



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (FOURTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**THURSDAY, APRIL 21, 2016 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\*\*.** **THE COMMUNITY LAND BILL (NATIONAL ASSEMBLY NO. 45 OF 2015)**

(The Leader of the Majority Party)

Third Reading

*(Question to be put)*

**9\*.** **MOTION - INITIATIVE TO PROMOTE CLEAN ENVIRONMENT**

(The Hon. (Dr.) Wilber Ottichilo, M.P.)

**THAT**, aware that Article 42 of our Constitution accords every person the right to a clean and healthy environment and that Article 69(1)(d) mandates the State to encourage public participation in the management, protection and conservation of the environment; deeply concerned that our homes, roads, public and private premises, work places, recreational areas and general environment are littered with plastics, solid and liquid wastes as well as lacking good general environmental aesthetics, this House resolves that the Government declares one **Thursday** of each month be dedicated by every Kenyan household, organized groups, public and private institutions and corporate organizations to cleaning and beautifying their immediate environment and public places and also initiates a proactive programme in all our schools to inculcate the culture of keeping our environment clean and healthy.

*(Motion as amended)*

*(Question to be put)*

**10\*. MOTION - APPROVAL OF THE MEDIATED VERSION OF THE POLITICAL PARTIES (AMENDMENT) BILL, 2014**  
(The Vice-Chairperson, Mediation Committee)

**THAT**, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Consideration of the Political Parties (Amendment) Bill (Senate Bill No. 3 of 2014), laid on the Table of the House on Tuesday, 12<sup>th</sup> April 2016, and **approves** the Mediated Version of the Political Parties (Amendment) Bill (Senate Bill No. 3 of 2014).

*(Question to be put)*

**11\*. PROCEDURAL MOTION - EXTENSION OF THE PERIOD FOR CONSIDERATION OF A PETITION**  
(The Chairperson, Constitutional Implementation Oversight Committee)

**THAT**, notwithstanding the provisions of Standing Order 227(2), this House resolves to extend the period for consideration of the Petition submitted by one Maj. (Rtd) Joel Kiprono Rop regarding a proposed Comprehensive Constitutional Amendment Bill, referred to the Constitutional Implementation Oversight Committee by a further period of twenty one (21) days from 14<sup>th</sup> April, 2016.

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

(i) The County Governments (Amendment)(No. 2) Bill (Senate Bill No. 2 of 2014)  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

(ii) The Political Parties (Amendment) Bill (National Assembly Bill No. 2 of 2016)  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

**13\*\*. THE CONSTITUTION OF KENYA (AMENDMENT) (No. 4) BILL (NATIONAL ASSEMBLY BILL NO. 38 OF 2015)**  
(The Leader of the Majority Party)

Second Reading

*(Resumption of debate interrupted on Tuesday, April 19, 2016)*

**14\*. THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO. 63 OF 2015)**  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

**15\*\* . THE JUDICIARY FUND BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2016)**

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

Second Reading

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

(The Leader of the Majority Party)

Second Reading

**17\* . THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**

(The Leader of the Majority Party)

Second Reading

**18\* . THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate adjourned on Thursday, March 10, 2016 – Afternoon Sitting)*

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**\* Denotes Orders of the Day**

**\*\* Denotes Bill with Constitutional Timeline**

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## N O T I C E S

### I. THE POLITICAL PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2016)

**Notice is given that the Chairperson of the Departmental Committee on Justice and Legal Affairs, intends to move the following amendments to the Political Parties (Amendment) Bill (National Assembly Bill No. 2 of 2016) at the Committee Stage-**

#### **CLAUSE 2**

**THAT**, clause 2 of the Bill be amended by inserting the following new definition in proper alphabetical sequence-

“party primary” means the process through which a political party elects or selects its candidates for a forthcoming general election or for a forthcoming by-election;

#### **CLAUSE 15**

**THAT**, clause 15 of the Bill be amended in paragraph (a) by inserting the following new sub-paragraph immediately paragraph (i)-

(j) has contravened the provisions of Article 81(b) of the Constitution;

#### **CLAUSE 16**

**THAT**, clause 16 of the Bill be amended by inserting the following new paragraph immediately before paragraph (a)-

(aa) by deleting sub-section (1) and substituting therefor the following new sub-section-

(1) The Fund shall be distributed as follows-

(a) eighty percent of the Fund proportionately by reference to the total number of votes secured by each political party in the preceding general election;

(b) fifteen percent of the Fund proportionately by reference to the proportion of women elected within each party in Parliament; and

(c) five per cent for the administration expenses of the Fund

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause 16A immediately after clause 16-

Insertion  
of new  
section  
26A in  
No. 11 of  
2011

**16A.** The principal Act is amended by inserting the following new section immediately after section 26-

The Special  
Elections  
Fund

26A.(1) There is established a Fund to be known as the Special Election Fund which shall be administered by the Registrar.

