



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (THIRD SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**THURSDAY DECEMBER 03, 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 PERIOD FOR  
CONSIDERATION OF NOMINEES FOR  
VARIOUS APPOINTMENTS**  
(The Leader of the Majority Party)

**THAT**, pursuant to the provisions of Section 13 of the Public Appointments (Parliamentary Approval) Act, this House resolves to extend the period for consideration of the nominees for appointment as Cabinet Secretaries, Principal Secretaries and Members of the Ethics and Anti-Corruption Commission (EACC), referred to the House during the current Third Part of the Third Session, by a further seven (7) days, from 15<sup>th</sup> December, 2015.

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

- (i) The Physical Planning Bill (National Assembly Bill No. 46 of 2015)  
(The Leader of the Majority Party)
- (ii) The Health Bill (National Assembly Bill No.14 of 2015)  
(The Leader of the Majority Party)

**10\*\*. THE NATURAL RESOURCES (CLASSES OF TRANSACTIONS SUBJECT  
TO RATIFICATION) BILL (NATIONAL ASSEMBLY BILL NO. 54 OF 2015)**  
(The Leader of the Majority Party)

Second Reading

*(Resumption of debate interrupted on Tuesday, December 01, 2015)*

- 11\*\*. THE FOREST CONSERVATION AND MANAGEMENT  
BILL(NATIONAL ASSEMBLY BILL NO. 49 OF 2015)  
(The Leader of the Majority Party)

Second Reading

- 12\*\*. THE LEGAL AID BILL (NATIONAL ASSEMBLY BILL NO. 35 OF 2015)  
(The Leader of the Majority Party)

Second Reading

- 13\*. MOTION - REPORT OF THE PUBLIC ACCOUNTS COMMITTEE  
(The Chairperson, Public Accounts Committee)

**THAT**, this House adopts the Report of the Public Accounts Committee on the Special Audit Report of the Judicial Service Commission (JSC) and the Judiciary of May, 2014, laid on the Table of the House on Tuesday, 7<sup>th</sup> July, 2015.

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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 PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2015)

- 1) Notice is given that the Chairperson, Departmental Committee on Lands (Hon. Alex Mwiru) intends to move the following amendments to the Physical Planning Bill, 2015 at the Committee Stage—

### CLAUSE 2

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

- (a) in the definition of the term “planning authority” by deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) the County Executive Committee member responsible for matters relating to physical planning”; and

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

“commercial use” includes shops, offices, hotels, restaurants, bars, kiosks and similar business enterprises but does not include petroleum filling stations;

“emerging technologies” include telecommunication installations, information and communications technology parks and aviation services;

“industrial use” includes manufacturing, processing, distilling, brewing, warehousing and storage, workshops and garages, mining and quarrying, power generation and similar industrial activities including petroleum filling stations;

“land use planning” refers to a branch of physical planning encompassing various disciplines which seek to order and regulate land use in an efficient and ethical way;

“physical planning” refers to the active process of organizing the structures and functions to ensure orderly and effective sitting or location of land uses, and it encompasses deliberate determination of spatial plans with an aim of achieving the most optimum level of land utilization in a sustainable manner.

### CLAUSE 3

**THAT**, clause 3 of the Bill be amended in paragraph (a) by inserting the word “rural” immediately after the word “urban”.

**CLAUSE 5****THAT**, clause 5 of the Bill be amended in sub-clause (2)—

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

“(aa) the National Director of Physical Planning”

(b) in paragraph (k) by deleting the word “Institute” and substituting therefor the word “Institution”.

**CLAUSE 8****THAT**, clause 8 of the Bill be deleted.**CLAUSE 9****THAT**, clause 9 of the Bill be deleted.**CLAUSE 10****THAT**, clause 10 of the Bill be deleted.**CLAUSE 11****THAT**, clause 11 of the Bill be deleted.**CLAUSE 12****THAT**, clause 12 of the Bill be deleted.**CLAUSE 13****THAT**, clause 13 of the Bill be amended—

(a) in paragraph (b) by deleting the expression “(b)” appearing at the beginning of the sentence; and

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

“(c) develop monitoring framework and formulate oversight parameters relating to physical planning”

**CLAUSE 14****THAT**, the Bill be amended by deleting clause 14 and substituting therefor the following new clause—Functions of the  
Cabinet Secretary.**14.** The Cabinet Secretary shall be responsible for—

- (a) formulating a national policy on physical planning;
- (b) issuing in the Gazette policy statements, guidelines and circulars on general and specific aspects of physical planning;
- (c) approval of national physical development plans;
- (d) monitoring and overseeing the technical arm at the national level in the performance of their functions; and
- (e) coordinating the national and county levels of planning.

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

(a) in the opening sentence by deleting the word “Spatial” and substituting therefor the word “Physical”; and

(b) in paragraph (b) by inserting the words “in urban and regional planning or related discipline” immediately after the words “postgraduate degree”.

**CLAUSE 17**

**THAT**, the Bill be amended by deleting clause 17 and substituting therefor the following new clause—

Responsibilities of  
the National  
Director of  
Physical Planning.

**17.** The National Director of Physical Planning shall be responsible for—

- (a) advising the government on strategic physical planning matters that impact on the whole country;
- (b) formulating national physical planning policies, guidelines and standards;
- (c) preparation of national physical development plans;
- (d) coordination of the preparation of regional physical development plans; and
- (e) undertaking capacity building and technical support for county planning authorities.

**CLAUSE 18**

**THAT**, the Bill be amended by deleting clause 18 and substituting therefor the following new clause—

Responsibilities of  
the County  
Executive  
Committee  
member  
responsible for  
physical planning.

**18.** The County Executive Committee member responsible for physical planning shall be responsible for—

- (a) formulating a county policy on physical planning;
- (b) approving county physical development plans;
- (c) monitoring and overseeing the planning function; and
- (d) promoting the integration of county physical planning functions and sectoral planning levels.

**CLAUSE 19**

**THAT**, clause 19 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) The Cabinet Secretary shall initiate, and the National Director of Physical Planning shall finalize, the preparation of a National Physical Development Plan.”

**CLAUSE 20**

**THAT**, clause 20 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) The National Physical Development Plan is the basis for—

- (a) environmental conservation, protection and improvement;
- (b) promoting social and economic development including national competitiveness;

- (c) promoting balanced national development;
- (d) optimal use of land and natural resources;
- (e) formulation of national physical development planning policies;
- (f) guiding regional, county and local planning;
- (g) coordinating sectoral planning and development;
- (h) managing human settlements; and
- (i) providing a framework for guiding the location and development of strategic national investments and infrastructural development.

**CLAUSE 21**

**THAT**, clause 21 of the Bill be amended in sub-clause (1)—

- (a) in the opening paragraph by deleting the words “Cabinet Secretary” and substituting therefor the words “National Director of Physical Planning”; and
- (b) by deleting paragraph (d).

**CLAUSE 22**

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

- (a) in sub-clause (1) by deleting paragraph (c) and substituting therefor the following new paragraph—
  - “(c) policies, strategies and measures necessary to optimize opportunities and potentials and resolve challenges relating to physical development planning in Kenya;”
- (b) in sub-clause (2) by deleting the word “Cabinet” and substituting therefor the words “National Director of Physical Planning”; and
- (c) in sub-clause (4) by inserting the word “Secretary” immediately after the word “Cabinet”.

**CLAUSE 23**

**THAT**, clause 23 of the Bill be amended—

- (a) in sub-clause (1) by deleting the words “one newspaper” appearing immediately after the words “in at least” and substituting therefor the words “two newspapers”; and
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause—
  - “(3) Any person dissatisfied with the decision of the Cabinet Secretary may apply to the Cabinet Secretary for review of his or her decision and the Cabinet Secretary shall consider the same and communicate his or her decision within sixty days of receipt of application for review.”

**CLAUSE 24**

**THAT**, clause 24 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

- “(1) If there have been no applications for review of the decision of the Cabinet Secretary or if the applications for review have been heard and determined, the Cabinet Secretary shall submit the draft National Physical Development Plan to the National Physical Planning Consultative Forum for comments.”

**CLAUSE 25**

**THAT**, clause 25 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Notwithstanding the lack of a National Physical Development Plan, planning authorities at the county level shall prepare County and Local Physical Development Plans”.

**CLAUSE 26**

**THAT**, clause 26 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “records” appearing at the end of the sentence and substituting therefor the word “purposes”; and
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) At least three months before the end of the financial year, each public institution of a government that is responsible for the application or the implementation of a National Physical Development Plan shall prepare and submit a status report on the implementation of the National Physical Development Plan to the Cabinet Secretary or the County Executive Committee member responsible for physical planning and the National Land Commission for their purposes”.

**CLAUSE 27**

**THAT**, clause 27 of the Bill be deleted.

**CLAUSE 28**

**THAT**, clause 28 of the Bill be amended—

- (a) in sub-clause (3)—
  - (i) by deleting paragraph (b);
  - (ii) by deleting paragraph (c) and substituting therefor the following new paragraph—

“(c) the County Executive Committee member responsible for physical planning for each county involved and any other relevant County Executive Committee member”; and
- (b) by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) The National Director of Physical Planning shall provide the secretariat services for the purposes of this section.”

**CLAUSE 30**

**THAT**, clause 30 of the Bill be deleted.

**CLAUSE 31**

**THAT**, clause 31 of the Bill be deleted.

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

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

“(2) The Regional Physical Planning Joint Committee preparing a Regional Physical Development Plan shall publish a notice of intention to prepare a plan in the gazette and in at least two newspapers with a national circulation”; and

(b) in sub-clause (4) by deleting the words “and approval”.

