



**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (FOURTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**THURSDAY, MARCH 17, 2016 AT 9.30 A.M**

**ORDER OF BUSINESS**

**PRAYERS**

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

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

- (i) The Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015)  
(The Leader of the Majority Party)

*(Resumption of consideration interrupted on Wednesday, March 16, 2016 – Afternoon Sitting)*

*(To commence from the Third Schedule)*

- (ii) The Community Land Bill (National Assembly No. 45 of 2015)  
(The Leader of the Majority Party)

**9\*. THE POLITICAL PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2016)**

(The Chairperson, Departmental Committee on Finance, Planning and Trade)

Second Reading

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

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

Second Reading

- 11\*\*. **THE SEEDS AND PLANT VARIETIES (AMENDMENT) BILL  
(NATIONAL ASSEMBLY BILL NO. 43 OF 2015)**  
(The Leader of the Majority Party)

Second Reading

- 12\*. **THE JUDICIARY FUND BILL (NATIONAL ASSEMBLY BILL NO. 3 OF  
2016)**  
(The Chairperson, Departmental Committee on Justice and Legal Affairs)

Second Reading

- 13\* **THE KENYA ROADS BILL (NATIONAL ASSEMBLY BILL NO. 26 OF  
2015)**  
(The Leader of the Majority Party)

Second Reading

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\* Denotes Orders of the Day  
\*\* Denotes Bill with Constitutional Timeline

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## N O T I C E S

### I. THE FOREST CONSERVATION AND MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2015)

- 1) Notice is given that the Chairperson of the Departmental Committee on Environment and Natural Resources, intends to move the following amendments to the Forest Conservation and Management Bill, 2015 at the Committee Stage—

#### LONG TITLE

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

**“AN ACT of Parliament to give effect to Article 69 of the Constitution with regard to forest resources; to provide for the development and sustainable management, including conservation and rational utilization of all forest resources for the socio-economic development of the country and for connected purposes”**

#### CLAUSE 2

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

- (a) deleting the definition of the word “forest” and substituting therefor with the following new definition—

“forest” means land which is declared or registered as a forest, or woody vegetation growing in close proximity in an area of over 0.5 of a hectares including a forest in the process of establishment, woodlands, thickets”;

- (b) deleting the definition of the word “forest manager” and substituting therefor with the following new definition—

“forest manager” means a person responsible for the management of a forest under his or her charge and implementation of this Act including—

- (i) in the case of a public forest, the Kenya Forest Service or the County Government as the case may be;

- (ii) in the case of a community forest the person responsible for the management of community land under the relevant law; and

- (iii) in the case of a private forest, the owner of the private forest;”

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

“public forest” means forests as classified under 29(2) and (3)”; and

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

“forest produce” includes bark, animal droppings, beeswax, canes, charcoal, creepers, earth, fibre, firewood, frankincense, fruit, galls, grass, gum, honey, leaves, flowers, limestone, moss, murram, soil, myrrh, peat, plants, reeds, resin, rushes, rubber, sap, soil, seeds, spices, stones, timber, trees, water, wax, withies, and such other things as may be declared by the Cabinet Secretary to be forest produce for the purpose of this Act; and

“livestock” means domesticated animals such as cattle, goats, sheep, asses, poultry, horses, camels and pigs and includes their young thereof.”

- 2) **Notice is hereby given that the Member for Likuyani (Hon. (Dr.) Wamalwa Kibunguchy), intends to move the following amendments to the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) –**

### **THIRD SCHEDULE**

That the Third Schedule be amended by deleting the expressions –

- (a) “210 Lugari L.N. No. 3/1977;
- (b) “232 Turbo L.N. No. 145/1968; and
- (c) “236 Turbo L.N. No. 145/1968.

- 3) **Notice is hereby given that the Member for Endebess (Hon. (Dr.) Robert Pukose), intends to move the following amendments to the Forest Conservation and Management Bill (National Assembly Bill No. 49 of 2015) –**

### **THIRD SCHEDULE**

That the Third Schedule be amended by deleting the expressions –

- (a) “122 Kitalale L.N. No. 2/1977; and
- (b) “262 Makunga L.N. 23/2013.

II. THE COMMUNITY LAND BILL (NATIONAL ASSEMBLY NO. 45 OF 2015)

1) Notice is given that the Chairperson of the Departmental Committee on Lands (Hon. Alex Mwiru), intends to move the following amendments to the Community Land Bill, 2015 at the Committee Stage–

**CLAUSE 2**

**THAT**, Clause 2 of the Bill be amended–

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

“community” means a consciously distinct and organized group of users of community land who are citizens of Kenya and share any of the following attributes–

- (a) common ancestry;
  - (b) similar culture or unique mode of livelihood;
  - (c) socio-economic or other similar community of interest;
  - (d) geographical space;
  - (e) ecological space; or
  - (f) ethnicity.
- (b) in the definition of the term “communal use of land”, by inserting the words “by a community” at the end of the sentence;
- (c) in the definition of the term “community land registration unit”, by inserting the words “of the Land Registration Act” at the end of the sentence;
- (d) in the definition of the term “Court”, by inserting the words “or any other court having jurisdiction over land matters as may be prescribed by any written law” at the end of the sentence; and
- (e) by inserting the following new definitions in their proper alphabetical sequence–
- “certificate of reservation” means a certificate issued in the interim by the Registrar pending the registration of community land and acquisition of the certificate of title;
- “organised group” includes any or both formal and informal kinds of organization in the community setup;
- “registered community” means a community that has completed the registration processes and is recognized under this law;
- “vested interest” means absolute and indefeasible ownership.