(2) The sources of the Fund shall consist of-

(a) such moneys as may be provided by Parliament for that purpose;

(b) contributions and donations to the Fund from any other lawful source;

(3) Moneys from the Fund shall be used to support women candidates in an election carried out under this Act.

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause 16B immediately after clause 16-

Amendment of  
section 29 of No. 11  
of 2011

**16B.** Section 29 of the principal Act is amended in sub-section(1) by inserting the words "including details of the amount allocated and expended to promote representation of special interest groups in Parliament" immediately after the word "party" appearing in paragraph (b).

**NEW CLAUSE**

**THAT**, the Bill be amended by inserting the following new clause 21A immediately after clause 21-

Amendment of section  
49 of No. 11 of 2011

**21A.** Section 49 of the principal Act is amended in sub-section(2) by inserting the following new paragraphs immediately after paragraph (g)-

(h) prescribing procedures for nomination of candidates for a party at the National Delegates Conference for the National Assembly and the Senate that ensures representation of special interest groups;

(i) prescribing procedures for the consolidation of a party list that ensures that special interest groups are represented; and

(j) prescribing procedures for the distribution of the fifteen per cent allocation of the Fund to ensure adequate distribution to special interest groups elected in Parliament by each political party in the preceding general election.

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The House resolved on Wednesday, February 10, 2016 as follows:-

- 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 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 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 be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that Order.
- IV. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on 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.
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# NOTICE PAPER

Tentative business for

Thursday (Afternoon), April 21, 2016

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

It is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for Thursday (Afternoon), April 21, 2016:-

**A. COMMITTEE OF THE WHOLE HOUSE**

The Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015)  
(The Leader of the Majority Party)

**B. THE JUDICIARY FUND BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2016)**

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

Second Reading

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

(The Leader of the Majority Party)

Second Reading

**D. THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**

(The Leader of the Majority Party)

Second Reading

**E. THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate adjourned on Thursday, March 10, 2016 – Afternoon Sitting)*

**F. THE CONTROLLER OF BUDGET BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2015)**

(The Leader of the Majority Party)

Second Reading



**G. THE MISCELLANEOUS FEES AND LEVIES BILL (NATIONAL  
ASSEMBLY BILL NO. 30 OF 2015)**

(The Leader of the Majority Party)

Second Reading

**H. THE KENYA DEFENCE FORCES (AMENDMENT) BILL (NATIONAL  
ASSEMBLY BILL NO. 41 OF 2015)**

(The Leader of the Majority Party)

Second Reading

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**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (FOURTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**THURSDAY, APRIL 21, 2016 AT 2.30 P.M**

**ORDER OF BUSINESS**

**PRAYERS**

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**8\*\*. COMMITTEE OF THE WHOLE HOUSE**

The Land Laws (Amendment) Bill (National Assembly Bill No. 55 of 2015)  
(The Leader of the Majority Party)

**9\*\*. THE JUDICIARY FUND BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2016)**

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

Second Reading

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

(The Leader of the Majority Party)

Second Reading

**11\*. THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**

(The Leader of the Majority Party)

Second Reading

**12\*. THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY BILL NO. 12 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate adjourned on Thursday, March 10, 2016 – Afternoon Sitting)*

**13\*. THE CONTROLLER OF BUDGET BILL (NATIONAL ASSEMBLY BILL NO.21 OF 2015)**

(The Leader of the Majority Party)

Second Reading

**14\*. THE MISCELLANEOUS FEES AND LEVIES BILL (NATIONAL ASSEMBLY BILL NO. 30 OF 2015)**

(The Leader of the Majority Party)

Second Reading

**15\*. THE KENYA DEFENCE FORCES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 41 OF 2015)**

(The Leader of the Majority Party)

Second Reading

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**\* Denotes Orders of the Day**

**\*\* Denotes Bill with Constitutional Timeline**

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# N O T I C E S

## I. THE LAND LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2015)

1) Notice is given that the Chairperson, Departmental Committee on Lands, intends to move the following amendments to the Land Laws (Amendment) Bill, 2015 at the Committee Stage—

### CLAUSE 3

**THAT**, clause 3 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) in subsection (1), by deleting the words “Commission in consultation with national and county governments may” and substituting therefor the words “Cabinet Secretary in consultation with the Commission shall”

### CLAUSE 4

**THAT**, clause 4 of the Bill be deleted.

### CLAUSE 6

**THAT**, clause 6 of the Bill be deleted.

### CLAUSE 9

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

- (a) in the introductory statement, by inserting the word “inserting” immediately after the words “amended by”; and
- (b) in sub-section (3) of the proposed new section 13A, by inserting the words “or has at least five years’ experience in land administration” immediately after the word “Kenya”.

### CLAUSE 13

**THAT**, clause 13 of the Bill be deleted.

### CLAUSE 14

**THAT**, clause 14 of the Bill be deleted.

**CLAUSE 15**

**THAT**, clause 15 of the Bill be deleted.

**CLAUSE 16**

**THAT**, clause 16 of the Bill be amended—

- (a) by deleting paragraph (b);
- (b) in paragraph (c), by deleting the words “and substituting therefor the following”;
- (c) by deleting paragraph (d); and
- (d) by deleting paragraph (e).