**CLAUSE 33****THAT**, clause 33 of the Bill be amended—

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

“(1) Within thirty days of the completion of a Regional Physical Development Plan, the Regional Physical Planning Joint Committee shall publish a notice in the Gazette and in at least two newspapers of national circulation informing the public that the plan is available at the places and times designated in the notice for inspection and that any interested person may comment on the content of the plan.”;

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

(c) in sub-clause (3) by inserting the word “Joint” immediately after the word “Planning”;

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

“(4) Any person dissatisfied with the decision of the Regional Physical Planning Joint Committee may appeal to the National Physical Planning Liaison Committee and the committee shall consider the application and make its determination within (60) days of the receipt of the application”; and

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

“(5) Any person dissatisfied with the decision of the National Physical Planning Liaison Committee may appeal to Environment and Land Court.”

**CLAUSE 34****THAT**, the Bill be amended by deleting clause 34 and substituting therefor the following new clause—

Approval of  
Regional Physical  
Development  
Plan.

**34.** (1) The County Executive Committee members of all counties participating in the regional physical development plan shall separately approve the plans and submit the same to the National Director of Physical Planning for final approval.

(2) Within thirty days of the completion of a Regional Physical Development Plan or if objections have been heard and determined the Cabinet Secretary shall approve and publish the Regional Physical Development Plan in the Gazette and in at least two newspapers of national circulation.

(3) Before the Regional Physical Development Plan can be implemented, the governors of the relevant counties shall adopt the plan at a joint meeting of the relevant governors that shall be organized by the Regional Physical Planning Joint Committee.

(4) The approved Regional Physical Development Plan shall be deposited with the relevant County Director of Physical Planning.



**CLAUSE 35**

**THAT**, clause 35 of the Bill be deleted.

**CLAUSE 36**

**THAT**, clause 36 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “city” appearing immediately after the word “county physical development plan” and substituting therefor the word “local”; and
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

“(2) Where a National Physical Development Plan and a Regional Physical Development Plan have not been prepared or approved, county governments may prepare other physical development plans which will be incorporated into the National Physical Development Plan or the relevant Regional Physical Development Plan after they have been prepared and approved.”

**CLAUSE 37**

**THAT**, clause 37 of the Bill be amended by deleting the word “records” appearing at the end of the sentence and substituting therefor the word “purposes”.

**CLAUSE 38**

**THAT**, clause 38 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “and the county spatial plan contemplated under section 110 of the County Governments Act.”; and
- (b) by inserting the following new sub-clause immediately after sub-clause (3)—

“(4) The county physical development plan shall suffice for purposes of the provisions of section 110 of the County Governments Act.”

**CLAUSE 39**

**THAT**, clause 39 of the Bill be amended by inserting the following new paragraph immediately after paragraph (g)—

“(h) any other purposes that may be determined by the planning authority.”

**CLAUSE 40**

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

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

“(2) The notice shall be displayed for a period of fourteen days at the offices of the county government and such other places as may be necessary in all the wards within the county.”; and

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

“(3) The county planning authority shall hold adequate stakeholder meetings in each ward before the completion of the preparation of the county physical development plan.”

**CLAUSE 42**

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

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

“(1) Within thirty days of the preparation of a county physical development plan, the county planning authority shall publish a notice in the Gazette and in at least two newspapers of national circulation informing the public that the draft county physical development plan is available at the places and times specified in the notice.”;

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

(3A) Any person aggrieved by a decision of the county planning authority concerning the county physical development plan or matters connected therewith, may within sixty days of receipt by him of notice of such decision, appeal to the county physical planning liaison committee in writing against the decision in such manner as may be prescribed.

(3B) Subject to sub-section (3A), the county physical planning liaison committee may reverse, confirm or vary the decision appealed against and make such order as it deems necessary or expedient to give effect to its decision.

(3C) When a decision is reversed by the county physical planning liaison committee it shall, before making any order under subsection (5), afford the county planning authority an opportunity of making representations as to any conditions or requirements which in his opinion ought to be included in the order, and shall also afford the appellant an opportunity to replying to such representations.

(3D) Any person aggrieved by a decision of the County Physical Planning Liaison Committee under this section may appeal to the Environment and Land Court against such decision in accordance with the rules of procedure for the time being applicable to the High Court.; and

(c) by deleting sub-clause (4).

**CLAUSE 43**

**THAT**, clause 43 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “one newspaper” and substituting therefor the words “two newspapers”;

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

“(3) On the approval of the county physical development plan no development shall take place on any land unless it is in conformity with the approved plan.”;

**CLAUSE 44**

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

(a) in sub-clause (1) by inserting the word “if” at the end of the opening paragraph;

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

“(2) On the approval of the county government, the County Executive Committee member in charge of physical planning shall publish a notice in the Gazette and in at least two newspapers of national circulation notifying any interested parties of the proposed amendments to the county physical development plan and the period within which interested parties may make representations to the County Executive Committee member.”;

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

“(c) be in conformity with the National Physical Development Plan, Inter-County Physical Development Plan and any existing regional development plan.”; and

(d) in sub-clause (6) by deleting the word “government” and substituting therefor the words “planning authority”.

**CLAUSE 45**

**THAT**, clause 45 of the Bill be amended in sub-clause (1) by deleting the word “eight” appearing immediately after the words “development plan after” and substituting therefor the word “five”.

**CLAUSE 46**

**THAT**, clause 46 of the Bill be amended in sub-clause (2) by deleting the word “spatial” appearing immediately after the words “A local” and substituting therefor the word “physical”.

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended by deleting the opening sentence and substituting therefor the following new opening sentence—

“(1) A county government shall prepare a local physical development plan for—”

**CLAUSE 48**

**THAT**, clause 48 of the Bill be amended by deleting the words “or an officer in charge of city or municipal physical planning as may be appropriate, but only with the approval of the County Executive Committee”.

**CLAUSE 50**

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

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

“(1) Within thirty days of the preparation of a local physical development plan, a county planning authority shall publish a notice in the Gazette and in at least two newspapers of national circulation informing the public that the plan is available at the places and times designated in the notice for inspection and that an interested person may comment on the content of the plan.”;

(b) by inserting the following new sub-clause immediately after sub-clause (1)–

“(1a) The provisions of section 42 relating to the making of representations or objections to the County Executive Committee member in charge of physical planning concerning county physical development plans and to the consideration by the County Executive Committee member in charge of physical planning of such representations or objections and to appeals shall apply *mutatis mutandis* to this section.

(1b) The provisions of section 43 relating to the approval or disapproval of a county physical development plan shall apply *mutatis mutandis* to the approval or disapproval of a local physical development plan.”

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

(d) by deleting sub-clause (3); and

(e) by deleting sub-clause (4).

#### **CLAUSE 51**

**THAT**, the Bill be amended by deleting clause 51 and substituting therefor the following new clause–

Approval of Local  
Physical  
Development Plan.

**51.** The County Executive Committee member in charge of physical planning shall within fourteen days after the approval of a local physical development plan publish a notice in the Gazette and in at least two newspapers of national circulation that the plan has been approved with or without modification and that the plan may be inspected at the place or places and times specified in the notice during normal working hours.

#### **CLAUSE 52**

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

(a) in sub-clause (2) by deleting the words “the executive committee member shall submit to the county physical development consultative forum a proposal for the amendment of the local physical development plan and set out the grounds for the proposed amendment” and substituting therefor the words “the provisions of section 44 shall apply with the necessary modifications”;

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

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

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

“(5) A County Executive Committee member in charge of physical planning may initiate the revision of a local physical development plan after a period of three years after the plan has been approved in accordance with section 51 of this Act or as the need may arise.”; and

(e) by deleting sub-clause (6).

**CLAUSE 53**

**THAT**, clause 53 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “by the County Assembly” appearing at the end of the sentence; and
- (b) in sub-clause (5) by deleting the word “government” and substituting therefor the words “ planning authority”.

**CLAUSE 56**

**THAT**, the Bill be amended by deleting clause 56 and substituting therefor the following new clause—

Power to undertake  
development control.

No. 13 of 2011.

No. 17 of 2012.

**56.** Subject to the provisions of this Act, the Urban Areas and Cities Act, 2011 and the County Governments Act, 2012, the planning authorities shall have the power within their areas of jurisdiction to—

- (a) prohibit or control the use and development of land and buildings in the interests of proper and orderly development of its area;
- (b) control or prohibit the subdivision of land;
- (c) consider and approve all development applications and grant all development permissions;
- (d) ensure the proper execution and implementation of approved physical development plans;
- (e) formulate by-laws to regulate zoning in respect of use and density of development; and
- (f) reserve and maintain all the land planned for open spaces, parks, urban forests and green belts in accordance with the approved physical development plans.

**CLAUSE 57**

**THAT**, clause 57 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—  
“(1) A person shall not carry out development within the area of a planning authority without a development permission granted by the planning authority.”; and
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—  
“(2) A person who commences any development without obtaining development permission commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.”

**CLAUSE 58**

**THAT**, clause 58 of the Bill be amended—

- (a) in sub-clause (3) by deleting the word “surrender” appearing immediately after the words “the applicant shall” and substituting therefor the word “provide”;

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

“(5) The development permission granted by planning authorities shall be subject to compliance with the provisions of any other written law.”; and

(c) by inserting the following new sub-clause immediately after sub-clause (5)—

“(6) Where an applicant does not receive a response for development permission, such permission shall be assumed to have been given in terms of this Act.”

#### **CLAUSE 59**

**THAT**, clause 59 of the Bill be amended—

(a) in sub-clause (1) by inserting the words “the relevant” immediately after the words “have been prepared by”; and

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

#### **CLAUSE 60**

**THAT**, clause 60 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) the National Land Commission;”

#### **CLAUSE 61**

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

(a) in sub-clause (1) by deleting the words “tree cover” appearing in paragraph (b) and substituting therefor the word “environmental”;

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

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

(d) in sub-clause (4) by deleting paragraph (c);

(e) in sub-clause (5) by deleting the words “County Spatial Planning Tribunal” and substituting therefor the words “County Physical Planning Liaison Committee”;

(f) by deleting sub-clause (6) and substituting therefor the following new sub-clause—

“(6) An applicant or an interested party who files an appeal under sub-section (5) and who is aggrieved by the decision of the committee may appeal against that decision to the Environment and Land Court.”