**CLAUSE 4**

**THAT**, Clause 4 of the Bill be amended—

- (a) in subsection (1), by deleting the words “vest in ” and substituting therefor the words “be owned by”;
- (b) in subsection (2), by inserting the word “community” immediately after the words “the use of”; and
- (c) in subsection (3), by deleting the words “vest in” and substituting therefor the words “be owned by”.

**CLAUSE 5**

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

- (a) in subsection (1), by inserting the words “of the Constitution” immediately after the words “with Article 40”; and
- (b) in subsection (4), by inserting the words “or by negotiated settlement” at the end of the sentence.

**CLAUSE 6**

**THAT**, clause 6 of the Bill be amended in subsection (4) by inserting the words “sell, lease, transfer, convert for private purposes or in any other way” immediately after the words “A county government shall not”.

**CLAUSE 7**

**THAT**, Clause 7 of the Bill be deleted and substituted therefor the following new clause—

Procedure for  
registration of  
communities.

**7.** (1) A community claiming an interest in or right over community land shall be registered in accordance with the provisions of this section.

(2) A community shall, by notice in at least one newspaper of nationwide circulation, invite all members of the community with some communal interest to a public meeting for the purpose of electing the members of the community land management committee, which notice shall also be given to the deputy county commissioner in charge of the area or the relevant sub-county administrator.

(3) The community shall elect between seven and fifteen members from among themselves to be the members of the community land management committee as provided in section 16, who shall come up with a comprehensive register of communal interest holders.

(4) The community land management committee shall come up with the name of the community and shall submit the name, register of members, minutes of the meeting and the rules and regulations of the committee to the Registrar for registration.

**CLAUSE 8**

**THAT**, Clause 8 of the Bill be deleted and substituted therefor the following new clause—

Procedure for  
recognition and  
adjudication of  
community land.

**8.** (1) Subject to this Act and any law relating to adjudication of titles to land, the Cabinet Secretary shall develop and publish in the Gazette a comprehensive adjudication programme for purposes of registration of community land.

(2) The Cabinet Secretary shall ensure that the process of documenting, mapping and developing of the inventory of community land shall be transparent, cost effective and participatory.

(3) The Cabinet Secretary shall issue a public notice of intention to survey, demarcate and register community land.

(4) The notice shall—

- (a) contain the name of the community;
- (b) state which land is to be adjudicated;
- (c) invite all interested persons with overriding interests or any other claim on the land, to lodge their claims;
- (d) specify an area or areas of land to be a community land registration unit; and
- (e) be for a period of sixty days.

(5) The Cabinet Secretary shall cause the land to be adequately surveyed but such survey shall exclude—

- (a) all parcels already in use for public purposes; and
- (b) adjudicated private land.

(6) A cadastral map of the land shall then be produced and presented to the Registrar for registration.

**CLAUSE 10**

**THAT**, Clause 10 of the Bill be amended in subsection (1) by deleting the words “every five years” appearing in paragraph (c) and substituting therefor the word “annually”.

**CLAUSE 13**

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

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

“(2) Any land which has been used communally, for public purpose, before the commencement of this Act shall upon commencement of this Act be deemed to be public land vested in the national or county government, according to the use it was put for.”; and

(b) by deleting subsection (3).

**CLAUSE 14**

**THAT**, Clause 14 of the Bill be amended in subsection (1)–

- (a) by deleting paragraph (b);
- (b) by deleting paragraph (e); and
- (c) by deleting paragraph (f).

**CLAUSE 15**

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

**CLAUSE 16**

**THAT**, Clause 16 of the Bill be deleted and substituted therefor the following new clause–

Functions and powers of  
the community land  
management committee.

**16. (1)** A registered community shall have a community assembly which shall consist of all members of the community.

(2) The community assembly shall elect between seven and fifteen members of the community assembly to constitute the community land management committee.

(3) The functions of the community land management committee shall be to–

- (a) have responsibility over the running of the day to day functions of the community;
- (b) manage and administer registered community land on behalf of the respective community;
- (c) coordinate the development of community land use plans in collaboration with the relevant authorities;
- (d) promote the co-operation and participation among community members in dealing with matters pertaining to the respective registered community land; and
- (e) prescribe rules and regulations, to be ratified by the community assembly, to govern the operations of the community.

(4) Any decision of a registered community to dispose of or otherwise alienate community land shall be binding if it is supported by at least two thirds of the registered members of the community, while any other minor decisions of the registered community shall be by a simple majority of the members present in a meeting.



**CLAUSE 22**

**THAT**, Clause 22 of the Bill be amended in subsection (2) by deleting the words “at least fifty per cent of members present in a special meeting convened for that purpose, in which at least two thirds of the members of the community are present” and substituting therefor the words “two thirds of the assembly in a special meeting convened for that purpose”.

**CLAUSE 24**

**THAT**, Clause 24 of the Bill be amended by inserting the words “as provided in section 22(2)” at the end of paragraph (b).

**CLAUSE 25**

**THAT**, Clause 25 of the Bill be amended in subsection (2) by deleting the words “and may relate to any category or class of community land”.

**CLAUSE 28**

**THAT**, Clause 28 of the Bill be amended in subsection (4) by deleting the word “an” appearing at the end of paragraph (e) and substituting therefor the word “and”.

**CLAUSE 29**

**THAT**, clause 29 of the Bill be amended—

- (a) in sub-clause (4) by inserting the words “or” at the end of paragraph (a); and
- (b) in sub-clause (6) by deleting the words “one year” and substituting therefor the words “six months”.

**CLAUSE 31**

**THAT**, clause 31 of the Bill be amended by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) A woman married to a member of the community shall gain automatic membership of the community and such membership shall subsist until the spouses legally divorce and the woman remarries, or the woman remarries after the death of the spouse, from another community.”

**CLAUSE 35**

**THAT**, clause 35 of the Bill be deleted and substituted therefor the following new clause—

Existing rights to use  
and occupy  
community land.