**CLAUSE 17**

**THAT**, clause 17 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) in subsection (1) by deleting the words “or a lease” and substituting therefor the words “whose name appears in the register or a lease”

**CLAUSE 18**

**THAT**, clause 18 of the Bill be amended by deleting paragraph (c).

**CLAUSE 19**

**THAT**, clause 19 of the Bill be deleted.

**CLAUSE 20**

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

- (a) in paragraph (a)—
  - (i) by deleting the expression “(3)” and substituting therefore the expression “(4)”;
  - (ii) by deleting proviso (ii);
- (b) in paragraph (b)—
  - (i) by deleting the proposed new subsection (5);
  - (ii) by deleting the proposed new subsection (6);
  - (iii) by deleting the proposed new subsection (7);
  - (iv) by deleting the proposed new subsection (10) and substituting therefor the following new subsection—

“(10) Where more than one instrument or application are presented on the same day such that in the opinion of the Registrar there is doubt as to their order of priority, the Registrar shall reject the registration and shall inform the applicants of such rejection.”

(v) in the proposed new subsection (12), by inserting the following proviso—

“Provided that upon commencement of the Act, any instrument that shall not have been registered will be required to be so registered within three months”; and

(vi) by deleting the proposed new subsection (13).

#### **CLAUSE 21**

**THAT**, clause 21 of the Bill be amended in paragraph (b) by deleting the expression “(a)” and substituting therefor the expression “(b)”.

#### **CLAUSE 27**

**THAT**, clause 27 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) by deleting subsection (4) and substituting therefor the following new subsection—

“(4) The Registrar shall not register a charge, unless a land rent clearance certificate, certifying that no rent is owing in respect of the land, and the consent to charge has been presented, or unless the land is freehold.”

#### **CLAUSE 32**

**THAT**, clause 32 of the Bill be amended—

(a) in paragraph (b), by inserting the following proviso at the end of the proposed new subsection (2)(b)—

“Provided that a written notice of ninety days shall be given to the proprietor of such intention to make the alteration”;

(b) in paragraph (c), by deleting the words “deleting subsection (3) and substituting therefor the following subsection” appearing in the introductory statement and substituting therefor the words “inserting the following new subsection immediately after subsection (3)”;

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

“(d) by deleting the introductory statement in subsection (4) and substituting therefor the following new introductory statement—

“(4) The Cabinet Secretary may by regulations prescribe the guidelines that the Registrar shall follow before rectifying or directing rectification under this section and without prejudice to the generality of the foregoing, the regulations may provide for—”

#### **CLAUSE 35**

**THAT**, clause 35 of the Bill be amended in paragraph (d) by deleting the proposed new subsection (8) and substituting therefor the following new subsection—

“(8) The Registrar may upon receipt of adequate proof dispense with the consent under subsection (6) if the Registrar considers that the consent cannot be obtained or is being withheld unreasonably and the Registrar shall note on the register and on the instrument the reasons for dispensing with the consent”

**CLAUSE 36**

**THAT**, clause 36 of the Bill be deleted and replaced by the following new clause—

Amendment of  
section 92 of  
No. 3 of 2012.

**36.** Section 92 of the Land Registration Act is amended by inserting the words “provided that a designated co-tenant shall be provided with the original title to the land.

**CLAUSE 37**

**THAT**, clause 37 of the Bill be deleted and replaced by the following new clause—

Amendment of  
section 93 of No.  
3 of 2012.

**37.** Section 93 of the Land Registration Act is deleted and replaced by the following new section 93—

“Subject to any written law to the contrary, if a spouse obtains an interest in land during the subsistence of a marriage for the co-ownership and use of both spouses or all spouses, such property shall be deemed to be matrimonial property and shall be dealt with under the Matrimonial Property Act.”

**CLAUSE 38**

**THAT**, clause 38 of the Bill be deleted and replaced by the following new clause—

Amendment of  
section 94 of  
No. 3 of 2012.

**38.** Section 94 of the Land Registration Act is amended—

(a) in subsection (1), by deleting the words “certificate of land” and substituting therefor the words “certificate of title or certificate of lease”;

(b) by inserting the following new subsection immediately after subsection (4)—

“(5) Any co-tenant aggrieved by the decision of the Registrar may apply to the Court for a review of that decision.”

**CLAUSE 39**

**THAT**, clause 39 of the Bill be deleted.

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—



“(b) in subsection (2) by deleting the word “public” appearing immediately after the word “unlawfully occupies”.

### **CLAUSE 43**

**THAT**, clause 43 of the Bill be amended in paragraph (a) by deleting sub-paragraph (i) and substituting therefor the following new sub-paragraph—

“(i) deleting the words “and for future generations”

### **CLAUSE 44**

**THAT**, clause 44 of the Bill be deleted and replaced by the following new clause—

Amendme  
nt of  
section 15  
of No. 5  
of 2012.