#### **CLAUSE 62**

**THAT**, clause 62 of the Bill be deleted.

#### **CLAUSE 63**

**THAT**, clause 63 of the Bill be amended—

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

“(1) A planning authority shall maintain a register of documents submitted by applicants for development permission and shall issue a submission certificate to every applicant who submits such documents.”; and

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

**CLAUSE 64**

**THAT**, clause 64 of the Bill be amended—

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

“(1) A planning authority may levy a development fee against an applicant for development permission.”; and

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

**CLAUSE 65**

**THAT**, clause 65 of the Bill be amended in sub-clause (3) by inserting the word “further” immediately after the words “it may impose”.

**CLAUSE 66**

**THAT**, clause 66 of the Bill be amended by deleting sub-clause (1).

**CLAUSE 67**

**THAT**, clause 67 of the Bill be amended by deleting sub-clause (2).

**CLAUSE 68**

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

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

“(ba) Despite the provisions of subsections (1)(a) and (1)(b)(iii) of this section, in case of any material variations in a development permission, the applicant may apply to the planning authority for development permission.”

(b) in sub-clause (2)—

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

“(a) a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two months or to both”

(ii) by deleting paragraph (b).

**CLAUSE 70**

**THAT**, clause 70 of the Bill be amended—

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

(b) in sub-clause (3) by deleting the word “spatial” and substituting therefor the word “physical”;

(c) by inserting the following new paragraph immediately after paragraph (3)—

“(3A) The Cabinet Secretary shall within sixty days of the enactment of this Act make regulations prescribing for the projects that may be classified as strategic national or inter-county projects.”

**CLAUSE 71**

**THAT**, clause 71 of the Bill be amended in sub-clause (2) by deleting the word “spatial” and substituting therefor the word “physical”.

**CLAUSE 72**

**THAT**, clause 72 of the Bill be amended—

(a) in sub-clause (1) by deleting the words “the development of land has been or is being carried out” appearing in paragraph (a) and substituting therefor the words “a developer commences development on any land without development permission”;

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

“(4) Any party aggrieved with the determination of the county physical planning liaison committee may appeal to the court only on a matter of law and the court shall hear and determine the appeal within thirty days.”; and

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

“(5) A person who has not been served with an enforcement notice and who refuses to comply with the provisions of that notice commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.”

**CLAUSE 73**

**THAT**, clause 73 of the Bill be amended—

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

“(1) A planning authority in charge of an urban area or a city shall require an owner, agent or developer of property or land to present a development application for consideration of the planning authority if, after the commencement of this Act—”

(b) in sub-clause (2)—

(i) by deleting the word “occupier” appearing in paragraph (a);

(ii) by deleting paragraph (b); and

(c) in sub-clause (3) by deleting the word “occupier” wherever it appears.

**CLAUSE 74**

**THAT**, clause 74 of the Bill be deleted.

**CLAUSE 76**

**THAT**, clause 76 of the Bill be amended—

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

“(1) The National Physical Planning Liaison Committee shall consist of—



- (a) a representative of the National Land Commission;
  - (b) the Director-General of the National Environment Management Authority or a designated representative;
  - (c) the Director-General of the Water Resources Management Authority or a designated representative;
  - (d) the Director-General of the Kenya National Highways Authority or a designated representative;
  - (e) the Chairperson of the National Construction Authority or a designated representative;
  - (f) the Chief of Defence Forces or a designated representative;
  - (g) a representative of the Council of Governors;
  - (h) a person nominated by an alliance representing associations in the private sector in Kenya and appointed by the Cabinet Secretary;
  - (i) a registered architect nominated by an association of architects in Kenya and appointed by the Cabinet Secretary;
  - (j) a registered physical planner nominated by the Kenya Institute of Planners and appointed by the Cabinet Secretary;
  - (k) a registered surveyor nominated by the Institution of Surveyors of Kenya and appointed by the Cabinet Secretary; and
  - (l) an advocate of the High Court nominated by the Law Society of Kenya and appointed by the Cabinet Secretary.”;
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—
- “(2) The Cabinet Secretary shall provide the secretariat services to the committee.”; and
- (c) by inserting the following new sub-clause immediately after sub-clause (3)—
- “(3A) The Chairperson of the committee shall be a person appointed under paragraphs (h), (i), (j), (k) or (l).”

**CLAUSE 77**

**THAT**, clause 77 of the Bill be amended in sub-clause (2) by deleting the words “National Physical Planning Consultative Forum” and substituting therefor the words “national planning authority”.

**CLAUSE 79**

**THAT**, clause 79 of the Bill be amended—

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—
- “(1) The County Physical Planning Liaison Committee shall consist of—

- (a) an advocate of the High Court nominated by the Law Society of Kenya and appointed by the County Executive Committee member in charge of physical planning, who shall be the chairperson;
- (b) a representative of the National Land Commission;
- (c) a registered physical planner nominated by the Kenya Institute of Planners and appointed by the County Executive Committee member in charge of physical planning;
- (d) a registered architect nominated by an association of architects in Kenya and appointed by the County Executive Committee member in charge of physical planning;
- (e) a registered surveyor nominated by the Institution of Surveyors of Kenya and appointed by the County Executive Committee member in charge of physical planning; and
- (f) two members, being one male and one female, nominated by the county chamber of commerce and appointed by the County Executive Committee member in charge of physical planning."

(b) by inserting the following new sub-clause immediately after sub-clause (2)–

"(3) The County Executive Committee member in charge of physical planning shall provide secretariat services to the committee."

#### **CLAUSE 82**

**THAT**, clause 82 of the Bill be amended in sub-clause (1) by inserting the words "in the prescribed form" at the end of the sentence.

#### **CLAUSE 86**

**THAT**, clause 86 of the Bill be amended–

- (a) in sub-clause (2) by deleting the word "County" appearing immediately after the words "A member of a "; and
- (b) by deleting sub-clause (3) and substituting therefor the following new sub-clause–

"(3) A member of a physical planning liaison committee who does not disclose an interest as required under this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two months or to both."

#### **CLAUSE 87**

**THAT**, clause 87 of the Bill be amended in sub-clause (1) by deleting the word "that" appearing in paragraph (b) and substituting therefor the word "the".

#### **CLAUSE 88**

**THAT**, clause 88 of the Bill be amended by deleting the word "County" wherever it appears.

**CLAUSE 89**

**THAT**, clause 89 of the Bill be amended by deleting the word "County" and substituting therefor the word "the".

**CLAUSE 90**

**THAT**, clause 90 of the Bill be deleted.

**CLAUSE 94**

**THAT**, the Bill be amended by deleting clause 94 and substituting therefor the following new clause—

Pending disputes.

**94.** All disputes relating to physical planning shall, before establishment of the national and county physical planning liaison committees shall be heard and determined by the Environment and Land Court.

**FIRST SCHEDULE**

**THAT**, the First Schedule of the Bill be amended by deleting the title and substituting therefor the following new title—

**"PROCEDURE OF APPOINTMENT OF MEMBERS OF THE NATIONAL PHYSICAL DEVELOPMENT CONSULTATIVE FORUM"**

**INSERTION OF NEW CLAUSES****NEW CLAUSES 18A, 18B, 18C**

**THAT** the Bill be amended by inserting the following new clauses immediately after clause 18—

County Director  
of Physical  
Planning.

**18A.** (1) There is established the office of the County Director of Physical Planning which shall be an office in the county public service.

(2) The County Director of Physical Planning shall advise and be responsible to the County Executive Committee Member in charge of physical planning.

Qualifications of  
the County  
Director of  
Physical  
Planning.

**18B.** The qualifications for appointment as a County Director of Physical Planning shall be similar to those for the appointment of the National Director of Physical Planning.

Responsibilities  
of the County  
Director of  
Physical  
Planning.

**18C.** The County Director of Physical Planning shall be responsible for—

- (a) advising the county government on physical planning matters that impact on the whole country;
- (b) formulating county physical planning policies, guidelines and standards;
- (c) preparation of county physical development plans;
- (d) preparation of local physical development plans;
- (e) participating in the preparation of regional physical development plans;

- (f) undertaking research on matters relating to physical development planning at the county level; and
- (g) recommending to the county government the establishment of planning units as may be necessary.

### **NEW CLAUSE 85A**

**THAT** the Bill be amended by inserting the following new clause immediately after clause 85—

Appeals to National  
Physical Planning  
Liaison Committee.

**85A.** The provisions of sections 82, 83, 84 and 85 shall apply with the necessary modifications in the case of appeals to the National Physical Planning Liaison Committee.

## **2) Notice is given that the Nominated Member (Hon. Isaac Mwaura), intends to move the following amendments to the Physical Planning Bill, 2015 at the Committee Stage –**

### **CLAUSE 5**

**THAT**, clause 5 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (m) –

- (ma) a person nominated by a registered body representing a national association of residents;
- (mb) a person nominated by the National Council for Persons with Disability;

### **CLAUSE 9**

**THAT**, clause 9 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (1) –

- (la) a person nominated by a registered body representing a national association of residents;
- (lb) a person nominated by the National Council for Persons with Disability;

### **CLAUSE 39**

**THAT**, clause 39 of the Bill be amended by inserting the following new paragraph immediately after paragraph (g) –

- “(h) to provide for the mechanisms of zoning of settlements of the various residential areas.”

### **CLAUSE 90**

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

- (a) in sub-clause (1) by deleting the words “Each County Physical Planning Consultative Forum” and substituting therefor the words “the National Physical Planning Consultative Forum in consultation with the Cabinet Secretary.”
- (b) in sub-clause (2) by inserting the following paragraph immediately after paragraph (c) –  
“(c) mechanisms of zoning of settlements of the various residential areas.”

