



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (FIFTH SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, APRIL 06, 2017

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding – the Speaker**
4. **PETITIONS**

The following Members presented Petitions –

- (i) The Member for Meru County (Hon. Florence Kajuju) regarding the erection of speed bumps along Mbonenga-Kiborione stretch of Meru-Nanyuki Road; and,
- (ii) The Member for Mumias East (Hon. Benjamin Washiali) regarding alleged negligence of the late Tracy Namatsi by the administration of Moi High School Kabarak, Nakuru.

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(1)

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) The Reports of the Auditor-General on the Financial Statements in respect of the following institutions for the year ended 30th June, 2016 and the certificates therein:-
 - (a) Revenue Statement of the National Treasury;
 - (b) National Oil Corporation of Kenya Limited;
 - (c) Office of the Director of Public Prosecutions;
 - (d) State Officers and Public Officers Motor Car Loan Scheme Fund;
 - (e) The Agri and Cooperative Training & Consultancy Services Limited;
 - (f) Development Revenue of the National Treasury;
 - (g) Treasury Main Clearance Fund;

- (h) Rural Enterprise Fund; and
- (i) Reports, Bills and Resolutions adopted by the Assembly at the 5th Meeting of the 5th Session of the 3rd East African Legislative Assembly (EALA).

(The Leader of the Majority Party)

- (ii) The Report of the Joint Select Parliamentary Committee to review the Procedure and Rules for Election of Members to the East African Legislative Assembly (EALA);

(Co-Chairperson, Joint Parliamentary Select Committee on EALA Matters)

- (iii) The Reports of the Departmental Committee on Transport, Public Works and Housing on Petitions by –

- (a) Residents of Busia county regarding decongestion of Busia and Malaba towns;
- (b) Residents of Kakamega county regarding delayed rehabilitation of Kakamega Airstrip;
- (c) Residents of South Imenti Constituency on the delayed completion of Nkubu-Mikimbune road;
- (d) Residents of Kathiani Constituency on the non-completion of the Mumbuni-Kathiani road; and
- (e) Residents of Nyeri Town Constituency on the use of asbestos as a roofing material.

(Chairperson, Departmental Committee on Transport, Public Works and Housing)

6. **NOTICE OF MOTION – APPROVAL OF EALA ELECTIONS RULES**

The following Notice was given –

THAT, this House adopts the Report of the Joint Parliamentary Select Committee to Review the Procedure and Rules for Election of Members to the East African Legislative Assembly (EALA), laid on the Table of the House, today, Thursday, April 6, 2017, and pursuant to section 12 of the East African Legislative Assembly Elections Act, 2011 and Article 50 of the Treaty for the Establishment of the East African Community, approves the East African Legislative Assembly Elections (Election of Members of the Assembly) Rules, 2017.

(Co-Chairperson, Joint Parliamentary Select Committee on EALA Matters)

7. **PROCEDURAL MOTION - ADDITIONAL SITTING OF THE HOUSE**

Motion made and Question proposed -

THAT, pursuant to the provisions of Standing Order 30(3)(b), this House resolves to hold another Sitting today, Thursday, April 06, 2017, for not more than three hours to commence fifteen (15) minutes following the adjournment of the current Sitting.

(The Leader of the Majority Party)

Question put and agreed to.

8. **PROCEDURAL MOTION - EXTENSION OF PRESCRIBED PERIOD FOR CONSIDERATION OF A PETITION FOR THE REMOVAL FROM OFFICE OF THE CHAIRPERSON OF THE NATIONAL LAND COMMISSION**

Order deferred.

9. **PROCEDURAL MOTION - REDUCTION OF PUBLICATION PERIOD OF A BILL**

Motion made and Question proposed –

THAT, pursuant to the provisions of Standing Order 120, this House resolves to reduce the publication period of the Insurance (Amendment) Bill (National Assembly Bill No. 17 of 2017), from fourteen days to a day.

