleted.

CLAUSE 40

THAT, clause 40 be deleted and replaced with the following new clause—

Auditing of national security organs.

40. (1) In auditing national security organs, the Auditor-General and his or her representatives shall hold an inception meeting, at the highest level, to agree on the areas which may touch on national security and consequently determine the scope of the audit coverage.

(2) The audit reports on national security organs may be redacted to shield the identities of persons as well as assets and liabilities as the case may be.

(3) All staff of the Office of the Auditor-General carrying out audit under this section shall undergo a vetting process carried out by the appropriate security agency.

CLAUSE 41

THAT, clause 41 subclause (1) of the Bill be amended in paragraph (c) by deleting the words "and approved by Parliament"

CLAUSE 48

THAT, clause 48 be amended by deleting sub clause (5).

CLAUSE 54

THAT, clause 54 be deleted and replaced with the following new clause —

Determination
of code of
conduct and
ethics.

54. The Auditor General in discharging his or her functions and responsibilities, shall determine the code of conduct and ethics for all the Public Officers of the Office of the Auditor General which shall be in line with those prescribed by the Constitution, this Act, the Public Officers Ethics Act, 2003 and the relevant professional bodies.

CLAUSE 60

THAT, clause 60 be amended—

(a) in subclause (1) by deleting paragraphs (e), (f) and (g); and

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

“(2) An officer of the office of the Auditor-General who commits an offence under subsection (1) shall be disciplined in line with the code of ethics of the profession and where necessary criminal proceedings shall be preferred.”

CLAUSE 67

THAT, clause 67 be deleted.

CLAUSE 68

THAT, clause 68 be amended by deleting the words “the Cabinet Secretary responsible for finance in consultation with”.

CLAUSE 72

THAT, clause 72 be deleted.

CLAUSE 74

THAT, clause 74 be amended in sub clause (2) by deleting paragraph (f).

5. Notice is given that the Member for Wajir South (Hon. Abdullahi Diriye) intends to move the following amendments to the Public Audit Bill, 2014, at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (1) –

(a) by deleting paragraph (c) and substituting therefor the following new paragraph-

“(c) has extensive knowledge in public finance or at least ten years working experience in matters relating to —

(i) auditing;

(ii) public finance management;

(iii) accounts;

(iv) law;

(v) administration; or

(vi) corporate governance.

(b) by inserting the following new paragraph immediately after paragraph (c) -

“(ca) holds a postgraduate degree in management or a related field from a university recognised in Kenya”;

CLAUSE 15

THAT clause 15 of the Bill be amended in sub-clause (2) by deleting the word “postgraduate” appearing in paragraph (c).

II. THE PUBLIC PROCUREMENT AND ASSET DISPOSAL BILL **(NATIONAL ASSEMBLY BILL NO. 40 OF 2014)**

1) **Notice is given that the member for Rarieda, the Hon. Eng. Nicolas Gumbo, M.P., intends to move the following amendments to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—**

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) in the definition of “consultancy services” by inserting the words “and includes professional services regulated by Statute” immediately after the word “nature”;
- (b) in the definition of “design competition” by inserting the words, “interior design, quantity surveying” immediately after the word “architecture”;
- (c) in the definition of “disadvantaged group” by inserting the words, “systematic and demonstrable” immediately after the words “subjected to”;
- (d) in the definition of “works” by inserting the words “and setting to work” immediately after the word “commissioning” appearing in paragraph (a): and
- (e) in the definition of “writing” by inserting the word “facsimily” immediately after the word “photography”;
- (f) by inserting the following new definition in its proper alphabetical sequence—

“corrupt practices” means the offering, receiving or soliciting of anything of value to influence the action of a public official in the selection process or in contract execution”;

CLAUSE 3

THAT, clause 3 of the Bill be amended by inserting the following new paragraph immediately after paragraph (i) —

“(j) promotion of citizen contractors”.

CLAUSE 5

THAT, clause 5 of the Bill be amended in subclause (1) by inserting the words “except in cases where procurement of professional services is governed by an Act of Parliament applicable for such services” immediately after the word “disposal”.

CLAUSE 9

THAT, clause 9 of the Bill be amended in subclause (1) —

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

“(c) to enforce standards developed by the Kenya Bureau of Standards and other international standardization bodies recognized in Kenya, together with standards, codes of practice and codes of ethics developed by professional bodies in Kenya regulated by Acts of Parliament and any other standards developed under this Act”;

(b) in paragraph (d), by inserting the words “specific items of” immediately before the word “security”;

(c) in paragraph (e), by inserting the words “in collaboration with professional bodies established under, and regulated by, Acts of Parliament, and with broad stakeholder participation” immediately after the word “prepare”;

(d) in paragraph (i), by inserting the words “and benchmark with similar bodies regionally and internationally for purposes of attaining efficiency and effectiveness of” immediately after the words “to research on”;

(e) in paragraph (j), by inserting the words “in consultation and collaboration with other relevant professional bodies” immediately before the words “to advise”;

(f) in paragraph (k), by inserting the words “in consultation and collaboration with other relevant professional bodies” immediately before the words “to develop”;

(g) in paragraph (p), by inserting the words “particularly relevant professional bodies regulated by Acts of Parliament” immediately after the word “words”;

CLAUSE 10

THAT, clause 10 of the Bill be amended—

(a) in subclause (1) by—

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

“(a) a chairperson and a vice-chairperson elected by members of the Board from among the persons nominated under paragraph (b)”;

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

“(b) seven members who shall be persons with knowledge and experience in procurement and supply chain management, finance, law, medicine, land surveying, information and communication technology, land economics, arbitration, sociology, accounting, engineering, architecture or quantity surveying nominated by the bodies which by law are responsible for regulating the respective professions as prescribed in Part I of the Fourth Schedule and appointed by the Cabinet Secretary upon approval by Parliament”;

(b) in subclause (2) by—

“(i) renumbering subclause (2) as subclause (5)”;

“(ii) inserting the words “or nominating” immediately after the word “appointing” in the renumbered subclause (5)”;

(c) by inserting the following new sub-clauses immediately after subclause (1) —

“(2) Each of the nominating bodies listed in Part I of the Fourth Schedule shall nominate three persons while observing gender and regional balance”;

“(3) The Cabinet Secretary shall submit one name from the nominees nominated by each of the nominating bodies and submitted under subsection (2), and shall have due regard to gender and regional balance”;

“(4) Where Parliament rejects the names of the nominees submitted under subsection (3), the Cabinet Secretary shall, within fourteen days of such rejection, submit new names from the nominating bodies for approval by Parliament”;

“(5) The Cabinet Secretary shall appoint members approved by Parliament by notice in the Gazette.

CLAUSE 11

THAT, clause 11(1)(a) of the Bill be amended by—

(a) inserting the words “and can demonstrate a logical progression in acquiring the academic qualifications” immediately after the word “Kenya”;

(b) inserting the following new subparagraphs immediately after subparagraph (iv)—

“(v) economics”;

“(vi) engineering”;

“(vii) architecture”;

“(viii) quantity surveying”;

“(ix) land economics”;

“(x) medicine”;

“(xi) social sciences”;

“(xii) information and technology”;

“(xiii) arbitration”;

“(xiv) sociology”;

“(xv) accounts”.

CLAUSE 14

THAT, clause 14 of the Bill be amended in subclause (3) by deleting the word “Three” and substituting therefor the word “Five”;

CLAUSE 15

THAT, clause 15 of the Bill be amended in—

- (a) subclause (1) by inserting the words “through competitive recruitment and with the approval of Parliament” immediately after the word “Board”;
- (b) subclause (2), paragraph (a), by inserting the words “and of sound mind” immediately after the word “Kenya”;
- (c) subclause (2)(b), by inserting the words “and can demonstrate a logical progression in acquiring the academic qualifications” immediately after the word “Kenya”;
- (d) subclause (3), by inserting the words “and the Secretary to the Board” immediately after the word “Authority”;

CLAUSE 19

THAT, clause 19 of the Bill be amended—

- (a) in subclause (1) by deleting the words “Cabinet Secretary” and substituting therefor the words “Public Service Commission”;
- (b) in subclause (2), by—
 - (i) inserting the words “and its organizational structure” immediately after the word “Authority”
 - (ii) inserting the words “and the Public Service Commission” immediately after the words “Cabinet Secretary”;

CLAUSE 22

THAT, clause 22 of the Bill be amended by—

- (a) deleting the word “three” and substituting therefor the word “six”;
- (b) deleting the words “the Public Service Commission will have reconstituted the Recruitment Panel to recruit another Director-General” and substituting therefor the words “a new Director-General shall have been appointed in accordance with section 15”;

CLAUSE 24

THAT, clause 24 be amended in subclause (3) by inserting the following new paragraph (f) —
“(g) capital expenditure to be undertaken by the Authority”;

CLAUSE 26

THAT, clause 26 of the Bill be amended in —

- (a) subclause (3), paragraph (b) by deleting the words “have issues” and substituting therefor the words “are subject of controversy or litigation”;
- (b) subclause (5) by deleting the word “the” appearing immediately before the word “Parliament”;

CLAUSE 29

THAT, clause 29 of the Bill be amended—

(a) in subclause (1) by inserting the words “with the approval of Parliament” immediately after the words “Cabinet Secretary”;

(b) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) A person appointed as a member under subsection(1) shall have experience in the following fields—

- (a) law;
- (b) accounting;
- (c) procurement and supply chain management;
- (d) engineering;
- (e) quantity surveying;
- (f) medicine;
- (g) social sciences;
- (h) architecture;
- (i) finance;
- (j) economics;
- (k) land economics;
- (l) land surveying;
- (m) arbitration;
- (n) information communication technology;
- (o) sociology”;

(c) by inserting the following new subclauses immediately after subclause (2) —

“(3) The Cabinet Secretary shall appoint members of the Review Board from a list submitted by the relevant professional bodies listed in Part II of the Fourth Schedule”;

(4) Each of the nominating bodies shall nominate three persons taking into account gender and regional balance and submit their names to the Cabinet Secretary.