**44.** Section 15 of the National Land Commission Act is deleted and replaced by the following new section—

Historical  
land  
injustices.

15. (1) Pursuant to Article 67(3) of the Constitution, the Commission shall receive, admit and investigate all historical land injustice complaints and recommend appropriate redress.

(2) For the purposes of this section, a historical land injustice means a grievance which—

- (a) was occasioned by a violation of right in land on the basis of any law, policy, declaration, administrative practice, treaty or agreement;
- (b) resulted in displacement from their habitual place of residence;
- (c) occurred between 15<sup>th</sup> June 1895 when Kenya became a protectorate under the British East African Protectorate and 27<sup>th</sup> August, 2010 when the Constitution of Kenya was promulgated;
- (d) has not been sufficiently resolved and subsists up to the period specified under paragraph (c); and
- (e) meets the criteria set out under subsection 3 of this section.

(3) A historical land claim may only be admitted, registered and processed by the Commission if it meets the following criteria—

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- (a) it is verifiable that the act complained of resulted in displacement of the claimant or other form of historical land injustice;
- (b) the claim has not or is not capable of being addressed through the ordinary court system on the basis that—
  - (i) the claim contradicts a law that was in force at the time when the injustice began; or
  - (ii) the claim is debarred under section 7 of the Limitation of Actions Act or any other law;
- (c) the claimant was either a proprietor or occupant of the land upon which the claim is based;
- (d) no action or omission on the part of the claimant amounts to surrender or renouncement of the right to the land in question; and
- (e) it is brought within five years from the date of commencement of this Act.

(4) A claim alleging historical land injustice shall be permissible if it was occasioned by—

- (a) colonial occupation;
- (b) independence struggle;
- (c) pre-independence treaty or agreement between a community and the government;
- (d) development-induced displacement for which no adequate compensation or other form of remedy was provided, including conversion of non-public land into public land;
- (e) inequitable land adjudication process or resettlement scheme;
- (f) politically motivated or conflict based eviction;
- (g) corruption or other form of illegality;
- (h) natural disaster; or
- (i) other cause approved by the Commission.

(5) When conducting investigations under subsection (1) into historical land injustices the Commission may—

- (a) request from any person including any government department such particulars, documents and information regarding any investigation, as may be necessary; or
- (b) by notice in writing, addressed and delivered by a staff of the Commission to any person, direct such person, in relation to any investigation, to appear before the Commission at such time and place as may be specified in the notice, and to produce such documents or objects in the possession, custody or under the control of such person and which are relevant to that investigation.

(6) Where a complainant is unable to provide all the information necessary for the adequate submission or investigation of a complaint, the Commission shall take reasonable steps to have this information made available.

(7) If at any stage during the course of an investigation, the Commission is of the opinion that the resources of the Commission may be more effectively utilized if all claims within a given area or township were to be investigated at the same time, the Commission shall cause to be published in the Gazette or in such other manner as the Commission may deem appropriate, a notice advising potential complainants of the decision and inviting them to lodge claims within a period specified in such notice.

(8) A claim in respect of a matter contemplated in subsection (7) shall not be lodged after the expiry of the period specified in the said notice.

(9) The Commission, after investigating any case of historical land injustice referred to it, shall recommend any of the following remedies—

- (a) restitution;
- (b) compensation, if it is impossible to restore the land;
- (c) resettlement on an alternative land;
- (d) rehabilitation through provision of social infrastructure;
- (e) affirmative action programmes for marginalized groups and communities;

- (f) creation of wayleaves and easements;
- (g) order for revocation and reallocation of the land;
- (h) order for revocation of an official declaration in respect of any public land and reallocation;
- (i) sale and sharing of the proceeds;
- (j) refund to *bona fide* third party purchasers after valuation; or
- (k) declaratory and preservation orders including injunctions.

(10) Upon determination of a historical land injustice claim by the Commission, any authority mandated to act under the redress recommended shall be required to do so within three years.

(11) The provisions of this section shall stand repealed within ten years.

#### **CLAUSE 46**

**THAT**, clause 46 of the Bill be amended—

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

“(a) in paragraph (1)—

(i) by deleting the words “in consultation with the Prime Minister” appearing in the opening sentence;

(ii) by deleting sub-paragraph (b); and

(iii) by deleting the proviso;

(b) by deleting paragraph (b);

(c) by deleting paragraph (c);

(d) by deleting paragraph (d);

(e) by deleting paragraph (g);

(f) by deleting paragraph (h);

(g) by deleting paragraph (i); and

(h) by deleting paragraph (k).