(The Leader of the Majority Party)

Question put and agreed to;

10. **MOTION - REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE APPROPRIATION BILL (NATIONAL ASSEMBLY BILL NO. 15 OF 2017)**

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the Appropriation Bill (National Assembly Bill No. 15 of 2017)

(Chairperson, Budget and Appropriations Committee)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Appropriation Bill (National Assembly Bill No.15 of 2017) be now read a Third Time

(Chairperson, Budget and Appropriations Committee)

Question put and agreed to;

Bill read a Third Time and **passed.**

11. **MOTION - REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE EQUALIZATION FUND APPROPRIATION BILL NATIONAL ASSEMBLY BILL NO. 12 OF 2017)**

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the Equalization Fund Appropriation Bill (National Assembly Bill No. 12 of 2017)

(Chairperson, Budget and Appropriations Committee)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Equalization Fund Appropriation Bill (National Assembly Bill No.15 of 2017) be now read a Third Time

(Chairperson, Budget and Appropriations Committee)

Question put and agreed to;

Bill read a Third Time and **passed**.

12. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE FIVE ELECTIONS-RELATED REGULATIONS**

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the Draft Elections-related Regulations and:-

- a) **adopts** the Reports of the Committee on Delegated Legislation on its consideration of the Elections-related Regulations laid on the Table of the House on Wednesday, March 29, 2017; and
- b) pursuant to provisions of sections 44(6) and 109(3) of the Elections Act, 2011, **approves** the following Elections-related Regulations:-
 - (i) The Draft Elections (*Technology*) Regulations, 2017 **(as amended)**;
 - (ii) The Draft Elections (*Registration of Voters*) (*Amendment*) Regulations, 2017;
 - (iii) The Draft Elections (*Voter Education*) Regulations, 2017;
 - (iv) The Draft Elections (*General*) (*Amendment*) Regulations, 2017; and
 - (v) The Draft Elections (*Party Primaries and Party Lists*) Regulations, 2017.

(Chairperson, Committee on Delegated Legislation – 04.04.2017)

Question put and agreed to;

13. **THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2017)**
(The Leader of the Majority Party)

Order for First Reading read;

Bill read a First Time and referred to the relevant Departmental Committee pursuant to Standing Order 127(1)

14. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Fourth Chairperson in the Chair

The Prevention of Torture Bill (National Assembly Bill No. 47 of 2016)

Clause 3 - agreed to

Clause 4 - amendment proposed –

THAT, Clause 4 of the Bill be amended in paragraph (a) by deleting the words “him or her” appearing in paragraph (i), (ii) and (iii) and substituting therefor the words “that person.”

(Hon. Kenneth Okoth)

Proposed amendment withdrawn;

Clause 4 - agreed to

Clauses 5, 6, 7, 8, 9, 10, 11 & 12 - agreed to

Clause 13 - amendment proposed –

THAT, Clause 13 of the Bill be amended—

(a) by inserting the following new sub-clause immediately after sub-clause (7)—

“(7a) Where there are any visible signs of torture, the court shall record and shall, on its motion issue an order of investigation immediately and order submissions of an investigation report within seven days.

(7b) An order made under sub-section (7) and (7a) shall be directed to an officer commanding a police station within whose jurisdiction the torture occurred”; and

(b) in sub-clause (9) in sub-clause (9) by inserting the words “take all necessary measures.” immediately before the word “protect” appearing in paragraph (a).

(Hon. Kenneth Okoth)

Proposed amendment withdrawn;

Clause 13 - agreed to

Clause 14 - agreed to

Clause 15 - amendment proposed –

THAT, Clause 15 of the Bill be amended by inserting the following new paragraph immediately after paragraph (a)—

“(aa) for purposes of making a determination on the victims protection and welfare.”

(Hon. Kenneth Okoth)

Proposed amendment withdrawn;

Clause 15 - agreed to

Clause 16 - amendment proposed –

THAT, Clause 16 of the Bill be amended in sub-clause (1) by inserting the following new paragraph immediately after paragraph (c)—

“(d) a person who is under protection by the Witness Protection Agency established under section 3A of the Witness Protection Act.”