**35.** (1) Any person who immediately before the commencement of this Act, held a right to use and occupy any part of community land, whether by virtue of any authority granted under any law or otherwise than under a lease, may continue to use and occupy such land under that right, subject to the same terms and conditions until the lease expires, after which the provisions of sections 28 and 29 shall apply.

(2) Any conversion which commenced before the promulgation of the Constitution shall be deemed to have commenced under this Act, while any conversion commenced after the promulgation of the Constitution shall be null and void.

**CLAUSE 37**

**THAT**, clause 37 of the Bill be amended—

- (a) by inserting the words “Subject to any other relevant written law” at the beginning of the opening sentence;
- (b) by renumbering the existing clause as sub-clause (1);
- (c) by inserting the following new sub-clauses immediately after sub-clause (1)—

“(2) An agreement relating to investment in community land shall only be made between the investor and the community.

(3) No agreement between an investor and the community shall be valid unless it is approved by two thirds of members at a community assembly meeting called to consider the offer and at which a quorum of two thirds of the members of that community is obligatory.

(4) The community may request the guidance and assistance of the county government or any other relevant stakeholders in considering the offer of investment.”

**CLAUSE 39**

**THAT**, clause 39 of the Bill be amended in the opening sentence in sub-clause (2) by inserting the words “and county” immediately after the words “subject to national”.

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended in sub-clause (2) by deleting the word “constitutions” appearing at the end of the sentence and substituting therefor the word “by-laws”.

**CLAUSE 42**

**THAT**, clause 42 of the Bill be deleted and substituted therefor the following new clause—

Arbitration.

**42.** (1) Where a dispute relating to community land arises, the parties to the dispute may agree to refer the dispute to arbitration.

(2) Where the parties to an arbitration agreement fail to agree on the appointment of an arbitrator or arbitrators, the provisions of the Arbitration Act relating to the appointment of arbitrators shall apply.

No. 4 of 1995.

**CLAUSE 44**

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

General penalty.

**44.** A person convicted of an offence under this Act for which no other penalty is provided shall be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months or to both.

**CLAUSE 46**

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

- (a) in sub-clause (6) by deleting the words “such time as the Cabinet Secretary may determine” and substituting therefor the words “five years of the enactment of this Act”;

- (b) by deleting sub-clause (7) and substituting therefor the following new sub-clause—  
“(7) If at the expiry of the five years specified in subsection (6) the adjudication is not concluded, such land shall be deemed to be community land and shall be dealt with in terms of the provisions of this Act.”
- (c) by inserting the following new sub-clause immediately after sub-clause (8)—  
“(9) The provisions of this section shall be subject to the provisions of Article 63(4) of the Constitution and the legislation providing for the review of grants and dispositions.”

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended by deleting the word “relevant” and substituting therefor the words “provisions of this”.

**SCHEDULE**

**THAT** the Schedule to the Bill be amended—

- (a) in paragraph 2 by inserting the words “land use planning” immediately after the words “public health or” appearing in sub-paragraph (2);
- (b) in paragraph 8 by deleting the expression “(1)”;
- (c) by inserting the following new paragraph immediately after paragraph 8—  
“9. Nothing in this Schedule shall be construed as giving exemption to the application of the provisions of Article 63(4) of the Constitution.”

**2) Notice is given that the Member for Isiolo County (Hon. Tiyah Galgalo), intends to move the following amendments to the Community Land Bill, 2015 at the Committee Stage—**

**CLAUSE 5**

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

- (a) by deleting sub-clause (1); and
- (b) in sub-clause (4) by deleting the words “person or persons” appearing immediately after the words “just compensation to the” and substituting therefor the words “community”.

**CLAUSE 6**

**THAT**, clause 6 of the Bill be amended in sub-clause (1) by deleting the words “for which it is held” and substituting therefor the words “traditionally entitled to or resident on the land”.

**CLAUSE 8**

**THAT**, clause 8 of the Bill be amended—

- (a) in sub-clause (1) by inserting the words “in consultation with county governments” immediately after the words “the Cabinet Secretary shall”;

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

“(c) be developed in consultation with the communities and incorporate the principles of the national land policy”;

(c) in sub-clause (5) by inserting the words “in consultation with county governments” immediately after the words “The Cabinet Secretary may”.

**CLAUSE 10**

**THAT**, clause 10 of the Bill be amended in sub-clause (2) by deleting the words “or any other written law”.

**CLAUSE 11**

**THAT**, clause 11 of the Bill be amended in sub-clause (2) by inserting the words “in consultation with the relevant county government” immediately after the words “The Cabinet Secretary”

**CLAUSE 13**

**THAT**, clause 13 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause–

“(1) A registered community may, by resolution of the majority of members in a general meeting, reserve land for communal purposes.”

**CLAUSE 14**

**THAT**, clause 14 of the Bill be amended in sub-clause (2) by inserting the words “Subject to the provisions of Article 40(6) of the Constitution” at the beginning of the sentence.

**CLAUSE 15**

**THAT**, clause 15 of the Bill be amended by inserting the words “in consultation with the county governments” immediately after the words “The Cabinet Secretary shall”.

**CLAUSE 16**

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

(a) in sub-clause (1)–

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

“(a) manage and administer its land through the appropriate institutions”;

(ii) by deleting paragraph (c);

(iii) by deleting the word “authorities” appearing in paragraph (d) and substituting therefor the words “county government”;

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

“(2) Any decision of a registered community shall be binding if it is supported by at least two thirds of the registered members present in a general meeting, of which eighty five per cent of the total number of registered members must be present.”