“(5) The Cabinet Secretary shall forward the names submitted under subsection (4) to Parliament for approval”;

“(6) Where Parliament rejects the names of the nominees submitted under subsection (5), the Cabinet Secretary shall within fourteen days of such rejection submit new names from the nominating bodies for approval by Parliament”;

“(7) In the appointment of the chairperson and members of the Board under this section, the appointing and nominating authority shall ensure regional balance and gender parity”;

“(8) The Cabinet Secretary shall appoint the members approved by Parliament by notice in the Gazette”.

CLAUSE 30

THAT, clause 30 of the Bill be amended in subclause (1) by —

- (a) inserting the words “and can demonstrate a logical progression in acquiring the academic qualifications” immediately after the word “Kenya” in paragraph (a);
- (b) inserting the words “and with recommendation of his or her professional body” immediately after the word “body”;

CLAUSE 33

THAT, clause 33 of the Bill be amended in subclause (2), paragraph (f), by inserting the words “citizen contractors, women, youth, persons with disabilities, minorities and marginalized groups” immediately after the words “disadvantaged group”;

CLAUSE 36

THAT, clause 36 of the Bill be amended in subclause (3), by inserting the words “by Regulations” immediately after the words “be prescribed”;

CLAUSE 37

THAT, clause 37 of the Bill be amended by inserting the words “ or her” immediately after the word “his”;

CLAUSE 41

THAT, clause 41 of the Bill be amended in—

- (a) subclause (1), by—
 - (i) inserting the words “or the code of ethics of the relevant profession regulated by an Act of Parliament” immediately after the word “Act” appearing in paragraph (f);
 - (ii) by inserting the words “or her” immediately after the word “his” in paragraph (g);
 - (iii) by inserting the word “or fraudulent” immediately after the word “corrupt” in paragraph (h) ;
- (b) subclause (4) by deleting the word “three” and substituting therefor the word “two”;

CLAUSE 44

THAT, clause 44 of the Bill be amended in subclause (2), paragraph (e), by deleting the expression “section 68 ” and substituting therefor the expression “sections 68, 147, 148 and 149”;

CLAUSE 45

THAT, clause 45 of the Bill be amended in subclause (3) by inserting the following new paragraph immediately after paragraph (b) —

- “(c) undertaken in strict adherence to Article 227(1) of the Constitution”;

CLAUSE 46

THAT, clause 46 of the Bill be amended —

- (a) in subclause (1), by inserting the words “and where consultants have been engaged to offer technical expertise, they shall be incorporated into the ad hoc evaluation committee” immediately after the word “expertise”;
- (b) subclause (2), by—
 - (i) inserting the words “the Parliamentary Service Commission, the Judicial Service Commission” immediately after the words “State Department”;
 - (ii) inserting the words “or the accounting officer of the county assembly” immediately before the words “as the case may be”;
- (a) subclause (3), by deleting the word “gotten” and substituting therefor the word “obtained”;
- (b) subclause (4), by inserting the word “procedurally” immediately before the word “disbanded” in paragraph (d);

CLAUSE 47

THAT, clause 47 of the Bill be amended in subclause (1) by inserting the words “or specialists in cases where the procurement process requires specialized expertise” immediately after the word “Kenya”;

CLAUSE 52

THAT, clause 52 of the Bill be amended by—

- (a) inserting the following new subclauses immediately after subclause (5)—

“(5A) All procurement and asset disposal planning shall reserve a minimum of thirty per cent of the budgetary allocations for enterprises owned by women, youth, persons with disabilities and other disadvantaged groups.

(5B) For purposes of subsection (5A), enterprises shall be considered as being owned by women, youth, persons with disabilities or other disadvantaged groups if —

- (a) the women, youth, persons with disabilities or other disadvantaged groups own at least fifty-one per cent of the enterprises;
- (b) the women, youth, persons with disabilities or other disadvantaged groups are mandatory signatories to all accounts of the enterprise;

- (b) by inserting the following new subclause immediately after subclause (7) —

“(7A) An accounting officer who knowingly commences any procurement proceedings without ascertaining the availability of sufficient funds to meet the entire obligations of the resulting contract commits an offence under this Act.”;

- (c) in subclause (8) by deleting the words “certain percentages reserved for the disadvantaged group targeted” and substituting therefor the words “ a minimum of thirty per cent of the budgetary allocations shall be reserved for enterprises owned by women, youth, persons with disabilities and other disadvantaged groups”;

CLAUSE 53

THAT, clause 53 of the Bill be amended by inserting the following new subclause immediately after subclause (2) —

“(2A) The Services referred to in subsection (2) includes professional services regulated by Acts of Parliament which provide for methods of calculating applicable fees and related charges”;

CLAUSE 54

THAT, clause 54 of the Bill be amended in subclause (1), paragraph (g) by inserting the word “or fraudulent” immediately after the word “corrupt”;

CLAUSE 58

THAT, clause 58 of the Bill be amended in subclause (1), by deleting paragraph (c);

CLAUSE 59

THAT, clause 59 of the Bill be amended in subclause (3) by inserting the words “servicing and” immediately before the word “maintaining” appearing in paragraph (g);

CLAUSE 60

THAT, clause 60 of the Bill be amended in—

- (a) subclause (4), by deleting the word “shall” and substituting therefor the word “may”;
- (b) subclause (5), by inserting the words “women, youth, persons with disabilities and other” immediately after the words “owned by”;

CLAUSE 61

THAT, clause 61 of the Bill be amended by inserting the words “ or fraudulent” immediately after the words “any corrupt”;

CLAUSE 62

THAT, clause 62 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately after paragraph (f)—

“(g) upon receiving subsequent evidence of engagement in fraudulent or corrupt practices by the tenderer:”;

CLAUSE 65

THAT, clause 65 of the Bill be amended by inserting the following new subclause immediately after subclause (8) —

“(8A) The ownership of, or right in, any property referred to in subsection (8)(b) shall not include rights arising by virtue of owning shares in publicly listed companies”;

CLAUSE 67

THAT, clause 67 of the Bill be amended in subclause (1), by deleting the word “six” and substituting therefor the word “ten”;

CLAUSE 69

THAT, clause 69 of the Bill be amended in —

- (a) subclause (5), by inserting the words “ and fees chargeable for various categories of tender shall be subject to regular reviews” immediately after the word “prescribed”;
- (b) subclause (6), by deleting the word “engineer” appearing in paragraph (b) and substituting therefor the word “engineer’s” .

CLAUSE 73

THAT, clause 73 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) deleting the word “will” and substituting therefor the word “shall” in paragraph (e) of the renumbered subclause (1);
- (c) inserting the following new subclause immediately after the renumbered subclause (1) —

“(2) All tender documents shall be sent out to eligible bidders by recorded delivery”;

CLAUSE 74

THAT, clause 74 of the Bill be amended in subclause (5) by inserting the words “or the time remaining is less than the period indicated in instructions to tenderers” immediately before the words “the accounting”;

CLAUSE 77

THAT, clause 77 of the Bill be amended in subclause (9) by inserting the words “where applicable” immediately after the words “discounts” in paragraph (b);

CLAUSE 79

THAT, clause 79 of the Bill be amended in subclause (3), paragraph (b), by inserting the word “time” immediately after the word “quality”;

CLAUSE 82

THAT, clause 82 of the Bill be by inserting the following new subclause immediately after subclause (1)—

“(1A) The conduct of due diligence under subsection (1) may include obtaining confidential references from persons with whom the tenderer has had prior engagement” .

CLAUSE 85

THAT, clause 85 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1)—
- (b) inserting the following new paragraph immediately after paragraph (c) in the renumbered subclause (1)—
 - “(d) the tender with the highest technical score, where a tender is to be evaluated based on procedures regulated by an Act of Parliament which provides guidelines for arriving at applicable professional charges;
- (c) inserting the following new subclause immediately after the renumbered subclause (1)—

“(2) For the avoidance of doubt, citizen contractors, or those entities in which Kenyan citizens own more than fifty per cent shares, shall be entitled to ten per cent preferential treatment in both technical and financial evaluation”.