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in paragraph (c)–

- (a) in the definition of the term “lawful improvements”, by deleting the words “means improvements which increase or improve the value of land which have been carried out bona fide with all the approvals and consents having been obtained in accordance with all applicable law and includes” and substituting therefor the words “means improvements which increase or improve the value of land which have been quantified by a qualified valuer in accordance with all applicable law and includes”
- (b) in the definition of the term “substantial transaction”, by deleting the words “means a transaction that involves the leasing or licensing of land to a local or foreign investor either alone or in a joint venture to carry out developments in agriculture and other approved ventures with direct developmental benefits for Kenya through” and substituting therefor the words “means a transaction that involves the transfer, leasing or licensing of land to a local or foreign investor either alone or in a joint venture to carry out developments in agriculture and other approved ventures with direct developmental benefits for Kenya through”
- (c) by inserting the following new definition immediately after the definition of “agriculture or agricultural” –

“customary land” means private land on which one or more members of the family have customary rights of ownership”

**CLAUSE 48**

**THAT**, clause 48 of the Bill be amended–

- (a) by inserting the words “of the Land Act is amended” immediately after the words “Section 5”;
- (b) in the proposed new subsection (3), by deleting the words “or vice versa”.

**CLAUSE 49**

**THAT**, clause 49 of the Bill be amended–

- (a) in the proposed new paragraph (g), by inserting the words “in consultation with the Commission where appropriate” immediately after the words “classes of land”;
- (b) by deleting the proposed new paragraph (h) and substituting therefor the following new paragraph–

“(h) coordinate the development and implementation of a National Land Information System in collaboration with the Commission”

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

“(i) administer and undertake all dealings including registration of private land interests subject to Part VIII of this Act”

**CLAUSE 50**

**THAT**, clause 50 of the Bill be amended in the proposed new subsection (2), by deleting the word “alienation” appearing in paragraph (a) and substituting therefor the word “allocation”.

**CLAUSE 52**

**THAT**, clause 52 of the Bill be amended in the proposed new subsection (1) by deleting the introductory statement and substituting therefor the following new introductory statement—

“(1) Whenever the national or county government is satisfied that it may be necessary to allocate the whole or part of a specific public land, the Cabinet Secretary or the County Executive Committee member responsible for matters relating to land shall submit a request to the Commission for the necessary action by way of—”

**CLAUSE 53**

**THAT**, clause 53 of the Bill be amended in the proposed new section 12A—

(a) in subsection (1)—

- (i) by deleting paragraph (c) in the definition of “controlled land”;
- (ii) by deleting paragraph (d) in the definition of “controlled land”;
- (iii) by deleting paragraph (e) in the definition of “controlled land”;
- (iv) by deleting paragraph (iii) in the definition of “ineligible person” and substituting therefor the following new paragraph—

“(iii) a body corporate which has non-citizens as shareholders shall be deemed to be a non-citizen.”

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

“(2) No transaction in controlled land, including a transfer for a consideration or by way of trusts, gift *inter vivos* or otherwise to an ineligible person, shall be dealt with without the prior written approval of the Cabinet Secretary.”

- (c) by deleting subsection (3);
- (d) by deleting subsection (4);
- (e) by deleting subsection (5);
- (f) by deleting subsection (6) and substituting therefor the following new subsection—
  - “(6) In deciding whether to approve or not approve an application, the Cabinet Secretary shall seek the approval of the relevant authorities”; and
- (g) by deleting subsection (7).

**CLAUSE 54**

**THAT**, clause 54 of the Bill be amended—

- (a) in paragraph (a), by deleting the proposed new subsection (1) and substituting therefor the following new subsection—
  - “(1) Before the expiry of the leasehold tenure, the Commission shall—
    - (a) within five years, notify the lessee, by registered mail, of the date of expiry of the lease and inform the lessee of his or her pre-emptive right to allocation of the land upon application, provided that such lessee is a Kenyan citizen and that the land is not required by the national or county government for public purposes; and
    - (b) if within one year the lessee shall not have responded to the notification, publish the notification in one newspaper of nationwide circulation.”;
- (b) in paragraph (b), by deleting the proposed new subsection (1A);
- (c) by deleting paragraph (c);
- (d) in paragraph (d)—
  - (i) by deleting the proposed new subsection (4);
  - (ii) by deleting the proposed new subsection (5);
  - (iii) by deleting the proposed new subsection (6);
  - (iv) by deleting the proposed new subsection (7); and
  - (v) by inserting the following new subsections immediately after subsection (3)—

"(4) Subject to the provisions of subsection (1), a lessee shall be entitled to apply for a renewal of the lease at any time before the expiry of the lease.

(5) If the lessee does not apply for the allocation of land at the date of expiry of the lease, the lessee shall be deemed to have forfeited the pre-emptive right over the land.

(6) An application under this section shall be in the prescribed form."

**CLAUSE 57**

**THAT**, clause 57 of the Bill be amended in paragraph (b) by deleting the proposed new subsection (2) and substituting therefor the following new subsection—

"(2) A lease or licence for public land shall be issued by the Commission and shall be registered by the Chief Lands Registrar."