## II. THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO.14 OF 2015)

- 1) Notice is given that the chairperson of the Committee on Health, Hon. Dr. Rachael Nyamae, MP, intends to move the following amendments to the Health Bill, 2015 at the Committee Stage—

### CLAUSE 2

**THAT**, clause 2 of the Bill, be amended-

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

“abortion” means termination of a pregnancy before the foetus is viable as an independent life outside the womb;

(b) by deleting the definition of “alternative medicine” and substituting therefor the following new definition —

“alternative medicine” means complementary medicine and includes a broad set of health care practices that are not part of Kenya’s tradition and are not integrated into the dominant health care system”;

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

“e-Health” means the combined use of electronic communication and information technology in the health sector including telemedicine”;

(d) by deleting the definition of “therapeutic manipulation” and substituting therefor the following new definition —

“therapeutic manipulation” means handling of genetic material of zygotic or embryonic cells in order to alter, for therapeutic purposes, the function of cells or tissues”;

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

“health care provider” means a person who provides health care services and includes a health care professional”;

“health system” means an organization of people, institutions and resources, that deliver health care services to meet the health needs of the population, in accordance with established policies”.

“public good” means a good or service whose benefits may be provided to a group at no more cost than that required to provide for one person”;

“specialist” means a health professional who is specially trained in a certain branch of his or her profession related to specific services or procedures”;

#### **CLAUSE 4**

**THAT** clause 4 of the Bill be amended by inserting the words “palliative” immediately after the word “curative” appearing in sub clause (d).

#### **CLAUSE 5**

**THAT** clause 5 of the Bill be amended by inserting the word “palliative” immediately after the words “curative” .

#### **CLAUSE 6**

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

- (a) in sub clause (1) by deleting the words “ except elective abortions.” appearing in paragraph (a);
- (b) in sub clause (2) by deleting the words “uncomplicated abortion and post-abortion care and in the identification, management and referral of abortion” and substituting therefor the words “manage pregnancy-related complications in women”

#### **CLAUSE 7**

**THAT** clause 7 of the Bill be amended, by inserting the following new sub clause immediately after sub clause (2) —

“(2A) A health care provider shall not be liable under this section, until the provisions of subsection (2) have been implemented.”

#### **CLAUSE 8**

**THAT** clause 8 of the Bill be amended in sub clause (3), by inserting the word “care” immediately after the word “health”.

#### **CLAUSE 13**

**THAT** clause 13 of the Bill be amended by deleting the words “in so far as it is within users” appearing immediately after the words “the duty” and substituting therefor the words “in the absence of any observable incapacity”

#### **CLAUSE 15**

**THAT** clause 15 of the Bill be amended-

(a) in sub clause (1)-

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

“(a) develop health policies, laws and administrative procedures and programmes in consultation with county governments and

health sector stakeholders and the public for the progressive realization of the highest attainable standards of health”;

(ii) by inserting the words “and healthy lifestyle;” immediately after the words “dietetic services” appearing in paragraph (d).

(iii) by inserting the following new paragraph immediately after paragraph (h) -

“(ha) put in place intervention measures to reduce the burden of communicable and non-communicable diseases, emerging and re-emerging diseases, and neglected diseases”;

(iv) by deleting the words “national and county referral” appearing immediately after the words “designation of” in paragraph (j).

(v) by inserting the words “through the established inter-governmental relations mechanisms” immediately before the word “coordinate” appearing in paragraph (o);

(vi) by inserting the words “and specialized” immediately after the word “national” appearing in paragraph (t).

(vii) by inserting the following new paragraph immediately after paragraph (u) –

“(ua) provide policy guidelines and regulations for hospital waste management and conduct of environmental health impact assessment”;

(viii) by inserting the following new paragraph immediately after paragraph (w) –

“(wa) provide policy and training, maintenance of standards and co-ordination mechanisms for the provision of emergency healthcare”;

(b) in sub clause (2), by inserting the words “ in consultation through the established inter-governmental relations mechanisms” immediately after the words “Health” appearing in the opening statement.

#### **CLAUSE 16**

**THAT** clause 16 of the Bill be amended by deleting sub clause (2) and substituting therefor the following new sub clause -

“(2) The Director General for health shall be recruited by the Public Service Commission through a competitive process, vetted by Parliament and appointed by the President.”

#### **CLAUSE 17**

**THAT** clause 17 of the Bill be amended by—

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

“(a) be the technical advisor to the Government on all matters relating to health within the health sector”.

(b) by deleting paragraph (j) and substituting therefor the following paragraph -

“(j) provide guidelines for registration, licensing, certification and gazettement of all health facilities”;

### **CLAUSE 18**

**THAT** clause 18 of the Bill be amended by inserting the words “in consultation with the Director General” immediately after the words “Cabinet Secretary”.

### **CLAUSE 20**

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

(a) in the opening statement by inserting the words “and in consultation through the established inter-governmental relations mechanisms” immediately after the word “Constitution” .

(a) by deleting paragraph (1) and substituting therefor the following new paragraph -

“(l) making due provision and develop criteria to compensate health care facilities for debts arising through failure to secure payment for bills for non-payment of treatment of indigent users”.

### **CLAUSE 24**

**THAT** clause 24 of the Bill be deleted.

### **NEW PARTS**

**THAT** the Bill be amended by inserting the following new parts immediately after clause 26—

## **“PART IIIA – KENYA HEALTH SECTOR INTER-GOVERNMENTAL CONSULTATIVE FORUM**

Establishment of  
Forum.

No.2 of 2012

**26A.** (1) There is established a Health Sector Inter-Governmental Consultative Forum, in line with the provisions of the Inter-Governmental Relations Act, and any applicable law.

Composition of the  
Forum.

(2) The Forum shall comprise of –

(a) the Director-General for health or a designated representative; and

(b) each County Director of Health or a designated representative.

Purpose of the  
Forum.

**26B.** (1) The Forum shall –

(a) develop criteria and framework for determining matters requiring intergovernmental consultation; and



- (b) develop inter-governmental agreements for joint implementation of any activities for health service delivery.

Meetings of the  
Forum.

**26C.** (1) The Forum shall meet at least twice a year.

(2) The Forum shall regulate the procedures of its meetings.

Conduct of business.

**26D.** (1) The Forum shall regulate the conduct and regulation of the business and affairs of the Forum.

### **"PART IIIB – ESTABLISHMENT OF THE KENYA HEALTH HUMAN RESOURCE ADVISORY COUNCIL**

Establishment  
of the Council.

**26E.** (1) There is established a Kenya Health Human Resource Advisory Council which shall consist of –

- (a) a chairperson, who shall be appointed by the President;
- (b) the Principal Secretary for the time being responsible for matters relating to health or a representative designated by the Principal Secretary;
- (c) one person who holds a master's degree in public health nominated by the Council of Governors;
- (d) the Attorney General or a representative designated by the Attorney General;
- (e) the Director-General for health or a representative designated by the Director-General;
- (f) one representative nominated by the Public Service Commission;
- (g) one person nominated by the Intergovernmental Consultative Council;
- (h) one person nominated by the County Public Service Boards;
- (i) three persons nominated by public universities, private universities and mid-level institutions; and
- (k) the Chief Executive Officer.

(2) The Council shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) acquiring , holding and disposing of movable and immovable property; and

- (c) doing or performing all such other things or acts as may be lawfully done by a body corporate.

Functions of the Council.

**26F.** (1) The Council shall review policy and establish uniform norms and standards for –

- (i) posting of interns to National Government and County Government facilities;
- (ii) inter county transfer of healthcare professionals;
- (iii) transfer of healthcare professionals from one level of Government to another;
- (iv) the scheme of service for health professionals;
- (v) management and rotation of specialists; and
- (vi) the maintenance of a master register for all health practitioners in the counties.

Powers of the Council.

**26G.** The Council shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Council shall have power to—

- (a) control, supervise and administer the assets of the Council in such manner and for such purpose as best promotes the purpose for which the Council is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Council;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) enter into association with other bodies or organizations within or outside Kenya as the Council may consider desirable or appropriate and in furtherance of the purpose for which the Council is established;
- (e) open a banking account or banking accounts for the funds of the Council; and
- (f) invest any funds of the Council not immediately required for its purposes as may be permitted by law for the time being in force.

Chief Executive Officer.

**26H.** (1) The Public Service Commission shall, through an open, transparent process, recruit a Chief Executive Officer who shall be appointed by the Council.

(3) A person is qualified for appointment as the Chief Executive Officer to the Council if the person—

- (a) holds at least a degree in medicine from a university recognized in Kenya, and is registered by the Kenya Medical Practitioners and Dentist Board;
- (b) has at least ten years' experience in the practice of medicine, five of which shall be experience at senior management level; and
- (c) meets the requirements of Chapter Six of the Constitution;

(4) The Chief Executive Officer shall serve the Council for a term of five years and shall be eligible, subject to satisfactory performance of his or her functions, for reappointment for one further term.

(5) A person shall not be appointed as the Chief Executive Officer or an officer of the Council if such person has any direct or indirect interest in the health sector.

(6) The Chief Executive Officer may be removed from office for gross misconduct, violation of the Constitution or any other law or on any other ground as may be provided for in the contract of employment.

(7) The Chief Executive Officer shall be responsible for the day to day operations of the Council.

Conduct of  
business and  
affairs of the  
Council.

**26J.** (1) The conduct and regulation of the business and affairs of the Council shall be as provided in the Second Schedule.

(2) Except as provided in the Second Schedule, the Council may regulate its own procedure.

Delegation by  
the Council.

**26K.** The Council may, by resolution generally or in any particular case, delegate to any committee of the Council or to any member, officer, employee or an agent of the Council, the exercise of any of the powers or the performance of any of the functions or duties of the Council under this Act.

Tenure of  
office.

**26L.** (1) The chairperson and the members of the Council, other than *ex-officio* members, shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

(2) The members of the Council shall be appointed in such a manner that the respective expiry dates of their terms of office fall at different times.