(Hon. Kenneth Okoth)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to

Clauses 17 & 18 - agreed to

Clause 19 - amendment proposed –

THAT, that clause 19 of the Bill be deleted

(Hon. Kenneth Okoth)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 19 - deleted

Clause 20 - amendment proposed –

THAT, Clause 20 of the Bill be amended by deleting sub-clause 3.

(Hon. Kenneth Okoth)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 20 - as amended agreed to

Clause 21 - amendment proposed –

THAT, Clause 21 of the Bill be amended in sub-clause (1) by deleting the words “intentionally or recklessly” appearing immediately after the words “detainee shall not.”

(Hon. Kenneth Okoth)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 21 - as amended agreed to

Clause 22 - amendment proposed –

THAT, Clause 22 of the Bill be amended in sub-clause 4 by inserting the words “who is suspected to have committed an offence under this Act” immediately after the words “Where a person”

(Hon. Kenneth Okoth)

Proposed amendment withdrawn;

Clause 22 - agreed to

Clause 23 - agreed to

Clause 24 - amendment proposed –

THAT, the Bill be amended by deleting clause 24 and substituting therefor the following new clause—

“**24.** The Cabinet Secretary may, in consultation with the Commission and with the approval of the National Assembly, make regulations generally for the better carrying into effect of the provisions under this Act.”

(Hon. Kenneth Okoth)

Proposed amendment withdrawn;

Clause 24 - agreed to

Clause 25 - agreed to

Clause 26 - amendment proposed –

THAT, the Bill be amended by deleting clause 26 and substituting therefor the following new clause—

“**26.** (1) The Commission shall submit an annual report to the National Assembly and may, at any time submit special reports to the Cabinet Secretary on any matter relating to its functions.

(2) The annual report submitted by the Commission under sub-section (1) shall include an overall assessment of Government’s performance with regard to prevention of torture and cruel, inhumane and degrading treatment during the period under review by the Commission.

(3) The Cabinet Secretary shall every year be required to report to the National Assembly, steps which the government has taken in implementing the recommendations made by the Commission.”

(Hon. Kenneth Okoth)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 26 - as amended agreed to

Clauses 27, 28 & 29 - agreed to

Clause 30 - amendment proposed –

THAT, the Bill be amended by deleting clause 30

(Hon. Kenneth Okoth)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 30 - deleted

Clauses 31 & 32 - agreed to

New Clause 30A proposed –

THAT the Bill be amended by inserting following new Clause immediately after clause 30-

Amendment
of section
129 of No 8
of 1999.

30A. The Environmental Management and Co-ordination Act, 1999 is amended in section 129 by deleting subsection (4) and substituting therefor the following new subsection-

(4) Upon any appeal to the Tribunal under this section, the Tribunal may if satisfied-

(a) upon application by any party, issue orders maintaining the status quo of any matter or activity which is the subject of the appeal until the appeal is determined;

(b) upon application by any party, review any orders made under paragraph(a).

(5) Any status quo automatically maintained by virtue of the filing of any appeal prior to the commencement of subsection (4) shall lapse upon commencement of this section unless the Tribunal, upon application by a party to the appeal, issues fresh orders maintaining the status quo in accordance with subsection (4)(a).

(The Leader of the Majority Party)

Motion made and Question proposed –

THAT, the New Clause 30A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 30A be part of the Bill;

Question put and agreed to;

Schedule - agreed to

Clause 2 - agreed to

Title - agreed to

Clause 1 - amendment proposed –

THAT, Clause 1 of the Bill be amended by deleting the words “on such a date as the Cabinet Secretary may, by notice in the Gazette appoint” appearing after the word “operation” and substituting therefor the words “upon publication in the Gazette.”

(Hon. Kenneth Okoth)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 1 - as amended agreed to

Bill to be reported with amendments;

15. **HOUSE RESUMED** - the Deputy Speaker in the Chair

The Prevention of Torture Bill (National Assembly Bill No. 47 of 2016)

Bill reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report

Question deferred to another day.

And the time being five minutes to Four O'clock, the Deputy Speaker interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

16. HOUSE ROSE - at five minutes to Four O'clock

M E M O R A N D U M

The Speaker will take the Chair today,
Thursday, April 6, 2017 at 4.15 p.m.

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