CLAUSE 87

THAT, clause 87 of the Bill be amended by deleting subclause (3) and substituting therefor the following new subclause—

“(3) An extension under subsection (1) shall be restricted to not more than thirty days and may only be done once”;

CLAUSE 88

THAT, clause 88 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e) —

“(ea) a foreign person participating in any public tender, whether for procurement of goods, works or services, shall be required to engage citizen contractors, local suppliers or consultants and shall ensure a minimum of forty per cent of the contract amount is reserved for those contractors, suppliers or consultants”;

CLAUSE 89

THAT, clause 89 of the Bill be amended by inserting the following new subclause immediately after subclause (8) —

“(9) A person who in order to avoid open tendering, procures items that ought to be subjected to open tendering as though they were included in the list of classified items commits an offence;

CLAUSE 95

THAT, clause 95 of the Bill be amended in subclause (2) by deleting the word “one” and substituting therefor the word “two”;

CLAUSE 99

THAT, clause 99 of the Bill be amended by inserting the words “urban and regional planning, quantity surveying” immediately after the word “architectural”;

CLAUSE 100

THAT, clause 100 of the Bill be amended—

(a) in subclause (4), by deleting the word “one” appearing immediately before the word “technical”;

(b) by inserting the following new subclauses immediately after subclause (5) —

(6) In participating in design competitions, all bidders shall undertake to transfer all copyrights, intellectual property rights and patents relating to their designs to the procuring entity;

(7) Upon completion of the design competition, all the submitted design schemes shall become property of the procuring entity.

CLAUSE 102

THAT, clause 102 of the Bill be amended in subclause (2), paragraph (e) by inserting the words, “and compares well with known prices of goods, works or services” immediately after the word “reasonable”;

CLAUSE 103

THAT, clause 103 of the Bill be amended in paragraph (c) by inserting the word, “ensure” immediately before the word “appropriate”;

CLAUSE 107

THAT, clause 107 of the Bill be amended by inserting the words “in the Regulations” immediately after the word “prescribed”;

CLAUSE 108

THAT, clause 108 of the Bill be amended in subclause (4) by inserting the words “in the Regulations” immediately after the word “prescribed”;

CLAUSE 113

THAT, clause 113 of the Bill be amended in subclause (1), paragraph (b), by inserting the word, "of" immediately after the word "quantity";

CLAUSE 118

THAT, clause 118 of the Bill be amended in subclause (1), paragraph (b), by deleting the expression "section 77" and substituting therefor the expression "section 56";

CLAUSE 119

THAT, clause 119 of the Bill be amended in—

- (a) subclause (3), by deleting the words "one daily newspaper" and substituting therefor the words "two daily newspapers";
- (b) subclause (4), by deleting the words "one daily newspaper" and substituting therefor the words "two daily newspapers";

CLAUSE 125

THAT, clause 125 of the Bill be amended in—

- (a) subclause (6), by inserting the following new paragraph immediately after paragraph (c) —,

 "(d) assignments and professional services which are regulated by Acts of Parliament which stipulates fees and charges applicable for such assignments;
- (b) subclause (11), by deleting the word "appropriate" appearing immediately after the words "may be" ;
- (c) subclause (13), by deleting the word "advert" and substituting therefor the word "advertisement";

CLAUSE 127

THAT, clause 127 of the Bill be amended in subclause (4) by inserting the words "and the notices shall be by recorded delivery or registered mail" immediately after the word "thereof";

CLAUSE 129

THAT, clause 129 of the Bill be amended in subclause (3) by deleting the words "be a better offer than" and substituting therefor the words "have any price advantages over";

CLAUSE 135

THAT, clause 135 of the Bill be amended in subclause (2) by deleting the word "five" and substituting therefor the words "three";

CLAUSE 140

THAT, clause 140 of the Bill be amended—

- (a) by deleting subclause (3);
- (b) in subclause (4) —
 - (i) by deleting the words "after twelve months from the date of signing the contract and shall only be considered";
 - (ii) paragraph (b), by deleting the word "ten" and substituting therefor the word "fifteen";
 - (iii) paragraph (c), by deleting the word "fifteen" and substituting therefor the word "twenty";

(c) by inserting the following new subclause immediately after subclause (5) —

“(6) Where variations result in an increment of the contract price by more than twenty-five percent, such variations shall be tendered for separately”;

CLAUSE 143

THAT, clause 143 of the Bill be amended in subclause (3) by inserting the words “or works and supplies reserved for women, youth, persons with disabilities and other disadvantages groups and for these categories, the performance securities that may be waived or fixed at no more than one per cent of the contract price immediately after the word “Regulations”;

CLAUSE 144

THAT, clause 144 of the Bill be amended by—

(a) renumbering the existing provision as subclause (1);

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

“(2) Notwithstanding subsection (1), where performance security is required for works and supplies reserved for women, youth, persons with disability and other disadvantaged groups, it shall be issued by a reputable insurance company

CLAUSE 145

THAT, clause 145 of the Bill be amended in subclause (1) by deleting the word “of” appearing immediately after the word “performance”;

CLAUSE 148

THAT, clause 148 of the Bill be amended by deleting the expression “twenty per cent (20%)” and substituting therefor the words “ thirty per cent”;

CLAUSE 151

THAT, clause 151 of the Bill be amended in—

(a) subclause (1), by inserting the words “or his or her appointed representative” immediately after the word “officer”;

(b) subclause (2), by inserting the words “or professionals engaged to work on behalf of the accounting officer” immediately after the word “department”;

(c) subclause (3), by inserting the words “or professionals engaged to work on behalf of the accounting officer” immediately after the word “department” wherever it occurs.

CLAUSE 152

THAT, clause 152 of the Bill be amended in subclause (2) by deleting the word “act” appearing in paragraph (j) and substituting therefor the word “acts”;

CLAUSE 156

THAT, clause 156 of the Bill be amended in subclause (4) by deleting the words “as prescribed” and substituting therefor the words “firms where Kenya citizens hold at least fifty per cent of the shareholding”;

CLAUSE 158

THAT, clause 158 of the Bill be amended in subclause (5) by inserting the words “which shall not be less than thirty per cent” immediately after the words “procurement budget”;

CLAUSE 163

THAT, clause 163 of the Bill be amended in subclause (2) by deleting the word “twice” and substituting therefor the word “quarterly”;

CLAUSE 167

THAT, clause 167 of the Bill be amended by—

- (a) renumbering the existing provision as subclause (1);
- (b) inserting the following new subclause immediately after the renumbered subclause (1) —

“(2) An accounting officer who, pursuant to artificial valuation, disposes off assets to an employee of the public entity or a member of a board or committee of the public entity commits an offence”;

CLAUSE 168

THAT, clause 168 of the Bill be amended—

- (a) in subclause (1) by inserting the word “or” appearing immediately after the words “this Act”;
- (b) by inserting the following new subclause immediately after subclause (1) —

“(1A) A request for review shall be accompanied by such fees as may be prescribed in the regulations, and such fees shall not be less than ten per cent of the cost of the contract”;

CLAUSE 173

THAT, clause 173 of the Bill be amended by inserting the words “and three applicant shall forfeit the fees paid” immediately after the word “contract”;

CLAUSE 174

THAT, clause 174 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d)—

- “(e) order termination of the procurement process and commencement of a new procurement process;”

CLAUSE 177

THAT, clause 177 of the Bill be amended in subclause (1), by inserting the following new paragraphs immediately after paragraph (i) —

- “(ia) knowingly withholds the notification of award to a successful tenderer;”
- “(ib) knowingly withholds notification to unsuccessful tenderer;”

CLAUSE 181

THAT, clause 181 of the Bill be amended by inserting the words “and such regulations shall not take effect unless approved by Parliament pursuant to the Statutory Instruments Act, 2013”;

FIRST SCHEDULE

The First Schedule is amended in paragraph 3(2), by deleting the word “his” and substituting therefor the word “their”;

SECOND SCHEDULE

The Second Schedule is amended in paragraph 3(2), by deleting the word “his” and substituting therefor the word “their”;

NEW SCHEDULE

THAT, the following new Schedule be inserted immediately after the Third Schedule—

FOURTH SCHEDULE (s.10 and s.29)**PART I**

The following professional bodies shall nominate persons to the Public Procurement Regulatory Board—

- (1) The Architectural Association of Kenya;
- (2) The Institution of Engineers of Kenya;
- (3) The Law Society of Kenya;
- (4) The Institute of Certified Public Accountants of Kenya;
- (5) The Association of Consulting Engineers of Kenya;
- (6) The Kenya Federation of Master Builders;
- (7) The Kenya Association of Building and Civil Engineering Contractors;

PART II

The following professional bodies shall nominate persons to the Public Procurement Administrative Review Board—

- (1) The Architectural Association of Kenya;
- (2) The Institution of Engineers of Kenya;
- (3) The Law Society of Kenya;
- (4) The Institute of Surveyors of Kenya;
- (5) The Institute of Quantity Surveyors;
- (6) The Institute of Certified Public Accountants of Kenya;
- (7) The Association of Consulting Engineers of Kenya;
- (8) The Chartered Institute of Arbitrators;
- (9) The Kenya Medical Association;
- (10) The Kenya Federation of Master Builders;
- (11) The Kenya Association of Building and Civil Engineering Contractors;
- (12) The Association of Professional Societies of East Africa.