Staff of  
the Council.

**26M.** (1) The Council may competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Council.

(2) In the appointment of the staff of the Council, the Council shall comply with the values and principles set out in the Constitution and in particular—

- (a) afford adequate and equal opportunities for appointment and advancement at all levels, of men and women, members of all ethnic groups and persons with disabilities;
- (b) exercise transparency in the recruitment process; and
- (c) ensure competitive recruitment and selection on the basis of personal integrity, competence and suitability.

Terms and  
conditions of  
service.

**26N.** The staff of the Council shall serve on such terms of service as the Council, on recommendation of the Salaries and Remuneration Commission may determine.

Protection from  
of liability.

**26O.** (1) A member of the Council or any person working under the instructions of the Council shall not be personally liable for any act or default of the Council done or omitted to be done in good faith in the course of carrying on the functions of, or exercising of powers conferred upon the Council under this Act.

(2) Despite subsection (1), the Council shall not be relieved of its liability to pay compensation to any person for any injury to him or her, his or her property or to any of his or her interest caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

Funds of the  
Council.

**26P.** The funds of the Council shall comprise—

- (a) such funds as may be appropriated by the Parliament;
- (b) such moneys or assets as may accrue to or vest in the Council in the performance of its functions or the exercise of its powers under this Act or any other written law; and
- (c) all moneys from any other source provided for, donated or lent to the Council.

Financial year.

**26Q.** The financial year of the Council shall be the period of twelve months ending on the thirtieth day of June in every year.

Annual  
estimates.

**26R.**(1) The Council shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Council for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Council for the financial year concerned and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the members of staff or agents of the Council;
- (b) payment of pensions, gratuities and other charges in respect of members and other staff of the Council;
- (c) proper maintenance of buildings and grounds of the Council;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Council; and
- (e) funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Council may deem appropriate.

(3) The annual estimates shall be approved by the Council before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after approval, the Council shall not increase annual estimates without the consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Council except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization by the Cabinet Secretary.

Accounts and  
audit.

**26S.** (1) The Council shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Council.

(2) The accounts of the Council shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No. 12 of 2003

(3) The Council shall, within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Council together with—

- (a) a statement of income and expenditure during the year;
- (b) a statement of the assets and liabilities of the Council as of the last day of that year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Council.

Investment of  
funds.

**26T.** The Council may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance invest any of the funds of the Council in securities in which, for the time being, trustees may by law invest funds or in any other securities which the Treasury may, from time to time, approve for that purpose.

#### **PART IV**

**THAT** PART IV of the Bill be deleted and replaced by the following new PART—

#### **PART IV – ESTABLISHMENT OF THE KENYA HEALTH PROFESSIONS OVERSIGHT AUTHORITY**

Establishment of  
Authority.

**27.** (1) There is established an Authority known as the Kenya Health Professions Oversight Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) acquiring , holding and disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts as may be lawfully done by a body corporate.

The Board of the  
Authority.

**28.** The Authority shall be administered by a Board which shall consist of –

- (a) a chairperson appointed by the Cabinet Secretary who shall be a health professional who meets the requirements of Chapter six of the Constitution of Kenya;
- (b) the Principal Secretary in the Ministry for the time being responsible for matters relating to health or a designated representative;
- (c) the Director-General for health or a designated representative;
- (d) the Attorney General or a designated representative;
- (e) two representatives nominated by the health regulatory bodies established under an Act of Parliament;
- (f) two representatives nominated by the health professional associations registered by the Registrar of Societies who are not regulated or registered by any regulatory body;
- (g) one representative from the private sector appointed by the Cabinet Secretary;

- (h) one representative from consumer rights bodies appointed by the Cabinet Secretary; and
- (i) the Chief Executive Officer.

Powers of the Authority.

**29.** The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, shall have power to—

- (a) control, supervise and administer the assets of the Authority in such manner and for such purpose as best promotes the purpose for which the Authority is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Authority;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) enter into association with other bodies or organizations within or outside Kenya as the Authority may consider desirable or appropriate and in furtherance of the purpose for which the Authority is established;
- (e) open a banking account or banking accounts for the funds of the Authority; and
- (f) invest any funds of the Authority not immediately required for its purposes as provided under section 37.

Functions of the Authority.

**30. (1)** The functions of the Authority shall be to-

- (a) maintain a duplicate register of all health professionals working within the Health System;
- (b) promote and regulate inter-professional liaison between statutory regulatory bodies;
- (c) coordinate joint inspections with all regulatory bodies;
- (d) receive and facilitate the resolution of complaints from patients, aggrieved parties and regulatory bodies;
- (e) monitor the execution of respective mandates and functions of regulatory bodies recognized under an Act of Parliament;

- (f) arbitrate disputes between statutory regulatory bodies, including conflict or dispute resolution amongst Boards and Councils; and
- (g) ensure the necessary standards for health professionals are not compromised by the regulatory bodies.

(2) The Cabinet Secretary shall, in consultation with the Authority make regulations generally for the better carrying out of the provisions of this section and without limiting the generality of the foregoing, the Cabinet Secretary shall make regulations to prescribe—

- (h) the manner and form of coordinating joint inspections with all regulatory bodies;
- (i) the procedure for receipt and facilitation of the resolution of complaints from patients, aggrieved parties and regulatory bodies;
- (j) the manner of monitoring the execution of respective mandates and functions of regulatory bodies recognized under an Act of Parliament;
- (k) the mechanisms for arbitration of disputes between statutory regulatory bodies, including conflict or dispute resolution amongst Boards and Authorities; and
- (l) mechanisms to ensure that the necessary standards for health professionals are not compromised by the regulatory bodies.

Chief Executive  
Officer.

**31.** (1) The Public Service Commission shall, through an open, transparent process, recruit a Chief Executive Officer who shall be appointed by the Authority .

(2) A person is qualified for appointment as the Chief Executive Officer to the Authority if the person—

- (a) holds at least a degree in medicine from a university recognized in Kenya and is registered by the Kenya Medical Practitioners and Dentist Board.
- (b) has at least ten years' experience in the practice of medicine, five of which shall be experience at senior management level; and
- (c) meets the requirements of Chapter Six of the Constitution;



(3) The Chief Executive Officer shall serve the Authority for a term of five years and shall be eligible, subject to satisfactory performance of his or her functions, for reappointment for one further term.

(4) A person shall not be appointed as the Chief Executive Officer or an officer of the Authority if such person has any direct or indirect interest in the health sector.

(5) The Chief Executive Officer may be removed from office for gross misconduct, violation of the Constitution or any other law or on any other ground as may be provided for in the contract of employment.

(6) The Chief Executive Officer shall be responsible to the Board for the day to day operations of the Authority.

Conduct of  
business and affairs  
of the Authority.

**32.** (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Third Schedule.

(2) Except as provided in the Third Schedule, the Authority may regulate its own procedure.

Delegation by the  
Authority.

**33.** The Authority may, by resolution generally or in any particular case, delegate to any committee of the Authority or to any member, officer, employee or an agent of the Authority, the exercise of any of the powers or the performance of any of the functions or duties of the Authority under this Act.

Staff of the  
Authority.

**34.** (1) The Board may competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Board.

(2) In the appointment of the staff of the Board, the Board shall comply with the values and principles set out in the Constitution and in particular—

(d) afford adequate and equal opportunities for appointment and advancement at all levels, of men and women, members of all ethnic groups and persons with disabilities;

(e) exercise transparency in the recruitment process; and

(f) ensure competitive recruitment and selection on the basis of personal integrity, competence and suitability.

Terms and  
conditions of  
service.

**35.** The staff of the Board shall serve the Board on such terms of service as the Board, on recommendation of the Salaries and Remuneration Commission may determine.

Protection from  
Liability.

**36.** (1) A member of the Board, or an officer, employee or agent of the Authority or any person acting under their direction is not liable for any matter or thing if that matter or thing is done in good faith for executing the functions, powers or duties of the Authority.

(2) Despite subsection (1), the Board shall not be relieved of its liability to pay compensation to any person for any injury to him or her, his or her property or to any of his or her interest caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

Funds of the  
Authority.

**37.** The funds of the Authority shall comprise—

- (a) such funds as may be appropriated by the Parliament;
- (b) such moneys or assets as may accrue to or vest in the Authority in the performance of its functions or the exercise of its powers under this Act of any other written law; and
- (c) all moneys from any other source provided for, donated or lent to the Authority.

Financial year.

**38.** The financial year of the Authority shall be the period of twelve months ending on the thirtieth day of June in every year.

Annual estimates.

**39.(1)** The Board shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Authority for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year concerned and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the members of staff or agents of the Authority;
- (b) payment of pensions, gratuities and other charges in respect of members and other staff of the Authority;
- (c) proper maintenance of buildings and grounds of the Authority;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Authority; and
- (e) funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Authority may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after approval, the Authority shall not increase annual estimates without the consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization by the Cabinet Secretary.

Investment  
funds. of

**40.** The Board may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance invest any of the funds of the Authority in securities in which, for the time being, trustees may by law invest funds or in any other securities which the Treasury may, from time to time, approve for that purpose.

Accounts  
audit. and

**41.** (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Authority.

No. 12 of 2003

(2) The accounts of the Authority shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

(3) The Board shall, within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Authority together with—

- (a) a statement of income and expenditure during the year;
- (b) a statement of the assets and liabilities of the Authority as of the last day of that year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Authority.

Relationship with  
other  
regulatory bodies.

**42.** (1) The obligation to inspect, monitor and evaluate the standard of performance in all the services regulated and professionals engaged in the health sector, both public and private shall be undertaken by the respective regulatory bodies provided that they are not in conflict with the functions of the Authority as stipulated in this Act or under any other written law.

