



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (FIFTH SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

THURSDAY, FEBRUARY 02, 2017 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* . THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL
(NATIONAL ASSEMBLY BILL NO. 45 OF 2016)**

(The Leader of the Majority Party)

Second Reading

(Question to be put)

**9* . THE NATIONAL CORONERS SERVICE BILL (NATIONAL ASSEMBLY
BILL NO. 46 OF 2016)**

(The Leader of the Majority Party)

Second Reading

(Resumption of debate interrupted on Wednesday, February 01, 2017 – Afternoon Sitting)

(Mover to reply)

**10* . THE DIVISION OF REVENUE BILL (NATIONAL ASSEMBLY BILL NO. 2
OF 2017)**

(Chairperson, Budget and Appropriations Committee)

Second Reading

11*. COMMITTEE OF THE WHOLE HOUSE

- (i) The Public Service Commission Bill (National Assembly Bill No. 36 of 2016)
(The Leader of the Majority Party)
- (ii) The Proceeds of Crime and Anti-Money Laundering (Amendment) Bill (National Assembly Bill No. 64 of 2015)
(The Leader of the Majority Party)

12*. THE PREVENTION OF TORTURE BILL (NATIONAL ASSEMBLY BILL NO. 47 OF 2016)

(The Leader of the Majority Party)

Second Reading

13*. THE MOVABLE PROPERTY SECURITY RIGHTS BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2016)

(The Leader of the Majority Party)

Second Reading

14*. THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2016)

(The Leader of the Majority Party)

Second Reading

15*. MOTION – THE REPORT OF THE PUBLIC INVESTMENTS COMMITTEE ON THE PROCUREMENT AND FINANCING OF THE NSSF TASSIA II PROJECT

(Chairperson, Public Investments Committee)

THAT, this House adopt the Special Report of the Public Investments Committee on the Procurement and Financing of the National Social Security Fund Tassia II Infrastructure Development Project, laid on the Table of the House on Wednesday, 30 April, 2014.

16*. THE BETTING, LOTTERIES AND GAMING (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2016)

(The Hon. Jakoyo Midiwo, M.P.)

Second Reading

*** Denotes Orders of the Day**

N O T I C E S

I. THE PUBLIC SERVICE COMMISSION BILL (NATIONAL ASSEMBLY BILL NO. 36 OF 2016)

- 1) Notice is given that the Chairperson, Departmental Committee on Administration and National Security, intends to move the following amendments to the Public Service Commission Bill, 2016 at the Committee Stage—

CLAUSE 2

THAT, clause 2 of the Bill be amended—

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

“affirmative action” means any measure designed to overcome or ameliorate an inequity or the systemic denial of opportunities;

- (b) by deleting the definition of the term “authorized officer” and substituting therefor the following new definition—

“authorized officer” in relation to the Commission, means any officer, body or authority appointed by the Commission to perform its delegated functions in a Ministry or State department, or any member of the Commission;

- (c) by deleting the definition of the term “casual service”;

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

“publicise”, in relation to a document, means to make known to the public, through the national, local media and other lawful means;

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

“reprimand” means a form of disciplinary action imposed after formal charges that declares an officer’s conduct improper;

(f) by deleting the definition of the term “transfer of service” and substituting therefor the following new definition—

“transfer of service” means the movement of appointment of a pensionable employee from one public service organisation to another, which has reciprocal pension arrangements and has been declared a “Public Service” for purposes of preserving the employee’s previous pensionable services; and

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

“casual employee” has the meaning assigned to it in the Employment Act.

CLAUSE 7

THAT, clause 7 of the Bill be amended in sub-clause (2) by deleting the word “youth”.

CLAUSE 15

THAT, clause 15 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (8)—

“(9) The Secretary appointed under subsection (2) shall be a State officer.”

CLAUSE 27

THAT, clause 27 of the Bill be amended in sub-clause (1) by inserting the words “the authorized officer of” immediately after the words “written request by”.

CLAUSE 31

THAT, clause 31 of the Bill be amended—

- (a) in sub-clause (2) by deleting the words “in person”;
- (b) by deleting sub-clause (6).