2) Notice is given that the member for Gatanga, Hon. Humphrey K. Njuguna, M.P., intends to move the following amendments to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—

CLAUSE 2

THAT, clause 2 be amended—

- (a) in the definition of “consultancy services”, by inserting the words “and includes services offered by all professionals” immediately after the word “nature”;
- (b) by inserting the following new definitions in their proper alphabetical sequence—

“profession” means a group of persons who are engaged in the practice of a skill or trade, having undertaken the relevant formal academic and professional training including undertaking practical learning in the form of apprenticeship or tutelage under the guidance of a suitably qualified and experienced person in the field of training or tutelage;

“professional association” means a body representing members of a profession, which is regulated by statute, code of conduct or rules as may be amended from time to time.

CLAUSE 5

THAT, clause 5 be amended by—

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

“(2) Notwithstanding subsection (1), every procuring entity shall, in the procurement of professional services, observe and adhere to the relevant statutory provisions and regulations relating to the particular profession, during evaluation or assessment of financial bids submitted during tendering.

(3) In the procurement of professional services, a procuring entity shall be suitably guided and bound by a written opinion of the relevant professional association with respect to the evaluation and assessment of a technical or financial bid submitted during tendering”;

- (b) renumbering subclause (2) as subclause (4).

CLAUSE 10

THAT, clause 10 be amended—

- (a) in subclause (1), by—
 - (i) deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) a chairperson elected by members of the Board from among their number”;

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

“(b) ten members who shall be appointed by the Cabinet Secretary from among the persons nominated under subsection (2)”;

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

“(2) For purposes of appointment of members of the Board under subsection (1)(b), the professional associations for practitioners in the following professions shall nominate two persons each and submit their names to the Cabinet Secretary—

- (a) law;
- (b) accounting;
- (c) procurement;
- (d) engineering;
- (e) quantity surveying;
- (f) medicine;
- (g) architecture;
- (h) land economics or valuation;
- (i) surveying;
- (j) information technology;
- (k) economics;
- (l) arbitration”;

(c) by deleting subclause (2).

CLAUSE 29

THAT, clause 29(2) be amended by inserting the following new paragraphs immediately after paragraph (h)—

- “(i) land economics or valuation;
- (j) surveying;
- (k) information technology;
- (l) economics;
- (m) arbitration or mediation”.

CLAUSE 79

THAT, clause 79 be amended by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The evaluation and comparison shall be done using the procedures and criteria set out in the tender documents and, in the tender for professional services, shall have regard to the provisions of this Act and statutory instruments issued by the relevant professional associations regarding regulation of fees chargeable for services rendered”.

CLAUSE 121

THAT, clause 121 be amended by deleting subclause (2) and substituting therefor the following new subclause—

“(2) The evaluation and comparison shall be done using the procedures and criteria set out in the expression of interest documents and shall, in the case of expression of interest for professional services, have regard to the provisions of this Act and statutory instruments issued by the relevant professional associations regarding regulation of fees chargeable for services rendered”.

3) Notice is given that the Member for Kigumo Constituency, Hon. Jamleck Kamau, M.P., intends to move the following amendments to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—

CLAUSE 176

THAT clause 176 be amended by—

(a) inserting the following new sub clauses by immediately after sub clause (2) —

“(3) The High Court shall determine the judicial review application within thirty days after such application.

(4) A person aggrieved by the decision of the High Court may appeal to the Court of Appeal within seven days of such decision and the Court of Appeal shall make a decision within fourteen days which decision shall be final.

(5) If either the High Court or the Court of Appeal fails to make a decision within the prescribed timeline under subsection (3) or (4), the decision of the Review Board shall be final and binding to all parties.”

(b) renumbering sub clause (3) as sub clause (6);

(c) inserting the words “or the Court of Appeal” immediately after the words “High Court” wherever they appear in the renumbered sub clause (6).

4) Notice is given that the Member for Bomachoge Chache, Hon. Simon Ogari intends to move the following amendments to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—

CLAUSE 2

THAT, clause 2 of the Bill be amended—

- (a) in the definition of the term “complex and specialized contacts” by inserting the words “and includes major and specialized infrastructural, building and installation works” immediately after the words “ commercial terms and conditions”;
- (b) in the definition of the term “design competition” by inserting the words “quantity surveying” immediately after the word “architecture”;
- (c) in the definition of the term “procurement” by inserting the words “erection, construction, manufacture, installation” immediately after the words “ by purchase”;
- (d) in the definition of the term “ procuring agent” by inserting the words “or recognized” immediately after the words “has been registered”;
- (e) by deleting the definition of the term, “procurement professional” and substituting therefor the following definition —

“procurement professional means”—

- (a) for purposes of this Act, a person who holds a minimum of a Bachelor’s degree from a recognized University and has professional qualification in procurement and supply chain management from a recognized institution, and is a licensed member of the Kenya Institute of supplies Management established under the supplies Practitioners Management Act, or a recognized public or professional body dealing with procurement and asset disposal; or
- (b) in case or procurement for professional services regulated by statute written law, a person who has professional qualifications in the relevant profession and is licensed member of the relevant regulatory body”;
- (f) in the definition of the term “ standard” by inserting the words “ as published by the Kenya Bureau of Standards or any other relevant public institution or, in cases of specialized professional and technical items and services, as specified by the relevant regulated professional body or, in the absence of the foregoing” immediately after the word “ means”;
- (g) in the definition of the term “works” by inserting the words “specifying, quantifying, costing” immediately after the word “designing”;

CLAUSE 5

THAT, clause 5 of the Bill be amended by—

- (a) inserting the words “except for professional bodies regulated by Acts of Parliament” immediately after the word “disposal” appearing in subclause (1);
- (b) deleting subclause (2).

CLAUSE 9

THAT, clause 9 of the Bill be amended —

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

“(c) to enforce standards by the Kenya Bureau of Standards or any other relevant public institution or, in cases of specialised professional and technical items and services, as specified by the relevant regulated professional body or, in the absence of the foregoing , developed under this Act”;

- (b) in paragraph (l) by—

- (i) inserting the words “in consultation with and at the recommendation of other relevant statutory or regulated professional body, where applicable” immediately after the word “debarred” appearing in subparagraph (ii);
- (ii) inserting the words “in consultation with, or on the recommendation of, other relevant statutory or regulated professional body, where applicable” immediately after the word “works” appearing in subparagraph (iii);
- (iii) inserting the words “in consultation with, or on the recommendation of, the relevant statutory and regulated professional body, where applicable” immediately after the words “benchmarked prices” appearing in subparagraph (iv).

CLAUSE 11

THAT, clause 11 of the Bill be amended in sub-clause (1) (b) by inserting the following new sub-paragraphs immediately after sub-paragraph (iv)—

- “(v) quantity surveying;
- (vi) architecture; and
- (vii) engineering”.

CLAUSE 14

THAT, clause 14 be amended in subclause (3) by deleting the word “Three” and substituting therefor the word “Four”.

CLAUSE 29

THAT, clause 29 of the Bill be amended by—

- (a) inserting the words “professional and” immediately after the word “account” appearing in sub-clause (1);

- (b) inserting the words “any of” immediately after the words “have experience in” appearing in sub-clause (2);
- (c) inserting the following new paragraphs immediately after paragraph (h) in sub-clause (2)—
 - “(i) dispute resolution; and
 - “(j) construction.”

CLAUSE 36

THAT, clause 36 of the Bill be amended by—

- (a) deleting sub-clause (2);
- (b) deleting sub-clause (3).

CLAUSE 41

THAT, clause 41 of the Bill be amended —

- (a) in subclause (1), by inserting the words “ without lawful cause” immediately after the words “a written contract” appearing in paragraph (e) ;
- (b) in subclause (3), by inserting the following new paragraphs immediately after paragraph (a)—
 - “(aa) on the recommendation of a relevant public body”; and
 - “(ba) on the recommendation of a regulated professional body.”
- (c) in subclause (4), by deleting the words “three years” and substituting therefor the words “one year”.

CLAUSE 43

THAT, clause 43 of the Bill be amended by—

- (a) deleting subclause (1);
- (b) deleting subclause (2);
- (c) deleting subclause (3);
- (d) deleting subclause (4);
- (e) deleting subclause (5);
- (f) deleting subclause (6);
- (g) deleting subclause (7).