**CLAUSE 20**

**THAT**, clause 20 of the Bill be amended by inserting the following new sub-clauses immediately after sub-clause (5)—

“(6) A registered community may reserve special purpose areas including—

- (a) farming areas;
- (b) settlement areas;
- (c) community conservation areas;
- (d) access and rights of way;
- (e) cultural and religious sites;
- (f) urban development; or
- (g) any other purpose as may be determined by the community, county government or national government for the promotion of public interest.

(7) An area designated for special purposes under subsection (6) shall be used exclusively for the designated purposes.”

**CLAUSE 23**

**THAT**, clause 23 of the Bill be amended in sub-clause (2) by deleting the words “land” appearing at the end of the sentence and substituting therefor the words “community land shall be subject to this Act.”

**CLAUSE 30**

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

**CLAUSE 31**

**THAT**, clause 31 of the Bill be amended by deleting sub-clause (5) and substituting therefor the following new sub-clause—

“(5) For the avoidance of doubt, every man or woman married to a member of the community and who moves into the community of the other automatically becomes a member of that community and such membership shall subsist unless the spouses legally divorce and the spouse remarries, or unless the man or woman remarries after the death of the spouse.”

**CLAUSE 32**

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

- (a) in sub-clause (1) by deleting the words “Subject to such exemptions as may be prescribed, or unless any condition attaching to a community land right or a right of leasehold under this Act provides otherwise,”; and
- (b) in sub-clause (2) by deleting the words “For the purposes of” appearing at the beginning of the sentence and substituting therefor the words “Subject to”.

**CLAUSE 40**

**THAT**, clause 40 of the Bill be amended in sub-clause (4) by deleting the words “repugnant to justice and morality and”.

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in sub-clause (4) by deleting the words “or other institutions” appearing immediately after the words “respective communities”.

**CLAUSE 48**

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

- (a) in sub-clause (1) by inserting the words “in consultation with county governments” immediately after the words “The Cabinet Secretary may”; and
- (b) in sub-clause (2) by inserting the following new paragraph immediately after paragraph (j)—
  - “(k) procedures for registration of communities and their governance”.

**3) Notice is given that the Member for Mwatate (Hon. Andrew Mwadime), intends to move the following amendments to the Community Land Bill, 2015 at the Committee Stage—**

**CLAUSE 2**

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

- (a) by deleting the definition of “community land” and substituting therefor the following new definition—
  - “community land” includes all land used as community settlement area, farming area, grazing area, rangelands, fish landing sites, common resource area including watering points, salt licks, wildlife habitats, wildlife corridors, livestock passage routes and cattle dips;

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

“committee” means a community land management committee;

“community land tenure” means unwritten land ownership practises in certain communities in which land is owned and managed by the community collectively as a group;

“community member” means any individual, families and groups that historically live within the defined boundaries of the community land in question and who are considered as members of the community, with full membership extended to all male and female members above the age of eighteen years”

#### **CLAUSE 4**

**THAT**, clause 4 of the Bill be amended in sub-clause (1) by deleting the words “vest in” and substituting therefor the words “be owned by”.

#### **CLAUSE 6**

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

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

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

“(4) A county government shall not license, lease, transact or dispose of any unregistered community land that it is holding in trust on behalf of the communities for which it is held.”

#### **CLAUSE 7**

**THAT**, clause 7 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause—

“(1) A community land management committee registered under this Act shall be a body corporate with perpetual succession and a common seal, and capable in its corporate name of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging and or disposing of movable and immovable property;

(c) entering into contracts;

(d) borrowing and lending money; and

(e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, and which may lawfully be done or performed by a body corporate.”

**CLAUSE 8**

**THAT**, clause 8 of the Bill be amended in sub-clause (3) by inserting the following new paragraph immediately after paragraph (b)–

“(bb) participation by not less than two thirds of the members of the registered community;”

**CLAUSE 22**

**THAT**, clause 22 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause–

“(2) A community land management committee shall, before the conversion of registered community land into any other category of land, seek and obtain approval from at least two thirds of the members present in a special meeting convened for that purpose, in which at least two thirds of the members of the community are present.”

**CLAUSE 27**

**THAT**, clause 27 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)–

“(3) The Cabinet Secretary shall prescribe regulations to guide the process of setting aside community land for public purposes.”

**CLAUSE 28**

**THAT**, clause 28 of the Bill be amended in sub-clause (5) by inserting the following new paragraphs immediately after paragraph (c)–

“(d) the member practises activities that threaten or abuse the rights or title of the community on the land;

(e) the member practises activities that are contrary to the approved land use plan in respect of the community land.”

**CLAUSE 29**

**THAT**, clause 29 of the Bill be amended in sub-clause (5) by inserting the following new paragraph immediately after paragraph (d)–

“(e) carry out any activity on the land other than lawful grazing of stock, which may prevent or restrict the residents of the traditional community concerned from a reasonable exercise of their grazing rights”

**CLAUSE 30**

**THAT**, clause 30 of the Bill be amended in sub-clause (1) by deleting the words “county government or national government” appearing in paragraph (g).



**CLAUSE 37**

**THAT**, clause 37 of the Bill be amended—

- (a) by renumbering the existing provisions as sub-clause (1); and
- (b) by inserting the following new sub-clause immediately after sub-clause (1)—

“(2) An agreement made between the community and an investor shall not be valid unless it is ratified by at least two thirds of the members of the registered community.”

**CLAUSE 47**

**THAT**, clause 47 of the Bill be amended in sub-clause (2) by inserting the words “and the newly registered community shall elect a community land management committee” at the end of the sentence.

**CLAUSE 48**

**THAT**, clause 48 of the Bill be amended in sub-clause (2) by inserting the following new paragraphs immediately after paragraph (j)—

- “(k) the registration of communities as corporate bodies;
- (l) the conversion of illegally acquired community land to community land; and
- (m) the setting aside of community land for public purposes.”