CLAUSE 43

THAT, clause 43 of the Bill be amended in sub-clause (3)—

- (a) by deleting the words “the transfer shall not be arbitrary” appearing immediately after the opening sentence; and
- (b) by inserting the following new paragraph immediately after paragraph (b)—

“(c) the transfer shall not be arbitrary”

CLAUSE 44

THAT, clause 44 of the Bill be deleted and substituted therefor the following new clause—

“**44.** The Commission shall prescribe the terms and conditions for employment of casual employees within the public service.”

CLAUSE 47

THAT, clause 47 of the Bill be amended—

(a) in sub-clause (2)—

(i) by deleting paragraph (iii);

(ii) in paragraph (iv) by deleting the word “fifteen” and substituting therefor the word “ten”;

(b) in sub-clause (3) by inserting the words “paying attention to inclusiveness in terms of gender, Kenya’s diverse communities, persons with disabilities and the youth” immediately after the words “for every position for appointment”.

CLAUSE 63

THAT, clause 63 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (2)—

“(3) The Commission shall communicate to an authorized officer or public body on instances of non-compliance with values and principles stipulated in Articles 10 and 232 of the Constitution, and require such compliance within a specified period.

(4) Any authorized officer or public body who refuses, fails or neglects to comply with the national values and principles shall be liable to disciplinary action in accordance with the applicable laws including removal from office.”

CLAUSE 64

THAT, clause 64 of the Bill be amended—

(a) by inserting the following new sub-clause as sub-clause (1)—

“(1) The power to exercise disciplinary control within the public service shall vest in the Commission.”;

(b) by renumbering the subsequent sub-clauses accordingly.

CLAUSE 67

THAT, clause 67 of the Bill be amended in sub-clause (1)–

- (a) by deleting the word “inflicted” and substituting therefor the word “imposed”; and
- (b) by inserting the following new paragraph immediately after paragraph (e)–
“(f) reduction in rank or seniority.”

CLAUSE 75

THAT, clause 75 of the Bill be amended by deleting the words “Guidelines issued by the Commission” and substituting therefor the words “Regulations made by the Commission”.

CLAUSE 82

THAT, clause 82 of the Bill be amended in paragraph (b) by deleting the words “prescribed in a special retirement scheme” and substituting therefor the words “of the contract”.

INSERTION OF A NEW CLAUSE

THAT, the Bill be amended by inserting the following new clause immediately after clause 57–

Organization
of the public
service.

57A.(1) In this Act, “organization of the public service” means the organizational structures and establishments of departments or divisions, directorates, units, sections and other organizational or governance arrangements in the public service.

(2) The Commission shall investigate, monitor and evaluate the organization of the public service with respect to any public body and make recommendations to the public body, the President and Parliament.

(3) The recommendations of the Commission under subsection (2) may include –

- (a) establishment of any public body including a state department;
- (b) amalgamation of any public bodies including a state department;
- (c) addition to or subtraction from a department or division, directorate, unit, section or other organizational arrangement;
- (d) naming or renaming of any public body, department or division, directorate, unit, section or other organizational arrangement; or
- (e) abolition of any public body, department or division, directorate, unit, section or other organizational arrangement.

(4) Where the Commission is vested with the constitutional function to abolish the public offices that would be subject to a recommendation under subsection (3), instead of making the recommendation, the Commission shall take the necessary action.

(5) Where the Commission's recommendations under subsection (3) (a) are addressed to the President, such recommendations may be construed to be recommendations for establishment of an office in the public service within the meaning of Article 132 (4) (a) of the Constitution.

INSERTION OF A NEW PART

THAT, the Bill be amended by inserting the following sub-title to the part appearing immediately after clause 30—

"PART V- DELEGATION"

2) **Notice is given that the Leader of the Majority Party, Hon. Aden Duale, M.P., intends to move the following amendments to the Public Service Commission Bill, 2016 at the Committee Stage—**

CLAUSE 3

THAT, clause 3 of the Bill be amended by inserting the words "and section 28 of the Kenya Defence Forces Act" immediately after the words "of the Constitution".