CLAUSE 46

THAT, clause 46 of the Bill be amended by—

- (a) deleting the word “may” appearing in sub-clause (3) and substituting therefor the word “shall”;
- (b) inserting the words “who shall be given sufficient time to independently peruse and evaluate the tender documents and present a professional opinion and recommendation to the committee” immediately after the words “procured consultants” appearing in sub-clause (4) (b);
- (c) inserting the words “resigned or has” immediately after the words “the issue has” appearing in sub-clause (4) (d);
- (d) deleting the word “may” appearing immediately after the word “committee” in sub-clause (7) and substituting therefor the word, “shall”; and
- (e) deleting sub-clause (8).

CLAUSE 50

THAT, clause 50 of the Bill amended by—

- (a) inserting the words “or other relevant statutory entity or regulated professional body” immediately after the word “Authority” appearing in sub-clause (3);
- (b) inserting the words “or other medium of communication, including notice boards, for the information of the public” immediately after the words, “website” appearing in sub-clause (4).

CLAUSE 51

THAT, clause 51 of the Bill be amended by—

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

“(3) A procuring entity may use the registers of another state organ, public entity or regulated professional body whenever the procuring entity’s list does not suffice”;
- (b) deleting the words “ or entity” and substituting therefor the words “ public entity or regulated professional body”.

CLAUSE 54

THAT, clause 54 of the Bill be amended by deleting the expression, “their spouse, child” appearing immediately before the words “or sub-contractor” in subclause (2)

CLAUSE 55

THAT, clause 55 of the Bill be amended by deleting the words “or public entity’s registration list of all registered persons in category provided that the list is valid and developed through a competitive process in accordance with relevant provisions of this Act” appearing in subclause (1) and substituting therefor the words “public entity’s or regulated professional body’s registration list of all registered persons in the category provided that the list is valid and developed through a competitive process in accordance with the relevant provisions of this Act or, in the case of regulated professional bodies, developed through a process in accordance with relevant provisions of the legislation regulating the particular profession.”

CLAUSE 59

THAT, clause 59 of the Bill be amended by—

- (a) inserting the words “taking into account the opinion or input of a licensed professional where technical or professional expertise is required” immediately after the words “procuring entity shall” appearing in sub-clause (1);
- (b) deleting paragraph (a) in sub-clause (3) and substituting therefor the following new paragraph—

“(a) conform to design, specification, functionality and performance”.

CLAUSE 60

THAT, clause 60 of the Bill be amended—

- (a) by deleting the word “or limits as may be prescribed” appearing in sub-clause (1) and substituting therefor the words “limitations and variations as may be prescribed in the regulations made under this Act”;
- (b) in subclause (2) by deleting paragraphs (a) and (b);
- (c) by deleting subclause (2) and substituting therefor the following new subclause—

“(2) Where applicable, the amount of the tender security shall not be more than two percent of the tendered sum”;
- (d) inserting the words “pursuant to the provisions of section 87 of this Act” immediately after the words “shall remain valid” appearing in paragraph (a) of sub-clause (3);
- (e) deleting paragraph (b) of sub-clause (3);
- (f) inserting the words “without lawful cause” immediately before the word “refuse” in paragraph (c) of sub-clause (3).

CLAUSE 62

THAT, clause 62 of the Bill be amended—

(a) in subclause (1), by—

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

“(a) the subject procurement has been overtaken by operations of law”;

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

“(b) force majeure”;

(iii) deleting paragraph (d) and substituting therefor the following new paragraph—

“(d) civil commotion, hostilities or an act of war”;

(iv) deleting paragraph (e);

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

“(1A) Where termination or cancellation of procurement occurs in the manner stated in subsection (1) at the instigation of an accounting officer or procurement entity at no fault of any or all the tenderers, all tenderers who had submitted their tenders and complied with all procurement requirements shall be entitled to a monetary compensation from the accounting officer or procurement entity as may be prescribed by regulations.”;

(c) inserting the words “and shall be circulated to all tenderers who had submitted their tenders” immediately after the words “the termination” appearing in sub-clause (3).

CLAUSE 65

THAT, clause 65 of the Bill be amended—

(a) inserting the words “for such period as may be prescribed in regulations” immediately after the word “proceedings” appearing in paragraph (3)(a);

(b) deleting the words “or his relative” appearing immediately after the words “awarded to the person” in subclause (7);

(c) deleting the words “or a relative of the person” appearing immediately after the word “if the person” in sub-clause (8);

(d) deleting sub-clause (10).

CLAUSE 67

THAT, clause 67 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (5)—

“(5A) After a contract has been awarded or procurement proceedings terminated or after all appeal proceedings, if any, have been exhausted and resolved, the procuring entity shall return all originals and copies of tender documents, including samples and other materials, to the respective unsuccessful tenderers without any further reference to the same and without charge to the tenderers.”

CLAUSE 68

THAT, clause 68 of the Bill be amended by deleting the words “urgent need” wherever they appear and substituting therefor the word “emergency”

CLAUSE 69

THAT, clause 69 of the Bill be amended—

(a) by inserting the following new subclause immediately after subclause (4)—

“(4A) Where the services of a regulated professional consultant have been retained in accordance with the written law governing that professional, the responsibility and liability of that professional’s input in the tender documents shall be borne by that professional”;

(b) in subclause (5), by deleting the words “for obtaining tender documents as prescribed” and substituting therefor the words “for issuing tender documents as may be prescribed in regulations or stated in the tender documents”;

(c) in subclause (6), by—

(i) deleting the words “and the time limit for delivery or completion” appearing in paragraph (a);

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

“(b) if works are being procured, relevant drawings specifications unpriced bills of quantities, details, samples and other relevant references shall be disclosed”;

(iii) inserting the words “or professional indemnity, as applicable” immediately after the words “ performance security” in paragraph (c);

(iv) inserting the words “if any” immediately after the words, “ tender number” in paragraph (d);

(v) deleting paragraph (e) and substituting therefor the following new paragraph —

“(e) instructions for the preparation, documentation, timing, correction, clarification, modification, responsiveness, submission, open validity, withdrawal, evaluation. termination, award, complaint resolution, and any other information pertaining to the tender process as contained in this Act and as may be prescribed by regulations”;

(vi) deleting paragraphs (f), (g) (h) (i) (j) (k), and (l).

CLAUSE 70

THAT, clause 70 be amended by—

(a) deleting subclause (2) and substituting therefor the following new subclause—

“(2) An application to be included in the list of the procuring entity may be made at any time at no cost”;

(b) deleting subclauses (3) and (4).

CLAUSE 71

THAT, clause 71 of the Bill be amended by inserting the phrase “subject to section 5” immediately before the word “Contractors”.

CLAUSE 72

THAT, clause 72 of the Bill be deleted.

CLAUSE 73

THAT, clause 73 of the Bill be deleted.

CLAUSE 74

THAT, clause 74 of the Bill be deleted.

CLAUSE 75

THAT, clause 75 of the Bill be deleted.

CLAUSE 76

THAT, clause 76 of the Bill be deleted.

CLAUSE 77

THAT, clause 77 of the Bill be deleted.

CLAUSE 78

THAT, clause 78 of the Bill be deleted.

CLAUSE 79

THAT, clause 79 of the Bill be deleted.

CLAUSE 80

THAT, clause 80 of the Bill be deleted.

CLAUSE 81

THAT, clause 81 of the Bill be deleted and be replaced with the following new clause—

Correction of
arithmetic errors.

81.(1) The tender sum as submitted and read out during the tender opening shall be absolute and final and shall not be the subject of correction, adjustment or amendment in any way by any person or entity.

(2) A procuring entity, in the cause of tender evaluation, may correct an arithmetic error in any tender only for the purpose of ascertaining the percentage of error adjustment to be applied on the tender unit rates during the calculation for interim valuations, variations and the final account.

(3) In the calculation of the percentage of error as defined in subsection (2), the amounts included in the tender documents for prime costs, provisional sums, preliminary items and any other printed amounts that the tenderer has no right to tender for shall be excluded.

CLAUSE 82

THAT, clause 82 of the Bill be amended by—

- (a) deleting all the words appearing after the words “due diligence” in subclause (1) and substituting therefor the words “to confirm and verify the capacity of the tenderers who submitted the lowest evaluated and most responsive tenders and whose tenders are being considered for award of contract in accordance with the provisions of this Act”;
- (b) deleting sub-clause (2).

CLAUSE 83

THAT, clause 83 of the Bill be deleted.

CLAUSE 84

THAT, clause 84 of the Bill be deleted.

CLAUSE 85

THAT, clause 85 of the Bill be deleted.

CLAUSE 86

THAT, clause 86 of the Bill be deleted.

CLAUSE 87

THAT, clause 87 of the Bill be deleted and replaced with the following new clause—

Extension of tender validity period. **87.** (1) The validity of any tender shall not be more than ninety calendar days from the date prescribed in the tender documents for opening of tenders.

(2) A procuring entity may extend the tender validity period set in subsection (1) only once for a period not exceeding thirty calendar days without the concurrence of the tenderers.

(3) A procuring entity may further extend the extended tender validity period set in subsection (2) by a further period not exceeding sixty calendar days with the written concurrence of the tenderers.