**CLAUSE 59**

**THAT**, clause 59 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

"(a) in subsection (1) by deleting the word "determination" appearing in paragraph (a) and substituting therefor the word "termination".

**CLAUSE 61**

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

(a) in paragraph (b) by deleting the words "Unless otherwise" appearing in subparagraph (i) and substituting therefor the words "Other than as";

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

"(c) by deleting subsection (2) and substituting therefor the following new subsection—

"(2) Subsection (1) shall not apply to—

(a) a contract made in the course of a public action;

(b) the creation or operation of a resulting, implied or a constructive trust;  
or

(c) any agreement or contract made or entered into before the commencement of this Act, provided that—

(i) the verbal contracts shall be reduced to writing within two years from the date of enactment of this Act; and

(ii) the Cabinet Secretary shall put a notice of the requirement to reduce the contracts in writing, in a newspaper of nationwide circulation."



**CLAUSE 63**

**THAT**, clause 63 of the Bill be amended in paragraph (b) by deleting the word “he” appearing immediately after the words “substituting therefor the”.

**CLAUSE 64**

**THAT**, clause 64 of the Bill be amended in paragraph (b) by deleting the word “reasonable” appearing immediately after the words “and upon giving” and substituting therefor the words “a seven days’ notice”.

**CLAUSE 65**

**THAT**, clause 65 of the Bill be deleted and replaced by the following new clause—

Amendment of section 72 of  
No. 6 of 2012.

**65.** Section 72 of the Land Act is amended in subsection (1) by deleting the word “not” appearing immediately after the words “and shall”.

**CLAUSE 67**

**THAT**, clause 67 of the Bill be amended—

- (a) in paragraph (b) by inserting the words “paragraph (a) of” immediately after the word “in”;
- (b) by deleting paragraph (d).

**CLAUSE 68**

**THAT**, clause 68 of the Bill be amended in paragraph (b) by deleting the proposed new subsection (4) and substituting therefor the following new subsection—

“(4) Unless otherwise provided in the charge instrument, if the chargee, holding a charge created subsequent in time to one in favour of a prior chargee, lends money or money’s worth on the security of a charge to a chargor and it later transpires that a prior chargee or the chargor himself acted dishonestly or fraudulently in procuring the charge, the prior chargee’s right to repayment under the charge shall be postponed to the rights of the subsequent chargee.”

**CLAUSE 72**

**THAT**, clause 72 of the Bill be deleted and replaced by the following new clause—

Amendment of  
section 88 of No.  
6 of 2012.

**72.** Section 88 of the Land Act is amended in subsection (1) by deleting the word “at” appearing immediately after the word “improvements” in paragraph (c).

**CLAUSE 73**

**THAT**, clause 73 of the Bill be amended in paragraph (b) by deleting the words “three months” appearing at the end of the sentence and substituting therefor the words “ninety days”.

**CLAUSE 74**

**THAT**, clause 74 of the Bill be deleted and replaced by the following new clause—

Amendment of section  
91 of No. 6 of 2012.

**74.** Section 91 of the Land Act is amended by deleting the words “this section” and substituting therefor the words “subsection (1)(c) of this section.”

**CLAUSE 77**

**THAT**, clause 77 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) in subsection (2) by inserting the following new proviso at the end of the subsection—

“Provided that this power of entry shall only be exercised after obtaining a court order.”

**CLAUSE 80**

**THAT**, clause 80 of the Bill be amended in paragraph (c)—

(a) in the proposed new subsection (6), by deleting the word “charge” appearing immediately after the words “made after the” and substituting therefor the word “transfer”;

(b) in the proposed new subsection (9), by inserting the word “cease” immediately after the words “under the charge shall”;

(c) by deleting the proposed new subsection (10) and substituting therefor the following new subsection—

“(10) Upon the deposit referred to in subsection (9), the Registrar shall cancel the registration of the charge and the Court shall pay the amount deposited to the chargee if the charge applies for it within six years of the deposit, and where the chargee does not apply for the amount within the stated period, it shall be deposited with the Unclaimed Financial Assets Authority as an unclaimed asset.”

**CLAUSE 81**

**THAT**, clause 81 of the Bill be amended in sub-paragraph (ii) by deleting the figure “(a)” appearing at the end of the sentence and substituting therefor the figure “(c)”.

**CLAUSE 82**

**THAT**, clause 82 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) in subsection (1) by deleting the word “available” appearing immediately after the words “available remedies” in sub-paragraph (i) of paragraph (b).”

**CLAUSE 83**

**THAT**, clause 83 of the Bill be amended in paragraph (b) by deleting the words “three months, the acquiring authority may proceed and acquire the land” appearing in the proposed new subsection (4) and substituting therefor the words “thirty days, it shall give to the acquiring authority the reasons for the decline and the conditions that must be met”.