(2) For the avoidance of doubt the regulatory bodies referred to in subsection (1) shall include—

Cap.260

- (a) the Clinical officers Authority established under the Clinical Officers Act;

Cap.257

- (b) the Nursing Council of Kenya established under the Nurses Act;

Cap. 253A.

- (d) the Kenya Medical Laboratory Technicians and Technologists Board established under the Medical Laboratory Technicians and Technologists Act;

- Cap.253. (e) the Medical Practitioners and Dentists Board established under the Medical Practitioners and Dentists Act;
- Cap. 243. (f) the Radiation Protection Board established under the Radiation Protection Act;
- Cap.244. (g) the Pharmacy and Poisons Board established under the Pharmacy and Poisons Act;
- Cap. 253B. the Council of the Institute of Nutritionists and Dieticians established under the Nutritionists and Dieticians Act;
- No. 12 of 2013. (h) the Public Health Officers and Technicians Council established under the Public Health Officers (Training, Registration and Licensing) Act; and
- (i) any other body as may be prescribed by the Cabinet Secretary under this Act."

Formation of  
professional  
bodies.

**43A.** Any health professionals seeking to form a professional regulatory body must adhere to the criteria prescribed by the Cabinet Secretary, in consultation with the Authority.

### **CLAUSE 33**

**THAT** clause 33 of the Bill be amended in sub clause (1) by deleting the word "weapons" appearing in paragraph (f) and substituting therefor the word "products".

### **CLAUSE 38**

**THAT** clause 38 of the Bill be amended-

- (a) in sub-clause (2) by deleting the expression "(a)" appearing at the beginning of the sub-clause.
- (b) by renumbering paragraph (b) as paragraph (a);
- (c) by renumbering paragraph (c) as paragraph (b);
- (d) by renumbering paragraph (d) as paragraph (c);
- (e) by renumbering paragraph (e) as paragraph (d);
- (f) by renumbering paragraph (f) as paragraph (e);

### **CLAUSE 39**

**THAT** clause 39 of the Bill be amended in sub clause (1) by inserting a new paragraph immediately after paragraph (l)—

"(m) developing guidelines for the conduct of health impact assessment."

**CLAUSE 41**

**THAT** clause 41 of the Bill be amended by deleting the opening statement and substituting therefor the following new opening statement -

“There shall be established by an Act of Parliament, legislation to—”

**CLAUSE 43**

**THAT** clause 43 of the Bill be amended —

(a) in sub clause (1) by deleting the word “African”

(b) in sub clause (3) by deleting the word “African”

**CLAUSE 48**

**THAT**, clause 48 be amended in sub clause (2) by inserting the word “in” immediately after the word “mentioned”.

**CLAUSE 49**

**THAT**, clause 49 be amended, by deleting sub clause (2) and substituting therefor the following new clause—

“(2) In the absence of a donation under subsection (1)  
(a) or of a contrary direction given by a person whilst alive  
and upon death the person’s body remains unclaimed under  
any other law, the spouse or spouses, elder child, parent,  
guardian, eldest brother or sister of that person, in the  
specific order mentioned, may, after that person’s death,  
donate the body or any specific tissue of that person to an  
institution or a person contemplated in this subsection.”

**CLAUSE 52**

**THAT**, clause 52 be amended—

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

“(b) the spouse(s), child, parent, guardian, brother or sister of the  
deceased, in the specific order mentioned, gave consent thereto; or  
”

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

“(b) in the case where there is no medical practitioner in charge of  
clinical services, a medical practitioner authorized by the person in  
charge of such hospital or authorized institution,

authorizes the post mortem examination in writing and in the prescribed manner.”

**CLAUSE 54**

**THAT** clause 54 of the Bill be deleted and replaced by the following new clause—

Health  
finance.

**"54.(1)** The Ministry of health shall ensure progressive financial access to universal health coverage by taking measures that include—

- (a) developing mechanisms for an integrated national health insurance system, including making provisions for social health protection and health technology assessment;
- (b) establishing in collaboration with the department responsible for finance oversight mechanism to regulate all health insurance providers;
- (c) developing policies and strategies that ensure realization of universal health coverage;
- (d) determining, during each financial period and in consultation with individual county authorities, cost sharing mechanisms for services provided by the public health system without significantly impeding the access of particular population groups to the system in the areas concerned; and
- (e) defining in collaboration with the department responsible for finance, public financing of health care framework, including annual allocations towards reimbursing all health care providers responding to disasters and emergencies as contemplated under this Act

(2) The Ministry of health shall, in consultation through the established inter-governmental relations mechanisms —

- (a) provide a framework for collaboration with the ministries responsible for finance, planning and any other relevant department to secure health care for vulnerable groups and indigents;
- (b) provide a framework for examining means of optimizing usage of private health services as a result of relieving the burden carried by the publicly financed system; and
- (c) provide a framework for establishing a harmonized common mechanism for coordinating planning and financing and monitoring and evaluation within the health sector."

**CLAUSE 55**

**THAT** clause 55 be deleted and replaced by the following new clause -

Bank account.

**"55 (1)** The National Treasury shall, facilitate the opening and maintenance of bank accounts by the county treasuries, for purposes of operationalizing disbursements of conditional grants, donations and any other monies designated for health as may be prescribed, in accordance with the provisions of the Constitution and the Public Finance Management Act.

Act No. 18 of 2012.

(2) Funds identified and designated for health in sub-section (1) shall not be appropriated for any other purpose."

**CLAUSE 56**

**THAT** clause 56 be amended, by inserting the words "and regulation" immediately after the words "development" appearing in sub clause (1).

**CLAUSE 59**

**THAT** clause 59 of the Bill be deleted and replaced by the following new clause —

"Duty of licensees.

**59. (1)** Institutions licensed under section 57 and private health workers licensed under section 58 shall irrespective of any specific conditions attached to such a licence be bound -

- (a) to permit and facilitate inspection at any time by the Authority and regulatory bodies;
- (b) to provide emergency services in their field of expertise required or requested either by individuals, population groups or institutions, without regard to the prospect or otherwise of direct financial reimbursement.

(2) Institutions and private health workers shall nevertheless be entitled to compensation under similar terms as contemplated under section 7 of this Act."

**CLAUSE 61**

(a) **THAT** clause 61 be amended—

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

"(1) There shall be established by the Cabinet Secretary, a National Health Research Committee which shall be a technical committee".

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

"Establishment of the National Health Research Committee".

**CLAUSE 64**

**THAT** clause 64 of the Bill be amended in sub clause (3) by inserting the following new paragraph immediately after paragraph (f)—

“(fa) set up a national research database”

**CLAUSE 66**

**THAT** clause 66 of the Bill be amended by deleting the words “Third Schedule” and substituting therefor the words “Fourth Schedule”

**CLAUSE 72**

**THAT** clause 72 be amended, by deleting the opening statement, and substituting therefor the following new opening statement —

“The Cabinet Secretary shall, within three years of the operation of this Act, ensure the enactment of legislation that provides for among other things”

**CLAUSE 73**

**THAT**, clause 73 be amended—

(a) in sub clause (1), by inserting the word ‘integrated’ immediately after the word “comprehensive”;

(b) in sub clause (2), by inserting the words “ in consultation with the Director General,” immediately after the word “ Cabinet Secretary” .

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

“(2A) The Cabinet Secretary shall, in consultation with the Director General, prescribe policy guidelines for the establishment of an integrated comprehensive health information management system, which shall include—

- (a) an integrated comprehensive health information system relating to the national government health functions;
  - (b) an integrated comprehensive health information system relating to every county and in respect of county functions; and
  - (c) the consolidation and harmonization of health information obtained under subsection (a) and subsection (b) ;
- 
- (a) the minimum standards applicable for establishment and maintenance of health information systems;
  - (b) a guide on the minimum indices to be captured by each county health information system;
  - (c) the mechanism for ensuring inter-connectivity between each county information system and the national system;



- (d) the guiding principles for management and administration of health information banks; and
- (e) any other information on health services, including sources of health financing, human resources available in the health sector."

**CLAUSE 74**

**THAT**, clause 74 be deleted and replaced by the following new clause-

Collaboration.

"74.(1) While the Cabinet Secretary responsible for health shall bear primary responsibility for the implementation of this Act, the respective levels of government and other agencies of government shall collaborate, consult and enter into agreements for the better carrying out of the provisions of this Act.

(2) Without prejudice to sub section (1), the respective levels of government shall collaborate in the implementation of this Act, development of regulations and where necessary in the adaptation of legislation.

**CLAUSE 76**

**THAT**, clause 76 be amended, by deleting paragraph (a) and substituting therefor the following new paragraph -

"(a) health workers welfare";

**CLAUSE 78**

**THAT**, clause 78 be amended, by inserting the following new clause immediately after clause 78-

General penalty

**78A.** (1) A person convicted of an offence under this Act for which no penalty is provided shall, on conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term not three months, or to both.

(2) An act or omission which is an offence under this Act or any regulations made hereunder shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance of the director, secretary or manager and that he or she exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case.

(3) If an offence under this Act or any regulations made hereunder is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence, unless there is proof that the offence was committed without the consent or connivance of the partner and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case."

**CLAUSE 79**

**THAT** clause 79 of the Bill, be amended in the opening statement, by inserting the words "in consultation with the Director General" immediately after the words "Cabinet Secretary".

**FIRST SCHEDULE**

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

(a) in LEVEL 5-

(i) by deleting the words "nursing staff and clinical officers" appearing at the end of paragraph (b) and substituting therefor the words "paramedical staff";

(ii) by deleting paragraph (d);

(b) in LEVEL 6-

(i) by inserting the words "Research centre, provides" immediately before the word "training" appearing in paragraph (b);

(ii) by deleting note 2 and substituting therefor the following note-

"2. Level 6 shall be National Referral Hospitals and established in every County."

(iii) by inserting the words "or downgraded" immediately after the word "upgraded" appearing in note (3).