(4) A tenderer shall forfeit his or her tender security if he or she withdraws his or her tender before the expiry of the initial and extended tender validity periods prescribed in subsection (1), (2) and (3).

(5) Notwithstanding subsection (4), a tenderer who declines to concur with the request for additional extension stipulated in subsection (3) for whatever reasons shall not forfeit his or her tender security.

CLAUSE 88

THAT, clause 88 of the Bill be amended by—

(a) deleting the word “person” wherever it appears;

(b) deleting paragraph (g) and substituting therefor the following new paragraph—

“(g) where the procurement is for works or services, or a combination of both goods and services, the foreign tenderer shall incorporate a local or citizen qualified company, firm or person in a joint venture that shall submit the tender with the local component holding not less than forty percent shareholding in the joint venture”.

CLAUSE 91

THAT, clause 91 of the Bill be amended by deleting paragraph (k) and substituting therefor the following new paragraph—

“(k) any other procurement method and procedure as prescribed in regulations and described in the tender documents.”

CLAUSE 92

THAT, clause 92 of the Bill be amended by—

(a) deleting the word “procedures ” appearing in the marginal notes;

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

“(1) A procuring entity may conduct a pre-qualification process, where applicable, as a basic procedure prior to adopting an alternative procurement method other than open tender for the purpose of identifying the best candidates for the procurement for complex and specialized goods, works and services”;

(c) deleting subclause (2) and substituting therefor the following new subclause—

“(2) The pre-qualification procedures, documents, approvals and any other requirements shall be as defined in the tender documents”;

(d) deleting subclause (3);

(e) deleting subclause (4).

CLAUSE 93

THAT, clause 93 of the Bill be deleted.

CLAUSE 94

THAT, clause 94 of the Bill be deleted.

CLAUSE 95

THAT, clause 95 of the Bill be deleted and replaced with the following new clause—

Procedures and
details of
procurement
methods.

95. (1) The detailed procedures of any procurement method adopted for a particular procurement shall be provided for in the tender documents for that procurement.

(2) The procedures for any and all available and applicable procurement methods shall be prescribed and provided for in regulations.

(3) No particular procurement method shall be adopted for the procurement of a regulated professional service that infringes on, overrides or otherwise compromises the integrity of the provisions of the written law that regulates that professional service.

CLAUSE 96

THAT, clause 96 of the Bill be deleted.

CLAUSE 97

THAT, clause 97 of the Bill be deleted.

CLAUSE 98

THAT, clause 98 of the Bill be deleted.

CLAUSE 99

THAT, clause 99 of the Bill be deleted.

CLAUSE 100

THAT, clause 100 of the Bill be deleted.

CLAUSE 101

THAT, clause 101 of the Bill be deleted.

CLAUSE 102

THAT, clause 102 of the Bill be deleted.

CLAUSE 103

THAT, clause 103 of the Bill be deleted.

CLAUSE 104

THAT, clause 104 of the Bill be deleted.

CLAUSE 105

THAT, clause 105 of the Bill be deleted.

CLAUSE 106

THAT, clause 106 of the Bill be deleted.

CLAUSE 107

THAT, clause 107 of the Bill be deleted.

CLAUSE 108

THAT, clause 108 of the Bill be deleted.

CLAUSE 109

THAT, clause 109 of the Bill be deleted.

CLAUSE 110

THAT, clause 110 of the Bill be deleted.

CLAUSE 111

THAT, clause 111 of the Bill be deleted.

CLAUSE 112

THAT, clause 112 of the Bill be deleted.

CLAUSE 113

THAT, clause 113 of the Bill be deleted.

CLAUSE 114

THAT, clause 114 of the Bill be amended in subclause (2) by—

(a) deleting paragraph (b);

(b) deleting paragraph (f).

PART X

THAT, the heading to Part X be amended by inserting the words “REGULATED” immediately after the words “PROCUREMENT OF”

CLAUSE 115

THAT, clause 115 of the Bill be amended by inserting the word “ regulated” immediately after the words “procurement of”.

CLAUSE 116

THAT, clause 116 of the Bill be amended in sub-clause (2) by inserting the words “the provisions of the statute regulating the relevant profession and” immediately after the words “subject to”.

CLAUSE 125

THAT, clause 125 of the Bill be amended by—

(a) deleting all the words appearing after the words “Procuring Entity shall” and substituting therefor the words “subject to the provisions of the written law regulating the relevant profession, select an appropriate method, as prescribed in the regulations, to be used to evaluate proposals and shall state the selection procedure in the request for proposals” in sub-clause (1);

(b) deleting subclauses (2), (3), (4), (5), (6), (7), (8), (9), (10), (11), (12), (13) and (14).

CLAUSE 126

THAT, clause 126 of the Bill be deleted.

CLAUSE 127

THAT, clause 127 of the Bill be deleted.

CLAUSE 128

THAT, clause 128 of the Bill be deleted.

CLAUSE 129

THAT, clause 129 of the Bill be deleted.

CLAUSE 130

THAT, clause 130 of the Bill be deleted.

CLAUSE 132

THAT, clause 132 of the Bill be deleted.

CLAUSE 133

THAT, clause 133 of the Bill be deleted.

CLAUSE 134

THAT, clause 134 of the Bill be amended by deleting sub-clause (2).

CLAUSE 136

THAT, clause 136 of the Bill be amended by deleting paragraph (c) of sub- clause (6) and substituting therefor the following new paragraph—

“(c) price schedule or bills of quantities submitted by the tenderer”.

CLAUSE 137

THAT, clause 137 of the Bill be amended by—

- (a) deleting the words “the accounting officer of a procuring entity may notify, under section 86 (1), the person who submitted the second lowest evaluated tender” appearing in sub-clause (1) and substituting therefor the words “he or she shall forfeit his or her tender security and the procurement process shall proceed with the next lowest evaluated tenderer”;
- (b) deleting subclause (2);
- (c) deleting subclause (3)
- (d) deleting sub-clause (4).

CLAUSE 139

THAT, clause 139 of the Bill be deleted.

CLAUSE 140

THAT, clause 140 of the Bill be amended by—

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

“(1) An amendment or a variation to a contract resulting from a procurement proceeding shall be effective only if the variation or amendment has been approved in writing by the respective tender awarding authority within a procuring entity”;

(b) inserting the words “or, in the case of a procurement for works, on the recommendation of the consultant or relevant professional” immediately after the words “ a tender committee” appearing in sub-clause 2;

(c) deleting the word “twelve” in subclause (3) and substituting therefor the word “three”;

(d) deleting the word “twelve” in subclause (4) and substituting therefor the word “three”;

(e) inserting the words “or, in the case of a procurement for works, prevailing rates and index obtained from the cost planning unit of the Ministry for the time being responsible for public works” immediately after the words “Central Bank of Kenya” appearing in paragraph (a) of sub-clause (4);

(f) inserting the words “or approved extended period” immediately after the words “period of contract” in paragraph (d) of sub-clause (4);

(g) deleting sub-clause (5).

CLAUSE 141

THAT, clause 141 be deleted and replaced with the following new clause—

Interest on delayed
payments, liquidated
and ascertained
damages.

141. (1) In case of a delay in the payment of amounts due to the contractor or supplier beyond the period of honouring such payment by the procuring entity as stated in the contract documents, the contractor or supplier shall be entitled to a claim for interest on the delayed amount from the procuring entity until such payment has been honoured.

(2) The amount of the claim for interest on delayed payments shall be evaluated based on the mean commercial lending rate prevailing one month prior to the date of commencement of the delay as determined by the Central Bank of Kenya or as may be prescribed by regulations.

(3) In case of delay by a supplier or contractor in delivery of goods or services or completion of works beyond the date stipulated in the contract documents without lawful or reasonable cause, the procurement entity shall be entitled to levy an amount for liquidated and ascertained damages on the supplier or contractor, for damages suffered or losses incurred due to the delayed delivery or completion.

(4) The amount to be levied by the procuring entity on the supplier or contractor as liquidated and ascertained damages shall be calculated professionally so as to reflect the true, unquantifiable and proven damages and losses suffered or incurred by the procuring entity due to the delay.

(5) The amount calculated pursuant to subsection (4) shall be absolute and shall be stated in the contract documents together with the unit period to which it applies.

CLAUSE 143

THAT, clause 143 be amended by deleting subclause (1) and substituting therefor the following new subclause—

“(1) Subject to any limitations, exemptions or conditions that may be prescribed in regulations, a successful tenderer shall be required to provide a performance security equivalent to not more than ten per cent of the contract amount before signing of the contract”.

CLAUSE 144

THAT, clause 144 be amended by—

(a) renumbering the existing provision as subclause (1);

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

“(2) A tenderer for regulated professional services shall be required to provide a professional indemnity insurance policy cover as a performance security before signing of the contract”.