**NEW CLAUSES****CLAUSE 2A**

**THAT**, the Bill be amended by inserting the following new clause 2A immediately after clause 2—

Objects and purpose of  
the Act.

**2A.** The objects and purpose of the Act shall be to provide for the—

- (a) recognition, protection and registration of community land rights;
- (b) documentation and mapping of the existing forms of communal land tenure;
- (c) vesting of community land in the communities identified on the basis of ethnicity, culture or similar community of interests;
- (d) management and administration of the registered community; and
- (e) procedures for conversion of community land to other categories.

**CLAUSE 7A**

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 7—

Establishment  
of community  
land  
management  
committees.

**7A.** (1) A community land management committee registered under section 7(1) shall be responsible for the adjudication, registration, management and administration of community land.

(2) A community land management committee shall consist of—

- (a) two members, aged thirty five years and above, representing the community elders;
- (b) two persons of female gender representing women;
- (c) two persons, being one man and one woman, representing the youth;
- (d) one person representing special interests in the community; and
- (e) two persons representing the different ethnic, cultural or other community of interest within the community.

(3) There shall be a chairperson of the community land management committee who shall be elected by the members in their first meeting from among themselves.

(4) The membership of the community land management committee shall observe the principle that not more than two-thirds of its members shall be of the same gender.

(5) The community land management committees shall, subject to this Act—

- (a) manage and administer community land on behalf of the community;
- (b) facilitate the recording and issuance of title for the community land by the Commission;
- (c) facilitate land use planning and provision of infrastructure by the government;
- (d) promote co-operation and participation among community members in dealing with matters pertaining to the land; and
- (e) perform such other function as may be assigned under this Act.

(6) The Community land management committee shall regulate its own procedure.

(7) A person ceases to be a member of the community land management committee if that person—

- (a) dies;
- (b) resigns;
- (c) is convicted of a criminal offence and sentenced to imprisonment for a term of not less than six months;
- (d) is declared bankrupt; or
- (e) is unable to perform the functions of the office by reason of mental or physical infirmity.

**NEW SCHEDULES**

**THAT**, the Bill be amended by inserting the following new schedules immediately after the Schedule—

**SECOND SCHEDULE** (s. 7A)  
**CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMUNITY LAND  
MANAGEMENT COMMITTEES**

Meetings of the  
committee.

1. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall convene the ordinary meetings of the Committee.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Committee, convene a special meeting of the Committee at any time where he considers it expedient for the transaction of the business of the Committee.

(4) Unless three quarters of the total number of the members of the Committee otherwise agree, at least fourteen days written notice of every meeting of the Committee shall be given to every member of the Committee.

(5) The quorum for the conduct of the business of the Committee shall be two thirds of the total number of members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of the Committee at which he is present and in his absence, the members of the Committee present shall elect one person from their number to preside over the meeting of the Committee and he shall have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the Committee shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to this Schedule, the Committee may determine its own procedure and the procedure for any sub-committee of the Committee and for the attendance of other persons at its meetings.

Disclosure of interest.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Committee and is present at a meeting of the Committee at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

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

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Committee by any person generally or specially authorized by the Committee for that purpose.

### **THIRD SCHEDULE**

#### **MATTERS TO BE PROVIDED FOR IN THE CONSTITUTION OF EVERY COMMITTEE**

1. The name of the community.
2. A description of the area, being the land in or over which the community has, under recognized customary law, exercised rights of use and occupation.
3. The persons who are the original members of the community.
4. The persons to whom membership is open.
5. The personal particulars of the members of the Committee, term of office, the method and frequency of their election, appointment, suspension and dismissal.
6. The authority for and the method of filling vacancies occurring amongst the officers of the Committee.
7. Payment of allowances to Committee members and other officers of the Committee.
8. The frequency of, quorums for, method of calling and dates of the annual general meetings.
9. The custody and investment of the funds and property of the community, and the designation of the persons responsible.
10. The purposes for which the funds and property of the Committee may be used.

11. The maintenance and inspection of books of account, the register of members and the record of interests, by any member or officer of the community, by or on behalf of the Registrar.
12. The periodic audit of accounts.
13. The manner of making and amending the name, constitution or rules of the community.
14. The manner of the dissolution of the Committee and the disposal of its property on dissolution.

**4) Notice is given that the Member for Wajir South (Hon. Abdullahi Diriye) intends to move the following amendments to the Community Land Bill, 2015 at the Committee Stage—**

**CLAUSE 2**

**THAT**, Clause 2 of the Bill be amended by deleting the definition of “community” and substituting therefor the following new definition—

“community” means an organized group of users of community land who are citizens of Kenya and share a common ancestry.

**CLAUSE 5**

**THAT**, Clause 5 of the Bill be amended in subsection (4) by deleting the words “for a public purpose” immediately after the word “law”.

**CLAUSE 6**

**THAT**, Clause 6 of the Bill be amended in subsection (4) by inserting the words “except in accordance with the law” at the end of the sentence.