**NEW SCHEDULE**

**THAT** the Bill be amended by inserting the following Schedule immediately after the First Schedule

**SECOND****SCHEDULE**

(s.26 J)

**PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNCIL**

Vacation of office.

1. A member other than an *ex-officio* member may—

(a) at any time resign from office by notice in writing, in the case of the Chairperson, to the President, and in the case of any other member, to the Cabinet Secretary;

(b) be removed from office by the President or the Cabinet Secretary, as the case may be, if the member—

(i) has been absent from three consecutive meetings of the Council without the permission of the Council;

- (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors;
- (iii) is convicted of an offence involving dishonesty or fraud;
- (iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (v) is incapacitated by prolonged physical or mental illness;
- (vi) is found to have acted in a manner inconsistent with the aim and objectives of this Act;
- (vii) fails to comply with the provisions of this Act relating to disclosure; or
- (viii) is otherwise unable or unfit to discharge his or her functions as member of the Council.

Meetings.

**2.** (1) The Council shall hold at least four meetings in every financial year and not more than four months will elapse between one meeting and the next.

(2) Meetings shall be convened by the Chairperson or in his absence by the vice-chairperson.

(3) Unless three quarters of the members otherwise agree, at least fourteen days' notice of a meeting shall be given to every member.

(4) The Chairperson shall preside over all the meetings of the Council or in his absence, the meetings shall be presided over by the vice-chairperson or in both their absences, by a person elected by the Council at the meeting for that purpose.

(5) A decision of the Council shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

(6) The first order of business of the Council shall be to elect a vice-chairperson.

Quorum.

**3.** The quorum for the conduct of business of the Council shall be half of the members, and unless a unanimous decision is reached, decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

Minutes.

4. Minutes of all meetings shall be kept and entered in books kept for that purpose.

Disclosure of interest.

5. (1) If a member is directly or indirectly interested in any matter before the Council and is present at the meeting of the Council at which the matter is the subject of consideration, he or she shall, at the meeting and as soon as practicable after the commencement, disclose that fact and shall be excluded at the meeting at which the matter is being considered.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Allowances of the Council.

6. The Chairperson and members of the Council shall be paid such allowances as the Cabinet Secretary in consultation with the Salaries and Remuneration Commission shall determine.

Powers of the Cabinet Secretary.

7. (1) The Council shall operate under the supervision of the Cabinet Secretary.

(2) Where the Council fails to maintain any prescribed standard in the fulfillment of its functions under this Act, the Cabinet Secretary may give general or special directions to the Council describing the extent of the failure and stating the steps required to remedy the situation.

### **THIRD SCHEDULE**

**THAT** the Bill, be amended, by deleting the proposed Second Schedule and substituting therefor the following new Schedule –

#### **THIRD SCHEDULE**

**(s. 32)**

#### **PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY**

Meetings.

1. (1) The Authority shall hold at least four meetings in every financial year and not more than four months will elapse between one meeting and the next.

(2) Meetings shall be convened by the Chairperson or in his absence by the vice-chairperson.

(3) Unless three quarters of the members otherwise agree, at least fourteen days notice of a meeting shall be given to every member.

(4) A meeting shall be presided over by the Chairperson, or in his absence, by the vice-chairperson or in their absences, by a person elected by the Board at the meeting for that purpose.

(5) A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

(6) The first order of business of the Board shall be to elect a vice-chairperson.

Quorum.

2. The quorum for meeting shall be five members.

Minutes.

3. Minutes of all meetings shall be kept and entered in books kept for that purpose.

Conflict of interest.

4. A member of the Authority who has a direct or indirect personal interest in a matter being considered or to be considered by the Board shall as soon as reasonably practicable after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his interest to the Board.

Disclosure of interest  
by members of the  
Board.

5. A disclosure of interest in a matter shall be recorded in the minutes of the meeting of the Board and the member shall not be present while that matter is being dealt with by the Board and shall not take part in any deliberations or vote relating to the matter.

Remuneration of the  
members of the Board

6. The Authority shall pay the members of the Board such allowances and expenses as shall be determined by the Cabinet Secretary.

#### **FOURTH SCHEDULE**

**THAT** the Bill be amended by deleting the proposed Third Schedule and substituting therefor the following new Schedule –

#### **FOURTH SCHEDULE**

**(s. 66)**

#### **PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE**

Meetings.

1. (1) The Committee shall hold at least four meetings in every financial year and not more than four months will elapse between one meeting and the next.

(2) Meetings shall be convened by the Chairperson or in his absence by the vice-chairperson.

(3) Unless three quarters of the members otherwise agree, at least fourteen days notice of a meeting shall be given to every member.

(4) The Chairperson shall preside over all the meetings of the Committee or in his absence, the meetings shall be presided over by the vice-chairperson or in both their absences, by a person elected by the Committee at the meeting for that purpose.

(5) A decision of the Committee shall be by a majority of the members present and voting and, in the case of an equality of votes, the person presiding at the meeting shall have a second or casting vote.

(6) The first order of business of the Committee shall be to elect a vice-chairperson.

Quorum.

7. The quorum for meeting shall be five members.

Minutes.

8. Minutes of all meetings shall be kept and entered in books kept for that purpose.

Conflict of interest.

9. A member of the Committee who has a direct or indirect personal interest in a matter being considered or to be considered by the Committee shall as soon as reasonably practicable after the relevant facts concerning the matter have come to his knowledge, disclose the nature of his interest to the Committee.

Disclosure of interest  
by members of the  
Committee.

10. A disclosure of interest in a matter shall be recorded in the minutes of the meeting of the Committee and the member shall not be present while that matter is being dealt with by the Committee and shall not take part in any deliberations or vote relating to the matter.

Remuneration of  
Committee members.

11. The Committee shall pay the members of the Committee such allowances and expenses as shall be determined by the Cabinet Secretary.

**2) Notice is given that the Member for Kiharu (Hon. Irungu Kang'ata) intends to move the following amendments to the Health Bill, 2015 at the Committee Stage—**

**CLAUSE 26**

**THAT** clause 26 of the Bill be amended by inserting the following new part immediately after clause 26—

**“PART IIIA – ESTABLISHMENT OF THE KENYA HEALTH COMMISSION**

Establishment of the  
Commission.

**26A.** (1) There is established a Commission to be known as the Kenya Health Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of—

(a) suing and being sued;

- (b) acquiring , holding and disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts as may be lawfully done by a body corporate.

Functions of the  
Commission.

**26B.** (1) The Commission shall establish uniform norms and standards and review policy for –

- (a) posting of interns to National Government and County Government facilities;
- (b) inter County transfer of healthcare professionals;
- (c) transfer healthcare professionals from one level of Government to another;
- (d) the scheme of service for the health professionals; and
- (e) management and rotation of specialists;

Powers of the  
Commission.

**26C.** In the exercise of its functions the Commission shall have power to—

- (a) control, supervise and administer the assets of the Commission in such manner and for such purpose as best promotes the purpose for which the Commission is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Commission;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) enter into association with other bodies or organizations within or outside Kenya as the Commission may consider desirable or appropriate and in furtherance of the purpose for which the Commission is established;
- (e) open a banking account or banking accounts for the funds of the Commission; and
- (f) invest any funds of the Commission not immediately required for its purposes as provided under section 26P.

The Board of the  
Commission.

**26D.** The Commission shall be governed by a Board of Management which shall consist of –

- (a) a chairperson, who shall be appointed by the President;
- (b) the Principal Secretary of the Ministry of health or a representative designated by the Principal Secretary;
- (c) one representative nominated from the Council of Governors;
- (d) the Attorney General or a representative designated by the Attorney General;
- (e) one representative nominated from the Public Service Commission;
- (f) one representative nominated from the Intergovernmental Relations Committee;
- (g) one representative nominated from County Public Service Boards;
- (h) one representative nominated from the Directorate of Public Service Management;
- and
- (i) the Chief Executive Officer.

Chief Executive  
Officer.

**26E.** (1) The Board shall, through an open, transparent and competitive recruitment process, appoint a suitably qualified person as the Chief Executive Officer of the Commission.

(2) A person is qualified for appointment as the Chief Executive Officer if the person—

(a) holds a degree from a university recognized in Kenya in any of the following disciplines—

- (i) public administration and management;
- (ii) law;
- (iii) business administration; or
- (iv) health related study;

(b) has at least ten years experience, five of which shall be experience at senior management level; and

(c) meets the requirements of Chapter Six of the Constitution.

(3) The Chief Executive Officer shall serve the Commission for a term of five years and shall be eligible, subject to satisfactory performance of his or her functions, for reappointment for one further term.



(4) A person shall not be appointed as the Chief Executive Officer or an officer of the Commission if such person has any direct or indirect interest in the health sector.

(5) The Chief Executive Officer may be removed from office for gross misconduct, violation of the Constitution or any other law or on any other ground as may be provided for in the contract of employment.

(6) The Chief Executive Officer shall—

(a) subject to the direction of the Board, be responsible for the day to day management of the Commission;

(b) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Commission, the exercise, discharge and performance of its objectives, functions and duties, and the general administration of the Commission; and

(c) be the secretary to the Board.

Conduct of business and affairs of the Commission.

**26F.** (1) The conduct and regulation of the business and affairs of the Commission shall be as provided in the Schedule.

(2) Except as provided in the Schedule, the Commission may regulate its own procedure.

Delegation by the Commission.

**26G.** The Commission may, by resolution generally or in any particular case, delegate to any committee of the Commission or to any member, officer, employee or an agent of the Commission, the exercise of any of the powers or the performance of any of the functions or duties of the Commission under this Act.

Tenure of office.

**26H.** (1) The chairperson and the members of the Board, other than *ex-officio* members, shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

(2) The members of the Board shall be appointed in such a manner that the respective expiry dates of their terms of office fall at different times.

Staff of the Board

**26I.** (1) The Board shall competitively appoint suitably qualified staff as may be necessary for the efficient performance of the functions of the Board.