CLAUSE 145

THAT, clause 145 be amended by—

(a) deleting subclause (1);

(b) deleting subclause (3) and substituting therefor the following new subclause—

“(3) The bank or authorised financial institution shall be obliged to pay interest on the amount of security for any period of delay to honour the demand by the procuring entity as may be prescribed by regulations or stipulated in the contract documents or the form of performance security”.

CLAUSE 146

THAT, clause 146 be amended in subclause (2) by inserting the words “except in cases of procurement for works where the period shall commence from the date of practical completion or handover, whichever is earlier”.

CLAUSE 147

THAT, clause 147 of the Bill be deleted.

CLAUSE 148

THAT, clause 148 be deleted and replaced with the following new clause—

Advance payment
and its security.

148. (1) At the request of the contractor or supplier, the procuring entity may consider making an advance payment to the contractor or supplier at any time during the currency of the contract.

(2) The advance payment referred to in subsection (1) shall not exceed twenty per cent of the contract amount.

(3) The advance payment shall be recovered in instalments from the interim payments due to the contractor or supplier, excepting the final payment, in the manner, method and amounts stipulated in the contract document.

(4) The advance payment shall be secured with an advance payment security of similar amount issued by a bank or financial institution recognised by the Central Bank of Kenya, and the security shall be discharged by the bank or financial institution on recovery of the advance payment or otherwise seized upon if the procuring entity lodges a claim.

CLAUSE 149

THAT, clause 149 of the Bill be deleted.

CLAUSE 151

THAT, clause 151 be amended in subclause (1), by inserting the words “on the recommendation of a professional or technical expert where applicable” immediately after the word “officer”.

CLAUSE 152

THAT, clause 152 of the Bill be deleted.

CLAUSE 153

THAT, clause 153 of the Bill be deleted.

CLAUSE 154

THAT, clause 154 be deleted and replaced with the following new clause—

Termination of
contract.

154. A contract may be terminated as may be prescribed in the regulations or stated in the contract documents.

CLAUSE 155

THAT, clause 155 be deleted and replaced with the following new clause—

Contract close out.

155. The procedures for the close out of a contract shall be as prescribed in the regulations..

CLAUSE 158

THAT, clause 158 be amended—

- (a) in subclause (2), by inserting the words “as may be prescribed in the regulations” immediately after the word “disposal”;
- (b) by deleting subclauses (5), (6), (7), (8) and (9).

CLAUSE 159

THAT, clause 159 of the Bill be deleted.

CLAUSE 160

THAT, clause 160 of the Bill be deleted.

CLAUSE 161

THAT, clause 161 of the Bill be deleted.

CLAUSE 162

THAT, clause 162 of the Bill be deleted.

CLAUSE 163

THAT, clause 163 of the Bill be deleted.

5) Notice is given that the Hon. Johnson Sakaja, M.P., intends to move the following amendments to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—

CLAUSE 2

THAT clause 2 be amended—

- (a) by deleting the proposed definition of the term “disadvantaged group” and substituting therefore the following new definition—

“disadvantaged group” means a group of persons perceived to be denied by mainstream society of access to resources and tools which are useful for their survival in a way that disadvantages them, or individuals who have been subjected to prejudice or cultural bias because of their identity as members of a certain group without regard to their individual qualities, and includes enterprises in which a majority of the members or shareholders are youth, women or persons with disability;

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

“persons with disability” means a person with disability who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholders, members or persons and a majority of the directors are persons with disability;

“women” means a person of the female gender who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of the shareholder, members or persons and a majority of its directors are of the female gender;

“youth” means a person who has attained the age of eighteen years and has not attained the age of thirty-five years and includes a company, association or body of persons, corporate or unincorporated in which all its directors or proprietors are persons who have attained the age of eighteen years and have not attained the age of thirty-five years.

CLAUSE 9

THAT clause 9 be amended by—

(a) inserting the following new paragraph immediately after paragraph (p)—

“(q) to ensure the procurement entities implement the preference and reservations and provide data to the Authority disaggregated to indicate the number of disadvantaged groups that have benefitted”;

(b) renumbering the existing paragraph (q) as paragraph (r)

CLAUSE 158

THAT clause 158 be amended by—

(a) deleting sub clause 4 and substituting therefor—

“(4) For the purpose of protecting and ensuring the advancement of persons, categories of persons or groups previously disadvantaged by unfair competition or discrimination, reservations, preferences and shall apply to —

(a) candidates such as disadvantaged groups;

(b) micro, small and medium enterprises;

(c) works, services and goods, or any combination thereof;

(d) identified regions; and

(e) such other categories as may be prescribed”

(b) inserting the following new subsections immediately after subsection (9)—

“(10) Despite subsection (2) or any other provisions of this Act, every procuring entity shall ensure that at least thirty percent of its procurement value in every financial year is allocated to the youth, women and persons with disability.

(11) Every procuring entity shall ensure that all money paid out to an enterprise owned by youth, women or persons with disability is paid into an account where the mandatory signatory is a youth, woman or a person with disability.

(12) The procuring entities at the national and county level shall make a quarterly report to the Authority.

(13) A report under subsection (12) shall—

(a) certify compliance with the provisions of this section; and

(b) provide data disaggregated to indicate the number of youth, women and persons with disability whose goods and services have been procured by the procuring entity.

(14) The Authority shall make a quarterly report to Parliament for consideration by the relevant committee responsible for equalization of opportunities for youth, women and persons with disability, which report shall contain details of the procuring entities and how they have complied with the provisions of this section.

(15) The Cabinet Secretary shall prescribe the preferences that shall facilitate the attainment of the quota specified in subsection (10) in order for the State to achieve the objectives of Articles 55 and 227(2) of the Constitution.

(16) The preferences referred to in subsection (15) shall—

- (a) be prescribed within ninety days after commencement of this Act;
- (b) be subject to such conditions as the Cabinet Secretary may specify therein but such conditions shall not pose any unnecessary impediment to the youth from participating in public procurement.

(17) The right of equality and freedom from discrimination under Article 27 of the Constitution shall be limited as specified under this section for the purposes of—

- (a) facilitating affirmative action to ensure that the youth access employment and have opportunities to participate in economic spheres of life as contemplated by Articles 54, 55, 56 and 227 of the Constitution;
- (b) protection or advancement of the youth in accordance with Article 227 of the Constitution who have previously been disadvantaged by unfair competition or discrimination in the procurement process.

(17) For the purpose of Article 94 of the Constitution—

- (a) the purpose and object of the delegation of legislative power under this section is to enable the Cabinet Secretary devise mechanisms that safeguard against possible abuse in the legislative endeavor for the attainment of the objects specified in paragraphs (a) and (b) of subsection (13); and
- (b) the principles and standards applicable to the regulations made under this subsection are those set out in this Act and in the Interpretations and General Provisions Act and the Statutory Instruments Act, 2013.

CLAUSE 166

THAT clause 166 be amended by inserting the following sub clause immediately after sub clause (1)—

“(2) Despite subsection (1) or any other provisions of this Act, radioactive or electronic waste shall be disposed of only to persons licensed to handle the respective waster under section 88 of the Environmental Management and Co-ordination Act, 1999.”

6) Notice is given that Hon. Sunjeev Kaur Birdi , intends to move the following amendment to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—

CLAUSE 2

THAT, clause 2 be amended, in the definition of “design competition”, by inserting the words “marketing and advertising” immediately after the words “fine arts”

7) Notice is given that the Member for Alego Usonga (Hon. George Omondi) intends to move the following amendment to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—

CLAUSE 54

THAT, clause 54(1)(b) be amended by deleting the words “and is not the subject of legal proceedings relating to the foregoing” appearing immediately after the words “wound up”.

8) Notice is given that the Member for Runyenjes, Hon. Cecily Mbarire, M.P., intends to move the following amendments to the Public Procurement and Asset Disposal Bill, 2014 at the Committee Stage—

CLAUSE 2

THAT, clause 2 of the Bill be amended by—

- (a) deleting the definition of “accounting officer” and substituting therefor the following new definition—

“accounting officer” means—

- (a) for a public entity other than a county government entity, the person appointed by the principal secretary to the treasury as the accounting officer or, if there is no such person, the chief executive of the public entity; or
- (b) county executive committee member responsible for finance as the accounting officer, or if there is no such person, the chief executive of the county entity”;

- (b) deleting the definition of “disadvantaged group” and substituting therefor the following new definition—

“disadvantaged group” means persons perceived to be denied, by mainstream society access to resources and tools which are useful for their survival in a way that disadvantages them, or who have been subjected to prejudice or cultural bias because of their identities as members of groups without regard to their individual qualities, and includes enterprises owned by women, the youth and persons with disabilities;

- (c) deleting the definition of “public entity” and substituting therefor the following new definition—

“public entity” means—

- (a) the national government or any department of the national government;
- (b) the county government or any department of the county government;
- (c) the courts;

Cap.
446.

(d) the commissions and independent offices established under the Constitution;

Cap.
490.

(e) a State Corporation within the meaning of the State Corporations Act;

No. 14
of
2013

(f) the Central Bank of Kenya established under the Constitution;

(g) a co-operative society established under the Co-operatives Societies Act;

No. 42
of
2012.