**CLAUSE 85**

**THAT**, clause 85 of the Bill be amended—

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

“(aa) in subsection (1) by deleting the words “rate prevailing bank rates” and substituting therefor the words “base lending rate set by the Central Bank of Kenya and prevailing at that time”;

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

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

“(2) If additional compensation is payable under section 119 there shall be added to the amount of the additional compensation interest thereon at the base lending rate set by the Central Bank of Kenya and prevailing at that time, from the time when possession was taken or compensation was paid, whichever is earlier.”

**CLAUSE 87**

**THAT**, clause 87 of the Bill be amended—

(a) by deleting the proposed new marginal note and substituting therefor the following new marginal note—

*“Condition for payment of compensation”;*

(b) by renumbering the amendment as paragraph (a); and

(c) by inserting the following new paragraph immediately after paragraph (a)—

“(b) by deleting section 119 and replacing with the following new section—

Condition for payment  
of compensation.

**119.** Payment of compensation shall be made only upon the exercise of due diligence which shall include final survey and the determination of acreage, boundaries, ownership and value.

**CLAUSE 90**

**THAT**, clause 90 of the Bill be amended by deleting paragraph (b).

**CLAUSE 92**

**THAT**, clause 92 of the Bill be deleted and replaced by the following new clause—

Amendment of section 124  
of No. 6 of 2012.

**92.** Section 124 of the Land Act is amended—

(a) by deleting the marginal note and substituting therefor the following new marginal note—

*Power to obtain temporary occupation of land.*

(b) in subsection (3) by deleting the words “the first offer of” appearing immediately after the words “may after paying” and substituting therefor the word “full”.

**CLAUSE 93**

**THAT**, clause 93 of the Bill be amended—

(a) by renumbering the current amendment as paragraph (a); and

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

“(b) by deleting subsection (2)”

**CLAUSE 95**

**THAT**, clause 95 of the Bill be amended—

(a) by deleting paragraph (b);

(b) by renumbering the sentence beginning with the words “in subsection (3) as paragraph (b);

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

“(bb) by deleting subsection (4) and substituting therefor the following new subsection—

“(4) Identification of beneficiaries shall be carried out and verified by a sub-county selection committee appointed by the Cabinet Secretary comprising of the following persons—

(a) the deputy county commissioner;

(b) the sub-county administrator;

(c) a representative of the Commission;

(d) a national government representative, who shall be the secretary;

- (e) a representative of persons with special needs;
- (f) a representative of women;
- (g) a youth representative; and
- (h) a representative of elders;

Provided that—

- (i) the persons appointed under paragraphs (e), (f), (g) and (h) shall be nominated by the area member of the National Assembly; and
  - (ii) a chairperson shall be appointed at the first sitting of the committee from the persons appointed under paragraphs (e), (f), (g) and (h)."
- (d) in paragraph (e) by deleting the word "not" appearing immediately after the words "or any other law shall"; and
- (e) by deleting paragraph (f) and substituting therefor the following new paragraph—
- "(f) in subsection (8) by deleting the words "the Commission and" appearing immediately after the words "from time to time".

#### **CLAUSE 96**

**THAT**, clause 96 of the Bill be amended—

(a) in paragraph (b)—

- (i) in the proposed new subsection (1A) by deleting the words "the Order" appearing immediately after the words "Agency under" in paragraph (d) and substituting therefor the words "this Act";
- (ii) in the proposed new subsection (1B) by inserting the following new paragraph immediately after paragraph (d)-

"(dd) the Cabinet Secretary responsible for Internal Security"
- (iii) in the proposed new subsection (1C) by inserting the following new paragraphs immediately after the introductory statement—
  - (a) be responsible for the provision of access to land—
    - (i) to squatters;
    - (ii) to displaced persons;
    - (iii) for development projects;
    - (iv) for conservation; or
    - (v) such other causes that may lead to movement and displacement of persons;

- (b) purchase private land for settlement programmes;
- (c) coordinate the provision of shelter and a livelihood to persons in need of settlement programmes; and
- (d) perform any other function that may enhance the development and promotion of settlement programmes.

(b) in paragraph (c)–

- (i) by inserting the words “and substituting therefor the words “Board of the Land Settlement Fund Trustees” at the end of sub-paragraph (i);
- (ii) by deleting sub-paragraph (ii);

(c) by deleting paragraph (e) and substituting therefor the following new paragraph–

“(e) by deleting subsection (5) and substituting therefor the following new subsection–

(5) In carrying out its functions under Part IX of this Act, the Board of the Land Settlement Fund Trustees shall consult the relevant county government where applicable”

#### **CLAUSE 102**

**THAT**, clause 102 of the Bill be deleted and substituted therefor the following new clause–

Amendment of section 147 of No. 6 of 2012.

**102.** Section 147 of the Land Act is amended in subsection (2) by deleting the words “certificate of occupancy” and substituting therefor the words “certificate of title or certificate of lease” in paragraph (a).

#### **CLAUSE 103**

**THAT**, clause 103 of the Bill be deleted.

#### **CLAUSE 105**

**THAT**, clause 105 of the Bill be amended–

- (a) by deleting the proposed new section 152D and substituting therefor the following new section–

Eviction notice to  
unlawful occupiers  
of community land.