(2) In the appointment of the staff of the Board, the Board shall comply with the values and principles set out in the Constitution and in particular—

(g) afford adequate and equal opportunities for appointment and advancement at all levels, of men and women, members of all ethnic groups and persons with disabilities;

- (h) exercise transparency in the recruitment process; and
- (i) ensure competitive recruitment and selection on the basis of personal integrity, competence and suitability.

Terms and conditions of service.

**26J.** The staff of the Board shall serve the Board—

- (a) on such conditions of service as the Board in consultation with the Public Service Commission may determine; and
- (b) on such terms of service as the Board, on recommendation of the Salaries and Remuneration Commission may determine.

Limitation of Liability.

**26K.** (1) A member of the Commission shall not be personally liable for any act or default of the Commission done or omitted to be done in good faith in the course of carrying on the functions of, or exercising of powers conferred upon the Commission under this Act.

(2) Despite subsection (1), the Commission shall not be relieved of its liability to pay compensation to any person for any injury to him or her, his or her property or to any of his or her interest caused by the exercise of any power conferred by this Act or by failure, whether wholly or partially, of any works.

Funds of the Commission.

**26L.** The funds of the Commission shall comprise—

- (d) such funds as may be appropriated by Parliament for purposes of the Commission;
- (e) such moneys or assets as may accrue to or vest in the Commission in the course of the exercise of its powers or the performance of its functions under this Act of any other written law; and
- (f) all moneys from any other source provided for, donated or lent to the Commission.

Financial year.

**26M.** The financial year of the Commission shall be the period of twelve months ending on the thirtieth day of June in every year.

Annual estimates.

**26N.**(1) The Commission shall, at least three months before the commencement of each financial year, cause to be prepared estimates of revenue and expenditure of the Commission for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Commission for the financial year concerned and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in respect of the members of staff or agents of the Commission;
- (b) payment of pensions, gratuities and other charges in respect of members and other staff of the Commission;
- (c) proper maintenance of buildings and grounds of the Commission;
- (d) acquisition, maintenance, repair and replacement of the equipment and other movable property of the Commission; and
- (e) funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Commission may deem appropriate.

(3) The annual estimates shall be approved by the Commission before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after approval, the Commission shall not increase annual estimates without the consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Commission except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization by the Cabinet Secretary.

Investment of funds.

**26O.** The Commission may, subject to the approval of the Cabinet Secretary for the time being responsible for matters relating to finance invest any of the funds of the Commission in securities in which, for the time being, trustees may by law invest funds or in any other securities which the Treasury may, from time to time, approve for that purpose.

Accounts and audit.

**26P.** (1) The Commission shall cause to be kept all proper books and records of accounts of the income, expenditure, assets and liabilities of the Commission.

No. 12 of 2003.

(2) The accounts of the Commission shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

(3) The Commission shall, within three months from the end of the financial year to which the accounts relate, submit to the Auditor-General the accounts of the Commission together with—

- (a) a statement of income and expenditure during the year;

- (b) a statement of the assets and liabilities of the Commission as of the last day of that year;
- (c) a cash flow statement for the financial year; and
- (d) any other statements and accounts that may be necessary to fully disclose the financial position of the Commission.

**CLAUSE 54**

**THAT** clause 54 of the Bill be amended by inserting the following new clause immediately after clause 54-

"County Budgets.

**54A.** Every County government shall allocate not less than fifteen per cent of their annual budgets to their respective health budgets."

**3) Notice is given that the Member for Wajir West (Hon. Abdikadir O. Ahmed) intends to move the following amendments to the Health Bill, 2015 at the Committee Stage—**

**FIRST SCHEDULE**

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

(c) in LEVEL 1-

(d) by deleting the note and substituting therefore the following new note-

**"Note:** The In-charge is a qualified health professional registered by a recognized statutory regulatory body.";

(d) in LEVEL 2-

(e) by deleting the note and substituting therefore the following new note-

**"Note:** The In-charge is a qualified health professional registered by a recognized statutory regulatory body.";

(e) in LEVEL 3-

(f) by deleting the note and substituting therefore the following new note-

**"Note:** The In-charge is a qualified health professional registered by a recognized statutory regulatory body.";

(f) in LEVEL 4-

(iv) by deleting the sub-title "PRIMARY HOSPITAL" and substituting therefor the following new sub-title "COUNTY REFERRAL HOSPITAL";

(v) by inserting the words "and is a qualified health professional registered by a recognized statutory regulatory body." immediately after the words "related field" appearing in note.

- (g) in LEVEL 5 by deleting the sub-title "SECONDARY HOSPITAL" and substituting therefor the following new sub-title "REGIONAL REFERRAL HOSPITAL";
- (h) in LEVEL 6 by deleting the sub-title "TERTIARY HOSPITAL" and substituting therefor the following new sub-title "NATIONAL REFERRAL HOSPITAL".

**4) Notice is given that Nominated Member (Hon. Juma Zuleikha Hassan) intends to move the following amendments to the Health Bill, 2015 at the Committee Stage—**

**CLAUSE 14**

**THAT** clause 14 of the Bill be amended by inserting the following new clause immediately after clause 14-

**"14A.** (1) A public officer shall, seek medical treatment from a public health facility, where the medical treatment is being funded by public resources.

(2) A person who fails to comply with the provisions of this section commits an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings, or imprisonment for a term not exceeding three years, or both."

**I. THE REPORT OF THE PUBLIC ACCOUNTS COMMITTEE  
ON THE SPECIAL AUDIT REPORT OF THE JUDICIAL  
SERVICE COMMISSION (JSC) AND THE JUDICIARY**

**1) Notice is given that the Member for Ugenya (Hon. David Ochieng'), intends to move the following amendment to the Report of the Public Accounts Committee on the Special Audit Report of the Judicial Service Commission (JSC) and the Judiciary**

**THAT**, the Motion be amended by inserting the following words immediately after the words "Tuesday, 7<sup>th</sup> July, 2015"-

**"Subject to the –**

- (i) deletion of recommendation number 2 appearing on page 136 of the Report;**
- (ii) deletion of recommendation number 4 appearing on page 136 of the Report, and substituting therefor with the following –**

**"The various Commissioners of the Judicial Service Commission must take personal responsibility for allowances paid to them for attending meetings that were convened without the knowledge and approval of the Chief Justice. An audit of all such meetings should be undertaken and the responsible Commissioners surcharged;" and**

- (iii) deletion of recommendation number 5 appearing on page 136 of the Report;"**

- 2) Notice is given that the Deputy Leader of the Majority Party, intends to move the following amendment to the Report of the Public Accounts Committee on the Special Audit Report of the Judicial Service Commission (JSC) and the Judiciary

**THAT, the Motion be amended by inserting the following words immediately after the words "Tuesday, 7<sup>th</sup> July, 2015"-**

**"Subject to the insertion of the following:-**

- (i) **New recommendation 6.v on page 137 of the Report as follows:-**

**"v. Mrs. Lydia Achode for her role in the irregular procurement of offices at Mayfair Court Centre, when she was the Registrar of Judiciary."**

- (ii) **New recommendation number 23 on page 140 of the Report as follows:-**

**"23. That the Judicial Service Commission forthwith desists from interfering with the financial administrative and operational functions of the Judiciary; and further that National Assembly through the Departmental Committee on Justice and Legal Affairs, undertakes an urgent review of the Judicial Service Act 2011 to address through statute, the unlawful encroachment of the Judicial Service Commission into the administration of the Judiciary which falls outside of its mandate under Article 172 of the Constitution of Kenya".**

- 3) Notice is given that the Nominated Member (Hon. Amina Abdalla), intends to move the following amendment to the Report of the Public Accounts Committee on the Special Audit Report of the Judicial Service Commission (JSC) and the Judiciary

**THAT, the Motion be amended by inserting the following words "immediately after the words "Tuesday, 7<sup>th</sup> July 2015"-**

**"Subject to the deletion of recommendation number 19 on page 139 of the report, and substitution thereof with the following:-**

**"The security upgrades implemented by Mr. Simiyu Werunga, a security consultant and contractor, should be subjected to detailed audit by an independent Security Consultant, working jointly with relevant departments of the Government, and any sums paid over and above fair market value be claimed from the consultant/contractor".**

- 4) Notice is given that the Member for Ainabkoi (Hon. Samuel Chepkonga), intends to move the following amendment to the Report of the Public Accounts Committee on the Special Audit Report of the Judicial Service Commission (JSC) and the Judiciary

**THAT, the Motion be amended by inserting following words “immediately after the words “Tuesday, 7<sup>th</sup> July 2015”-**

**“Subject to the insertion of the following words immediately after the words “Administration Committee of the JSC” appearing in the recommendation number 20 on page 139 of the Report:**

**“Commissioners Smokin Wanjala, Mohammed Warsame, Ahmednassir Abdullahi, Rev. Samuel Kobia, Christine Mango and Emily Ominde”**

- 5) Notice is given that the Member for Lari Constituency (Hon. Irungu Kangata), intends to move the following amendment to the Report of the Public Accounts Committee on the Special Audit Report of the Judicial Service Commission (JSC) and the Judiciary

**THAT, the motion be amended by inserting the following words “immediately after the words “Tuesday, 7<sup>th</sup> July 2015” –**

**“Subject to the insertion of the following words immediately after the words “Administration Committee of the JSC” appearing in the recommendation number 20 on page 139 of the report:**

**“Commissioners Smoking Wanjala, Mohammed Warsame, Rev. Samuel Kobia, Ahmednassir Abdullahi, Christine mango and Emily Ominde”.**

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

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, 9<sup>th</sup> February, 2016 in accordance with the Calendar of the Assembly (Regular Sessions).**

**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 **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.



- II. **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.
- 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 fifteen (15) days, the debate shall be limited to a maximum of thirty minutes (30), and shall be strictly confined to the question of the adjournment.**

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