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

- III. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that Order.
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# NOTICE PAPER

Tentative business for

Thursday (Afternoon), March 17, 2016

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

It is notified that the House Business Committee, at their last meeting, approved the following **tentative** business to appear in the Order Paper for Thursday (Afternoon), March 17, 2016:-

**A. THE PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) BILL (SENATE BILL NO. 20 OF 2014)**

(The Chairperson, Departmental Committee on Administration and National Security)

First Reading

**B. THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT) BILL (SENATE BILL NO. 4 OF 2015)**

(The Chairperson, Departmental Committee on Health)

First Reading

**C. THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO. 7 OF 2014)**

(The Chairperson, Departmental Committee on Finance, Planning and Trade)

First Reading

**D. COMMITTEE OF THE WHOLE HOUSE**

(i) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 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)

**E. THE LAND LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate interrupted on Tuesday, March 15 2016)*

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

(The Leader of the Majority Party)

Second Reading

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

(The Leader of the Majority Party)

Second Reading

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

**H. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 4 OF 2015)**

(The Leader of the Majority Party)

Second Reading

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

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

Second Reading

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

(The Leader of the Majority Party)

Second Reading

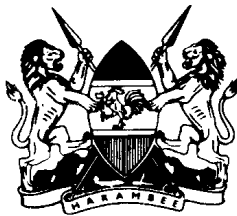
**K. THE KENYA DEFENCE FORCES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 41 OF 2015)**

(The Leader of the Majority Party)

Second Reading

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**REPUBLIC OF KENYA**

**ELEVENTH PARLIAMENT – (FOURTH SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**THURSDAY, MARCH 17 2016 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 PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL)  
BILL (SENATE BILL NO. 20 OF 2014)**

(The Chairperson, Departmental Committee on Administration and National Security)

First Reading

**9\*. THE HIV AND AIDS PREVENTION AND CONTROL (AMENDMENT)  
BILL (SENATE BILL NO. 4 OF 2015)**

(The Chairperson, Departmental Committee on Health)

First Reading

**10\*. THE COUNTY INDUSTRIAL DEVELOPMENT BILL (SENATE BILL NO. 7 OF 2014)**

(The Chairperson, Departmental Committee on Finance, Planning and Trade)

First Reading

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

(i) The Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 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)

**12\*\*. THE LAND LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 55 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(Resumption of debate interrupted on Tuesday, March 15 2016)*

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

(The Leader of the Majority Party)

Second Reading

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

(The Leader of the Majority Party)

Second Reading

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

**15\*. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 4 OF 2015)**

(The Leader of the Majority Party)

Second Reading

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

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

Second Reading

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

(The Leader of the Majority Party)

Second Reading

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

(The Leader of the Majority Party)

Second Reading

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**\* Denotes Orders of the Day**

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

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## N O T I C E S

### I. THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2015)

- 1) Notice is given that the Chairperson of the Departmental Committee on Energy, Communication and Information intends to move the following amendments to the Petroleum (Exploration, Development and Production) Bill, 2015 (National Assembly Bills No. 44) at the Committee Stage—

#### CLAUSE 2

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

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

“petroleum agreement” means any agreement, license, contract or other arrangement between the Government and a contractor to conduct upstream petroleum operations in accordance with the provisions of this Act, and may include —

- (a) production sharing contracts;
- (b) concession agreements; and
- (c) service contracts;

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

“commercial field” means a geological structure or feature which hosts one or more reservoirs from which petroleum production may be commercially undertaken through a defined set of facilities”;

“common user facility” means petroleum infrastructure owned and maintained by any person which may be used by third parties”;

“community land” has the meaning assigned to it under Article 63 of the Constitution;

“compulsory acquisition” has the same meaning as assigned to it under the Land Act, 2012;

“contract area” means a block in respect of which a contractor has entered into a petroleum agreement with the Government to conduct upstream petroleum operations;

“private land” has the meaning assigned to it under Article 64 of the Constitution;

“public land” has the meaning assigned to it under Article 62 of the Constitution;

“unitization agreement” means an agreement between contractors, who hold separate petroleum agreements on blocks that are adjacent or contiguous to each other for purposes of joint development or production of petroleum from a field straddling two or more different contract areas”

#### **CLAUSE 8**

**THAT**, clause 8 of the Bill be amended in subclause (3) by inserting the words “on its own” immediately before the words “through the” appearing in paragraph (a);

#### **CLAUSE 10**

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

- (a) in sub-clause (1) by inserting the words “and the petroleum agreement” immediately after the words “in accordance with this Act” appearing in paragraph (h);
- (b) in sub-clause (5) by inserting the words “ to carry out his or her duties under this Act” immediately after the words “and assistance”;
- (c) in sub-clause (6) by deleting the closing paragraph appearing immediately after paragraph (b) and substituting therefor the following new closing paragraph—

“commits an offence and shall on conviction be liable to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both”.

#### **CLAUSE 12**

**THAT**, clause 12 of the Bill be amended in sub-clause (2) by inserting the following new paragraph immediately after paragraph (h) —

“(hh) a representative of the Council of Governors.”

#### **CLAUSE 15**

**THAT**, clause 15 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph (a)—

“(a) regulate, monitor and supervise upstream petroleum operations in Kenya in accordance with this Act, the regulations made thereunder and the relevant petroleum agreement”.

#### **CLAUSE 16**

**THAT**, clause 16 of the Bill be amended in sub-clause (1) —

- (a) by deleting the words “being not less than ten thousand shillings” appearing in paragraph (m) and substituting therefor the words “not exceeding five hundred thousand shillings”;

- (b) by deleting the words “National Transparency and Accountability Standards” appearing in paragraph (p) and substituting therefor the words “national values and principles”.

**CLAUSE 17**

**THAT**, clause 17 of the Bill be amended in sub-clause (2) —

- (a) by inserting the words “any of the following fields” immediately after the words “Kenya in” appearing in paragraph (b);
- (b) by inserting the following new sub-paragraph immediately after subparagraph (vi) —  
“(vii) any other relevant degree”.

**CLAUSE 34**

**THAT**, clause 34 of the Bill be amended—

- (a) in sub-clause (5) by deleting the words “of not less than five hundred thousand shillings or to a term of imprisonment of not less than six months or both” and substituting therefor the words “not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both”;
- (b) in sub-clause (6) by deleting the words “of not less than five thousand shillings” and substituting therefor the words “not exceeding one hundred thousand shillings”.