**152D.** (1) The County Executive Committee Member responsible for land matters shall cause a decision relating to an eviction from unregistered community land to be notified to all affected persons, in writing, by notice in the Gazette and in one newspaper with nationwide circulation and by radio announcement, in a local language, where appropriate, at least three months before the eviction.

(2) In the case of registered community land, the procedure prescribed in section 152E shall apply.

(b) in the proposed new section 152E –

(i) in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph –

“(a) be in writing and in a national and official language”

(ii) in subsection (2) by inserting the following new paragraph immediately after paragraph (c) –

“(d) be served on the deputy county commissioner in charge of the area as well as the officer commanding the police division of the area”

(iii) by deleting subsection (3);

(iv) by deleting subsection (4);

(c) by inserting the following new section immediately after section 152E –

Application to  
Court for relief.

**152EA.** (1) Any person or persons served with a notice in terms of sections 152C, 152D and 152E may apply to Court for relief against the notice.

(2) The Court, after considering the matters set out in sections 152C, 152D and 152E, may –

(a) confirm the notice and order the person to vacate;

(b) cancel, vary, alter or make additions to the notice on such terms as it deems equitable and just;

(c) suspend the operation of the notice for any period which the court shall determine; or

(d) order for compensation.

(d) in the proposed new section 152F—

- (i) by deleting the figure (1) appearing at the beginning of the section;
- (ii) by deleting the words “and any national or local code of conduct consistent with international law enforcement and human rights standards” appearing in paragraph (h);
- (iii) by deleting paragraph (j); and

(e) by deleting the proposed new subsection 152G and substituting therefor the following new section—

Disposal of property left  
after eviction.

**152G.** The competent officer of the Commission or County Government, community owning a registered community land or owner of private land shall at least seven days from the date of the eviction, remove or cause to be removed or disposed by public auction, any unclaimed property that was left behind after an eviction from private, community or public land.

### **CLAUSE 108**

**THAT**, clause 108 of the Bill be deleted and replaced by the following new clause—

Amendment of section 159  
of No. 6 of 2012.

**108.** The Land Act is amended by deleting section 159 and substituting therefor the following new section—

Minimum and  
maximum land  
holding acreages.

**159.** (1) Subject to Article 40 of the Constitution—

- (a) the minimum land holding acreage shall be subject to the provisions of Article 66(1) of the Constitution and the legislation envisaged therein.
- (b) the maximum land holding acreage shall be subject to Article 60(1) (a) and (c) of the Constitution.

(2) The Cabinet Secretary shall publish guidelines on the penalties for non-compliance with the provisions of this section.

### **CLAUSE 109**

**THAT**, clause 109 of the Bill be deleted.



- 2) Notice is given that the Member for Nyeri County (Hon. Priscilla Nyokabi) intends to move the following amendments to the Land Laws (Amendment) Bill, 2015 at the Committee Stage—

**CLAUSE 20**

**THAT**, clause 20 of the Bill be amended in the proposed amendment to section 36 of the Land Registration Act by inserting the following new subsections immediately after the proposed subsection 14 -

“(15) Any person who intends to purchase or acquire any interest in land shall, file with the Registrar, a declaration under oath of the sources of the funds used to purchase the property in the prescribed form.”

“(16) The Registrar shall not register an instrument to transfer or create an interest in land, unless the requirements of sub-section (15) have been complied with.”

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**The House resolved on Wednesday, February 10, 2016 as follows:-**

- I. **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 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 be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that Order.
  
  - II. **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 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.
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# NOTICE PAPER

Tentative business for

Tuesday, April 26, 2016

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

It is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for Tuesday, April 26, 2016:-

**A. COMMITTEE OF THE WHOLE HOUSE**

- (i) The Energy Bill (National Assembly Bill No. 50 of 2015)  
(The Leader of the Majority Party)
- (ii) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015)  
(The Leader of the Majority Party)
- (iii) The Private Security Regulation Bill (National Assembly Bill No. 4 of 2014)  
(The Leader of the Majority Party)

**B. THE ELECTION LAWS (AMENDMENT) (NO.3) BILL (NATIONAL ASSEMBLY BILL NO. 63 OF 2015)**

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

Second Reading

*(If not concluded on Thursday, April 21, 2016 – Morning Sitting)*

**C. THE JUDICIARY FUND BILL (NATIONAL ASSEMBLY BILL NO. 3 OF 2016)**

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

Second Reading

*(If not concluded on Thursday, April 21, 2016 – Morning Sitting)*

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

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, April 21, 2016 – Morning Sitting)*

**E. THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, April 21, 2016 – Morning Sitting)*

**F. THE WAREHOUSE RECEIPTS SYSTEM BILL (NATIONAL ASSEMBLY  
BILL NO. 12 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, April 21, 2016 – Morning Sitting)*

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