CLAUSE 47

THAT, clause 47 of the Bill be amended—

(a) in sub-clause (2)—

(i) by inserting the word "general" immediately after the word "possesses" appearing in paragraph (v);

(ii) by deleting paragraph (vi);

(iii) by deleting the word "thorough" appearing in paragraph (vii) and substituting therefor the word "an";

(b) in sub-clause (3) by deleting the words "three nominees for every position" and substituting therefor the words "a list of nominees"; and

(c) in sub-clause (4) by deleting the words "for the rejected position or positions".

II. THE PROCEEDS OF CRIME AND ANTI-MONEY LAUNDERING (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 64 OF 2015)

- 1) Notice is given that the Chairperson of the Departmental Committee on Finance, Planning and Trade, intends to move the following amendments to the Proceeds of Crime and Anti-Money Laundering (Amendment) Bill, 2015 at the Committee Stage—

CLAUSE 4

THAT, clause 4 of the Bill be amended—

(a) in the proposed section 24B—

(i) in subsection (1), by—

- (a) deleting the words “on conviction to a fine” in the proposed paragraphs (a) and (b) and substituting therefor the words “to a monetary penalty”;
- (b) deleting the words “on conviction to an additional fine” in the proposed paragraph (c) and substituting therefor the words “to an additional monetary penalty”;

(ii) in subsection (2), by—

- (a) deleting the word “fine” appearing immediately after the words “before imposing a” and substituting therefor the words “monetary penalty”;
- (b) deleting the words “seven days” and replacing therefor with the words “fourteen days”;
- (c) deleting the word “fines” appearing immediately after the word “prescribed” and substituting therefor the words “monetary penalty”;

(iii) in subsection (3), by—

- (a) deleting the word “fine” appearing immediately before the words “is prescribed under” and substituting therefor the words “monetary penalty”;
- (b) deleting the word “fine” appearing immediately after the expression “section, such” and substituting therefor the word “penalty”;
- (c) deleting the word “ten” in paragraph (b);
- (d) deleting the word “fine” appearing in paragraph (c) and substituting therefor the words “monetary penalty”;

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

“(4) A monetary penalty imposed on a person under this section shall be a debt due to the Centre and shall, after it becomes due, be recoverable at any time through proceedings in a court of competent jurisdiction”;

(b) in the proposed section 24C, by—

(i) renumbering the existing provision as subsection (1);

(ii) inserting the word “or” immediately after the word “institution” appearing in paragraph (a);

(iii) inserting the words “instruction or” immediately before the word “direction” appearing in paragraph (b);

(iv) inserting the words “or individuals” immediately after the word “individual|” appearing in paragraph (c);

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

“(d) issue an order to a competent supervisory authority requesting the suspension or revocation of a license, registration, permit or authorization of a specified reporting institution whether entirely or in a specified capacity or of any director, principal, officer, agent or employee of the reporting institution”;

(vi) inserting the following new subsection immediately after the renumbered subsection (1)—

“(2) Before taking administrative action imposed against any person or reporting institution under this section, the Centre shall give the person or reporting institution a written notice of not less than fourteen days requiring the person or institution to show cause as to why the prescribed administrative action should not be taken”.

CLAUSE 8

THAT, clause 8 be amended in paragraph (a) by deleting paragraph (c) of the proposed new subsection (2) and substituting therefor the following paragraph—

“(c) taking all decisions of the Centre in the exercise, discharge and performance of the Centre’s objectives, powers, functions and duties”.

CLAUSE 11

THAT, clause 11 be amended in the proposed section 31 by inserting the words “specific act or” immediately before the word “function” appearing in subsection (3).