**CLAUSE 43**

**THAT**, clause 43 of the Bill be amended in subclause (4) by deleting the words “of not less than ten million shillings or to a term of imprisonment of not less than two years or both” and substituting therefor the words “not exceeding twenty million shillings or to imprisonment for a term not exceeding ten years or to both”.

**CLAUSE 44**

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

- (a) in sub-clause (1) by deleting the word “contractor” appearing in the proviso and substituting therefor the word “person”;
- (b) in sub-clause (2) by deleting the word “contract” and substituting therefor the words “petroleum agreement”.

**CLAUSE 49**

**THAT**, clause 49 of the Bill be amended in sub-clause (6) by deleting the words “of not less than ten million or to a term of imprisonment of not less than ten years or both” and substituting therefor the words “not exceeding ten million shillings or to imprisonment for a term not exceeding ten years or to both”.

**CLAUSE 51**

**THAT**, clause 51 of the Bill be amended in sub-clause (8) by deleting the words “of not less than ten million shillings or to a term of imprisonment of not less than two years or both” and substituting therefor the words “not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both”.

**CLAUSE 54**

**THAT**, clause 54 of the Bill be amended in subclause (3) by deleting the words “penalty of not less than twenty million shillings” and substituting therefor the words “fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both”.

**CLAUSE 55**

**THAT**, clause 55 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “of” appearing immediately after the words “a notice” and substituting therefor the word “within”;
- (b) in sub-clause (2) by deleting the words “close or” appearing immediately after the words “Authority to”;
- (c) in sub-clause (3) by deleting the words “of not less than twenty million shillings or to a term of imprisonment of not less than five years or both” and substituting therefor the words “not exceeding twenty million shillings or to imprisonment for a term not exceeding ten years or to both”.

**CLAUSE 57**

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

- (a) in sub-clause (3) by deleting the words “which shall advise the Cabinet Secretary for approval” and substituting therefor the words “in accordance with the petroleum agreement”;
- (b) by inserting the following new sub-clause immediately after sub-clause (3)—

“(3A) The Authority shall advise the Cabinet Secretary before approval of the field development plan”.

**CLAUSE 58**

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

- (a) in sub-clause (1) by deleting the words “upon a declaration of commerciality by the contractor, and the submission adoption and approval of the Field Development Plan, submit to Parliament the Field Development Plan for ratification” and substituting therefor the words “within thirty days submit to Parliament for
- (b) ratification all production sharing contracts entered into pursuant to this Act and regulations made under this Act”;
- (c) in sub-clause (2) —
  - (i) by deleting the words “the Field Development Plan” appearing immediately after the words “receipt of” in the opening paragraph and substituting therefor the words “the production sharing contract”;
  - (ii) in paragraph (a) by deleting the words “Field Development Plan” and substituting therefore the words “ production sharing contract”;

- (iii) in paragraph (b) by deleting the words "Field Development Plan" and substituting therefore the words "production sharing contract"; and
- (d) in sub-clause (4) by deleting the words "Field Development Plan" and substituting therefor the words " production sharing contract".

**CLAUSE 62**

**THAT**, clause 62 of the Bill be amended in sub-clause (2) by deleting the words "of not less than twenty million shillings or to imprisonment for a term of not less than five years" and substituting therefor the words "not exceeding twenty million shillings or to imprisonment for a term not exceeding five years".

**CLAUSE 63**

**THAT**, clause 63 of the Bill be amended in sub-clause (1) by deleting the word "two" appearing immediately after the words "Cabinet Secretary within" and substituting therefor the word "seven".

**CLAUSE 70**

**THAT**, clause 70 of the Bill be amended in sub-clause (3) by deleting the words "not less than ten million shillings or imprisonment for a term not exceeding two years or both" and substituting therefor the words "not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both".

**CLAUSE 76**

**THAT**, clause 76 of the Bill be amended in subclause (2) by deleting the word "person" and substituting therefor the word "contractor".

**CLAUSE 87**

**THAT**, clause 87 of the Bill be amended in subclause (5) by deleting the words "of not less than ten million shillings or imprisonment of not less than five years or both" and substituting therefor the words "not exceeding one hundred million shillings or to imprisonment for a term not exceeding fifteen years or to both".

**CLAUSE 89**

**THAT**, clause 89 of the Bill be amended in subclause (4) by deleting the words "of not less than one hundred million shillings or a jail term of not less than five years or both" and substituting therefor the words "not exceeding one hundred million shillings or a imprisonment for a term not exceeding fifteen years or to both".

**CLAUSE 113**

**THAT**, clause 113 of the Bill be amended in sub-clause (1) by deleting the words "of not less than one hundred million shillings, or to a term of imprisonment for a term not less than fifteen years, or to both" appearing in the closing paragraph immediately after paragraph (e) and substituting therefor the words "not exceeding one hundred million shillings or to imprisonment for a term not exceeding fifteen years or to both".

- 2) **Notice is given that the Member for Kibwezi (Hon. (Dr.) Patrick Mweu Musimba), intends to move the following amendments to the Petroleum (Exploration and Development and Production) Bill 2015 (National Assembly Bills No.44) at the Committee Stage—**

**CLAUSE 17**

**THAT**, clause 17 of the Bill be amended in sub-clause (1) by deleting paragraph (e) and substituting therefor the following new paragraph—

“(e) five other members appointed by the Cabinet Secretary from persons nominated by the top governance organs of each of the following bodies—

- (i) the Consumers Federation of Kenya;
- (ii) the Law Society of Kenya;
- (iii) the Petroleum Industry Association of Kenya;
- (iv) the Kenya Private Sector Alliance; and
- (v) the National Environment Management Authority.

**CLAUSE 24**

**THAT**, clause 24 of the Bill be amended in sub-clause (2) by inserting the words “to the Authority” immediately after the words “made against him or her” appearing in paragraph (a).