(h) a public school within the meaning of the Basic Education Act, 2013;

(i) a public university within the meaning of the Universities Act, 2012;

(j) a college or other education institution maintained or assisted out of public funds; or

(k) an entity prescribed as a public entity for the purpose of this Act.

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

“person with disability” means a person with disability who has attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which, at least, seventy percent of the shareholders are persons with disabilities and one hundred percent of the directors are persons with disability;

“women” means persons of the female gender who have attained the age of eighteen years and includes a company, association or body of persons, corporate or unincorporated in which at least seventy percent of shareholders are of the female gender and one hundred percent of the directors are of female gender and have attained the age of eighteen years;

“youth” means a person who has attained the age of eighteen years and has not attained the age of thirty-five years and includes a company, association or body of persons corporate or unincorporated in which all its directors or proprietors are persons who have attained the age of eighteen years and have not attained the age of thirty-five years.

CLAUSE 9

THAT, clause 9 be amended by inserting the following new paragraphs immediately after paragraph (d) —

“(da) to monitor the implementation of the preference and reservations schemes by procuring entities;

(db) to ensure that the procurement entities implement the preference and reservations and provide disaggregated data to the authority to indicate the number of disadvantaged groups that have benefited;”.

CLAUSE 44

THAT, clause 44 be amended by inserting the following new paragraphs immediately after paragraph (h) —

“(ha) submit to the Authority the part in its procurement plan demonstrating application of preference and reservations schemes in relation to the procurement budget within sixty days after commencement of the financial year; and”.

CLAUSE 62

THAT, clause 62 of the amended by inserting the following new subclause immediately after subclause (3)—

“(4) An accounting officer shall notify all persons who submitted tenders of the termination within fourteen days of termination and such notice shall contain the reason for termination.”

CLAUSE 64

THAT, clause 64 of the amended by inserting the following new subclause immediately after subclause (2)—

“(3) Upon completion of the evaluation process, a tenderer may communicate with the procuring entity on the procurement proceedings”.

CLAUSE 94

THAT, clause 94 of the Bill be amended by inserting the following new sub-clause immediately after subclause (3) —

“(4) A procuring entity shall notify every candidate who submitted an application for pre-qualification but did not qualify”.

CLAUSE 158

THAT, clause 158 be amended in subclause (5) by deleting the words “a prescribed percentage” and substituting therefor the words “at least thirty per cent”.

CLAUSE 159

THAT, clause 159 be amended in subclause (3) by inserting the words “with disaggregated data” immediately after the words “reported”.

The House resolved on Wednesday, February 11, 2015 as follows:-

- I. **THAT**, pursuant to the provisions of Standing Order 97 (4), debate on the Motion on the Address by the President shall be limited to no more than five (5) minutes for each Member Speaking, thirty (30) minutes for the Mover in moving and replying and twenty (20) minutes for the Leader of Minority Party.
- II. **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.
- III. **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.

NOTICE PAPER

Tentative business for
Thursday (Afternoon), April 02, 2015

(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 Thursday (Afternoon), April 02, 2015:

A. PROCEDURAL MOTION - EXTENSION OF SITTING TIME

(Leader of the Majority Party)

B. THE NATIONAL YOUTH EMPLOYMENT AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 08 OF 2015)

(The Hon. Johnston Sakaja, MP)

First Reading

C. THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 09 OF 2015)

The Hon. Irungu Kangata, MP

First Reading

D. MOTION - APPROVAL OF APPOINTMENT TO COMMITTEES

(The Chairperson, Committee on Selection)

E. MOTION - REPORT ON VETTING OF NOMINEES FOR APPOINTMENT AS COMMISSIONERS TO THE JUDICIAL SERVICE COMMISSION

(The Chairperson, Departmental Committee on Justice and Legal Affairs)

F. MOTION - ADOPTION OF THE SECOND OF THE COMMITTEE OF PRIVILEGES

(The Chairperson, Committee on Privileges)

G. MOTION - RATIFICATION OF EIGHT (8) INTERNATIONAL CONVENTIONS & PROTOCOLS

(The Chairperson, Committee on Transport, Public Works & Housing)

H. ADJOURNMENT OF THE HOUSE IN ACCORDANCE WITH THE CALENDER OF THE NATIONAL ASSEMBLY



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

THURSDAY, APRIL 02, 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 - EXTENSION OF SITTING TIME
(The Leader of the Majority Party)

THAT, pursuant to the provisions of Standing Order 30 (3) (a), this House resolves to extend its Sitting time today, until conclusion of Business appearing in the Order Paper.

9*. THE NATIONAL YOUTH EMPLOYMENT AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 08 OF 2015)
(The Hon. Johnston Sakaja, MP)

First Reading

10*. THE HIGHER EDUCATION LOANS BOARD (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 09 OF 2015)
(The Hon. Irungu Kangata, MP)

First Reading

11*. MOTION - APPROVAL OF APPOINTMENT TO COMMITTEES
(The Chairperson, Committee on Selection)

THAT, further to the resolution of the House on October 08, 2013 on appointment of Members to respective Committees, this House approves the appointment of the **Hon. Elijah Memusi, M.P.** to the Departmental Committee on Defence and Foreign Relations and the Joint Committee on National Cohesion and Equal Opportunity.

12*. MOTION – REPORT ON VETTING OF NOMINEES FOR APPOINTMENT AS COMMISSIONERS TO THE JUDICIAL SERVICE COMMISSION

(The Chairperson, Departmental Committee on Justice and Legal Affairs)

THAT, this House adopts the Report of the Departmental Committee on Justice and Legal Affairs on the vetting of the nominees for appointment as Commissioners to the Judicial Service Commission, *laid on the Table of the House on Tuesday, March 31, 2015*, and in accordance with the provisions of Article 171(2) of the Constitution and Section 15(1) of the Judicial Service Commission, **approves** the appointment of **Mr. Kipng'etich Arap Korir Bett**, and **Mrs. Winifred Waceka Guchu** as Commissioners to the Judicial Service Commission.

13*. MOTION – ADOPTION OF THE SECOND OF THE COMMITTEE OF PRIVILEGES

(The Chairperson, Committee on Privileges)

THAT, this House adopts the Second Report and Recommendations of the Committee of Privileges on alleged Breach of Privilege and/or Code of Conduct by the Membership of Public Accounts Committee, *laid on the Table of the House on Tuesday, March 31, 2015*.

14*. MOTION – RATIFICATION OF EIGHT (8) INTERNATIONAL CONVENTIONS & PROTOCOLS

(The Chairperson, Committee on Transport, Public Works & Housing)

THAT, this House adopts the Report of the Departmental Committee on Transport, Public Works & Housing on its consideration of Eight International Conventions and Protocols relating to the Maritime Industry laid on the Table of the House on Wednesday, 1 April 2015; and pursuant to Section 8 of the Treaty Making and Ratification Act, 2012, **approves** the ratification of:

- (i) The 1988 Protocol to the Load Lines Convention, 1966;
- (ii) The 1978 Protocol to the 1974 Safety of Life At Sea (Solas) Convention (Solas 78 Protocol);
- (iii) The Protocol of 1988 Relating to the International Convention for the Safety of Life At Sea, 1974;
- (iv) The International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- (v) Convention on the Limitation of Liability for Maritime Claims 1976 (LLMC 1976) ;
- (vi) The 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims (LLMC), 1976; ***subject to reservation of the right to exclude claims for damage within the meaning of the Hazardous and Noxious Substances (HNS) convention to avoid two systems of liability arising from the consolidated LLMC and the HNS Convention.***

...../(vii)

- (vii) The Nairobi International Convention on Removal of Wrecks, 2007; and
- (viii) The International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001.

* Denotes Orders of the Day

N O T I C E S

The House resolved on Wednesday, February 11, 2015 as follows:-

- I. **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.
- II. **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.

III. THAT, notwithstanding the provisions of Standing Order 97(4), the debate on any Motion for the **Adjournment** of the House to a day other than the next normal Sitting Day in accordance with the Calendar of the Assembly, shall be limited to a maximum of three (3) hours with not more than five (5) minutes for each Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of ten (10) minutes each; and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order.

Provided that, when the period of Recess proposed by any such motion does not exceed ten (10) days, the debate shall be limited to a maximum of thirty minutes (30), and shall be strictly confined to the question of the adjournment.

NOT LATER THAN 6.00 P.M.

ADJOURNMENT OF THE HOUSE IN ACCORDANCE WITH THE CALENDER OF THE NATIONAL ASSEMBLY

The Speaker will today call upon the Leader of the Majority Party to move a Motion for Adjournment of the House to a day other than the next normal Sitting Day, in accordance with the Calendar of the Assembly (Regular Sessions).

(Thereafter, the House to adjourn without question put)

MOTION – (The Leader of the Majority Party)

THAT, pursuant to the provisions of Standing Order 28, this House adjourns until **Tuesday, April 14, 2015**, in accordance with the Calendar of the Assembly (Regular Sessions).