2) Notice is given that the Leader of the Majority Party , Hon. Aden Duale, M. P., intends to move the following amendments to the, Proceeds of Crime and Anti-money Laundering (Amendment) Bill 2015 at the Committee Stage—

CLAUSE 5

THAT, Clause 5 of the Bill be amended by inserting new paragraphs immediately after paragraph (b) as follows-

- (c) inserting the words “public administration, management, international relations” immediately after the word “law” appearing in paragraph (a) of subsection (4);
- (d) deleting the words “seven years work experience in the relevant field” appearing in paragraph (b) of subsection (4) and substituting therefor the words “ten years work experience in the relevant field, of which at least three shall be in senior management”

NEW CLAUSES 19, 20, 21 AND 22

THAT, the Bill be amended by inserting new clauses 19, 20, 21 and 22 immediately after clause 18 as follows-

19. Section 53 of the principal Act is amended by deleting subsection (1) and substituting therefor the following new subsection-

- (1) There is established a body to be known as Assets Recovery Agency, which 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) holding and alienating movable and immovable property;
 - (c) borrowing and lending money;
 - (d) doing and performing all such other acts or things as may be lawfully done by a body corporate.

20. The principal Act is amended by inserting a new section immediately after section 53 as follows-

Staff of
the
Agency.

53A (1) Despite the provisions of section 53, the agency may, for the proper discharge of its functions, appoint professional and technical staff and other staff, upon such terms and conditions as the Attorney General, in consultation with the Salaries Remuneration Commission, approve.

(2) The staff referred to in subsection (1) may include deputy directors, assistant directors, forensic and financial investigators, asset managers and other staff as the Agency may determine.

(3) In determining the terms and conditions of service for the Agency Director and staff, the Attorney General shall be guided by the following principles-

(a) that asset recovery falls in a strategic sector in the administration of justice process of the country and the nature of the service entailed requires commensurate compensation; and

(b) that the nature of the operations of the Agency requires probity, integrity and incorruptibility.

(4) The Agency shall, with the approval of the Cabinet Secretary for finance, establish a suitable social security scheme for the Agency Director and staff of the Agency.

(5) For the purposes of their functions under the Act, the Agency Director, certified forensic and financial investigators, shall have all the powers, privileges and immunities of a police officer in addition to any other powers they may have under the Act.

(6) Any public officer who is transferred or seconded to the Agency under section 53(4) shall be regarded as a member of staff of the Agency and subject to the control and direction of the Agency.

(7) The Agency may, with the approval of the attorney General, make regulations for the better management, administration and operations of the Agency.

21. Section 54 of the principal Act is amended by inserting a new subsection immediately after subsection (1) as follows-

(1A) Notwithstanding any provisions in any other written law, all cases of recovery of the proceeds of crime or benefits accruing from any predicate offence in money laundering, shall be handled by the Agency, in accordance with this Act.

22. The principal Act is amended by inserting new sections 54A,54B,54C,54D,54E and 54F immediately after section 54 as follows-

Funds of
the
Agency.

54A.(1) Parliament shall allocate adequate funds to the Agency to enable the Agency perform its functions under the Constitution, this Act and any other written law and the budget shall be a separate vote in accordance with Article 249 (3) of the Constitution.

(2) The funds of the Agency shall consist of -

- (a) monies provided for by Parliament for the purposes of the Agency;
- (b) a percentage of the total proceeds recovered or realized from any property seized or forfeited to the Government, as may be prescribed, from time to time, with the approval of the Cabinet Secretary for finance;
- (c) such monies or assets as may accrue to the Agency in the course of the exercise of its powers or the performance of its functions under this Act; and
- (d) all monies from any other source provided, donated or granted to the Agency towards the achievement of the objects of the Agency.

(3) The Agency shall not accept any grant, gift, donation or bequests made on condition that the Agency performs any function or discharges any duty or obligation other than duties under the Constitution or this Act.

(4) The Agency shall disclose any grants, gifts, donations or bequests made to it in each financial year.

(5) The Agency Director shall, subject to the law, be charged with the responsibility of accounting for state monies received or paid out or on account of the Agency.

(6) The receipts, earnings or accounts of the funding and balance of the funding at the close of each financial year, shall not be paid into the Consolidated Fund, but shall be retained for the purposes of the Agency.

Bank
accounts.

54B. The Agency shall open and maintain such bank accounts as are necessary for the exercise of the functions of the Agency.