**CLAUSE 34**

**THAT**, clause 34 of the Bill be amended in sub-clause (1) by inserting the words “and further upon issuance of sufficient notice” immediately after the words “of appointment” appearing in the opening paragraph.

**CLAUSE 37**

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

- 3) **Notice is given that Hon. Joyce Akai Emanikor (Turkana County), intends to move the following amendments to the Petroleum (Exploration, Development and Production) Bill, 2015 (National Assembly Bills No. 44) at the Committee Stage—**

**CLAUSE 3**

**THAT** clause 3 of the Bill be amended in sub-clause (2) by deleting the words “midstream or” appearing immediately after the words “not include”.

**CLAUSE 10**

**THAT** clause 10 of the Bill be amended in paragraph (I) of sub-clause (1) by inserting the words “is considered unsafe which” immediately after the words “or building that” in sub-paragraph (i).



**CLAUSE 17**

**THAT** clause 17 of the Bill be amended in sub-clause (1) by inserting the words “appointed under section 23 of this Act” immediately after the words “the Director-General” appearing in paragraph (d).

**CLAUSE 45**

**THAT** clause 45 of the Bill be amended by deleting sub-clause (3).

**CLAUSE 85**

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

(c) in sub-clause (2) by deleting the proviso;

(d) in sub-clause (4) —

- (i) by deleting the words “five percent” appearing immediately after the words “equivalent to” and substituting therefor the words “ten percent”;
- (ii) by deleting the proviso.

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

**Notice is given that the chairperson of the Committee on Health, 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—

“breastfeeding” means the method of feeding an infant directly from the female breast;

“expressing milk” means the act of extracting human milk from the breast by hand or by pump into a container;

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

“health extension worker” means a health care professional working in health centres in rural and medically underserved areas, where they provide emergency treatment and a range of other health services to patients;

“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”.

“lactation stations” means private, clean, sanitary and well-ventilated rooms or areas in the workplace where nursing mothers can wash up, breast feed or express their milk and hygienically preserve it;

“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

Composition of the  
Forum.

Purpose of the  
Forum.

Meetings of the  
Forum.

Conduct of  
business.

**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.

(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.

**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.

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

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

**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.

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

(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.

**CLAUSE 27**

**THAT** clause 27 of the Bill be deleted and replaced by the following new clause-  
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.

**CLAUSE 28**

**THAT** clause 28 of the Bill be deleted and replaced by the following new clause-

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.

**CLAUSE 29**

**THAT** clause 29 of the Bill be deleted and replaced by the following new clause-  
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.

**CLAUSE 30**

**THAT** clause 30 of the Bill -

(a) be deleted and replaced by the following new clause-

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.

(b) be amended by inserting the following new clauses immediately after clause 30-

Chief Executive Officer.

**30A.** (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.

**30B.** (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.

**30C.** 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.

**30D.** (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.

**30E.** 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.

**30F.** (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.

**30G.** 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.

**30H.** 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.

**30I.**(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 of funds.

**30J.** 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 and audit.

**30K.** (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.

(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.

**30L.** (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.

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

Cap.253.

- (d) the Medical Practitioners and Dentists Board established under the Medical Practitioners and Dentists Act;

Cap. 243.

- (e) the Radiation Protection Board established under the Radiation Protection Act;

Cap.244.

- (f) 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.

- (g) the Public Health Officers and Technicians Council established under the Public Health Officers (Training, Registration and Licensing) Act; and

- (h) any other body as may be prescribed by the Cabinet Secretary under this Act."

**CLAUSE 31**

**THAT** clause 31 of the Bill be deleted and replaced by the following new clause-

Formation of professional  
bodies.

**31.** 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.”

**THAT** the Bill be amended in **Part VI** by inserting the following new clause immediately after clause 40

Lactation  
stations in  
the  
workplace.

**“41A.** (1) All employers shall in the workplace establish lactation stations, which shall be adequately provided with necessary equipment and facilities including handwashing equipment, refrigerators or appropriate cooling facilities, electrical outlets for breast pumps, a small table, comfortable seats the standard of which shall be defined by the Ministry responsible for matters relating to health.

(2) The lactation station shall not be located in the rest rooms.

(3) All employers shall take strict measures to prevent any direct or indirect form of promotion, marketing and or selling of infant formula and or breast substitutes within the lactation stations.

Provision of  
break  
intervals for  
nursing  
employees.

**41B.** (1) An employer shall grant all nursing employees break intervals in addition to the regular times off for meals to breastfeed or express milk.

(2) The time intervals referred to in sub section (1) shall include the time it takes an employee to get to and from the lactation station and shall be counted as compensable hours worked provided that such intervals shall not be more than a total of one hour for every eight hour working period.



**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 3 by inserting the words ‘or medical officer with at least two years managerial experience’ immediately after the word “officer.”
- (b) 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);
- (c) 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 fulfilment 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.

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

- III. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that Order.
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# NOTICE PAPER

Tentative business for

Tuesday (Morning), March 22, 2016

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

It is notified that the House Business Committee, at their last meeting, approved the following tentative business to appear in the Order Paper for Tuesday, March 22, 2016:-

**A. THE DIVISION OF REVENUE BILL NATIONAL ASSEMBLY BILL NO. 4 OF 2016)**

(The Leader of the Majority Party)

Second Reading

**B. THE POLITICAL PARTIES (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 2 OF 2016**

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

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Morning Sitting)*

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

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

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Morning Sitting)*

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

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Morning Sitting)*

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

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Afternoon Sitting)*

**F. THE PUBLIC FINANCE MANAGEMENT (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 4 OF 2015)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Afternoon Sitting)*

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

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

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Afternoon Sitting)*

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

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Afternoon Sitting)*

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

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Thursday, March 17, 2016 – Afternoon Sitting)*

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