Estimates
of
expendit
ure.

54C. (1) The financial year of the Agency shall be the period of twelve months beginning first July and ending on the thirtieth June in each year.

(2) The Agency shall within three months before the commencement of the financial year, prepare annual estimates of the expenditure of the Agency for that financial year.

(3) The annual estimates shall make provisions for all the estimated expenditure of the Agency for the financial year concerned and in particular, shall provide for -

- (a) the payment of salaries, allowances and other charges in respect of the Agency Director and other staff of the Agency;
- (b) the payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Agency;
- (c) the maintenance of the buildings and grounds of the Agency;
- (d) the funding of training, research and development of activities of the Agency; and
- (e) the creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Agency may deem expedient.

(4) The annual estimates shall make provisions for all estimated expenditure of the Agency for the financial year to which they relate, including of reserve fund to provide for contingency in the event of an unforeseen increase in expenditure and other emergencies not contemplated at the time of making the estimates.

(5) The Agency shall review the estimates forwarded under subsections (2) and (3) and may make such alterations thereto as it may consider necessary, and shall forward the same to the National Assembly for approval.

(6) Upon approval of the estimates by the National Assembly, all monies from time to time required for the purposes of this Act shall be paid from the Consolidated Fund into the Agency's bank account.

Accounts
and audit.

54D. (1) The Agency shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Agency.

(2) Within a period of three months after the end of each financial year, the Agency shall submit to the Auditor-General the accounts of the Agency in respect of that year together with a –

- (a) statement of the income and expenditure of the Agency during that year; and
- (b) statement of the assets and liabilities of the Agency on the last day of that financial year.

(3) The annual accounts of the Agency shall be prepared, audited and reported upon in accordance with the provisions of the Constitution and the Public Audit Act.

Annual
reports.

54E. (1) The Agency shall within four months after the end of each financial year, make a report on its activities and operations during the financial year, and submit the report to the Attorney-General.

(2) The Attorney- General shall within fourteen days after receipt of the report from the Agency, submit the report the President.

The
common
seal of the
Agency.

54F. (1) The common seal of the Agency shall be such device as may be determined by the Agency Director.

(2) The common seal of the Agency shall be kept in such custody as the Agency Director shall direct and shall not be used except on the order of the Director.

(3) The common seal of the Agency when affixed to a document and duly authenticated shall be judicially and officially noticed and unless the contrary is proved, any necessary order or authorization of the Agency under this section shall be presumed to have been duly given.

The House resolved on Wednesday, January 25, 2017 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** be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.

- II. **THAT**, notwithstanding the provisions of Standing Order 97(4), this House orders that, each speech in a debate on a **Report of a Committee**, including a Report of a Joint Committee of the Houses of Parliament or any other Report submitted to the House, be limited as follows: -A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each; and that priority be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order.

NOTICE PAPER

Tentative business for

Tuesday, February 07, 2017

(Published pursuant to Standing Order 38(1))

It is notified that the House Business Committee, at their last meeting, approved the following **tentative** business to appear in the Order Paper for Tuesday, February 07, 2017:-

A. MOTION – ADOPTION OF THE REPORT ON RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE U.S.

(The Chairperson, Departmental Committee on Health)

B. THE PREVENTION OF TORTURE BILL (NATIONAL ASSEMBLY BILL NO. 47 OF 2016)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Thursday, February 02, 2017)

C. THE MOVABLE PROPERTY SECURITY RIGHTS BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2016)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Thursday, February 02, 2017)

D. THE SACCO SOCIETIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 26 OF 2016)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Thursday, February 02, 2017)

E. MOTION – THE REPORT OF THE PUBLIC INVESTMENT COMMITTEE ON THE PROCUREMENT AND FINANCING OF THE NSSF TASSIA II

(Chairperson, Public Investments Committee)

(If not concluded on Thursday, February 02, 2017)

F. THE BETTING, LOTTERIES AND GAMING (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2016)

(The Hon. Jakoyo Midiwo, M.P.)

Second Reading

(If not concluded on Thursday, February 02, 2017)
