



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FIFTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

THURSDAY, FEBRUARY 09, 2017

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

The Speaker conveyed the following Communications –

- (i) **Withdrawal of sections of proposed amendments to the Statute Law (Miscellaneous Amendments) Bill, 2016 and the Statute Law (Miscellaneous Amendments)(No. 2) Bill, 2016**

“**Honourable Members**, the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 45 of 2016) and the Statute Law (Miscellaneous Amendments)(No. 2) Bill (National Assembly Bill No. 48 of 2016) were published on November 11, 2016 as *Kenya Gazette Supplements* No. 185 and 188 respectively. The Bills were aimed at effecting minor amendments, which do not warrant the publication of separate Bills, to various legislations. The Bills were sponsored by the Leader of the Majority Party.

Honourable Members, I wish to inform the House that I have since received a letter from the Leader of the Majority Party, requesting to **withdraw** proposed amendments contained in the two Bills as follows:

- (1) **The Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 45 of 2016) - Proposed amendments to:-**
 - (i) The Sexual Offences Act, 2006;
 - (ii) The Proceeds of Crime and Anti-Money Laundering Act, 2009;
 - (iii) The Treaty-Making and Ratification Act, 2012; and
 - (iv) The Independent Policing Oversight Authority (IPOA) Act, 2011.
- (2) **The Statute Law (Miscellaneous Amendments)(No.2) Bill (National Assembly Bill No. 48 of 2016) -**
 - (i) Proposed amendments to the Copyright Act, 2001.

In this regard, **Honourable Members**, the consideration of the two Bills at *Committee of the House* for the Statute Law (Miscellaneous Amendments) Bill, 2016 and at *Second Reading* for the Statute Law (Miscellaneous Amendments)(No. 2) Bill, 2016 will proceed as though the withdrawn sections were not part of the Bills as published. The House is accordingly guided.

I thank you!”

(ii) **The Seventh National Assembly Leadership Retreat**

“**Honourable Members**, I wish to notify the House that the National Assembly has planned a two-day Retreat for the Leadership of the House, under the theme: “*The Homestretch: Fostering synergy, identifying priorities and improving legislative efficacy.*” The Retreat will be held tomorrow, **Friday 10th** and **Saturday, 11th February, 2017** at the Serena Beach Hotel in Mombasa. Participants in the retreat will be the Presidium of the House, Leadership of the Majority and Minority Parties, Members of the House Business Committee, Chairpersons of Committees and Commissioners of the Parliamentary Service Commission.

Honourable Members, the retreat, which is convened at a time when the Eleventh Parliament is approaching the sunset of its term, presents a unique opportunity for participants to review the progress made in realizing National Assembly’s constitutional mandate. As part of the National Assembly’s legacy report to be bequeathed to the successive Parliaments, participants will also engage in a candid assessment of the National Assembly’s present legislative business processes. The retreat will also present an opportunity for participants to engage with the Hon. Chief Justice of the Republic of Kenya and President of the Judiciary to on a discourse on areas for synergy with the Judiciary whilst upholding the respective institutional independence of the Legislature and the Judiciary.

Honourable Members, appreciating that the August 2017 general elections are fast approaching, participants will be apprised by the Independent Electoral & Boundaries Commission on the state of preparedness for the elections and share insights on election related matters.

At the end of the retreat, the Leadership will identify possible areas of National Assembly’s legislative processes that require re-engineering for increased efficacy in succeeding Houses and agree on priority business for the remainder of the term of the National Assembly. As a practice, the resolutions of the retreat will be presented to the House soonest thereafter. Finally, Honourable Members, it is my sincere hope that the leadership of the House will find time to attend this important retreat of the National Assembly

I thank you.”

5. **PETITIONS**

(i) The Speaker conveyed the following Petition –

Formation of a legal framework for the welfare of military veterans

“Honourable Members, pursuant to the provisions of Standing Order 225, I wish to report to the House that I am in receipt of a Petition by Military Veterans, praying that the National Assembly formulates a legal framework for the welfare of military veterans and their dependents.

The Petitioners are concerned that in spite of personnel who serve in the Kenya Defence Forces being the backbone of Kenya’s stability and security, the retired military veterans and their families are living in poor economic conditions. They are troubled that even after their zealous service, including having put their lives on the line in defence of the country, their welfare has not been given due attention thereby forcing them to live in abject poverty.

Honourable Members, the Petitioners are also stating that unlike mainstream civil servants who retire at the age of sixty (60) years, many military personnel retire as early as at the of 39 years, unless they are promoted to higher ranks. As a result, valuable expertise held by such soldiers trained by government resources goes to waste while at the same time affected officers who cannot access post-retirement employment cannot afford decent lives.

Honourable Members, among other prayers, the Petitioners are praying that the National Assembly intervenes with a view to:-

- a) Formulating a separate retirement framework for the members of the Kenya Defence Forces to provide for:
 - (i) an appropriate pension scheme for military personnel;
 - (ii) provision of medical cover and entry to the medical scheme by retired military veterans who exited service before becoming beneficiaries of the scheme;
 - (iii) guidelines on enhanced compassionate and resettlement scheme for widows and dependents of military personnel who die in the line of duty; and
 - (iv) enhanced disability pension and/or ex-gratia to all military personnel who get maimed and invalidated in the course of duty, irrespective of their length of service.
- b) making provisions for re-employment of military personnel who retire at productive age of between thirty (30) to fifty five (55) years of age;
- c) initiating re-introduction of the Military Veterans Bill, 2013 that has lapsed at the end of the Fourth Session.

Honourable Members, the Petition stands committed to the Departmental Committee on Defence and Foreign Relations for consideration. The Committee is required to consider the Petition and report its findings to the House in accordance with the provision of Standing Order 227(2).

I thank you!”

- (ii) Pursuant to the provisions of Standing Order 227, the Chairperson of the Departmental Committee on Health reported to the House that the Committee had concluded its consideration of the Petition regarding alleged brutal murder of the late Cosmas Mutunga at the Kenyatta National Hospital.

6. **PAPERS LAID**

The following Paper was laid on the Table –

- (i) Report of the Departmental Committee on Health on its consideration of a Petition by the Member for Mwingi North (Hon. John Munuve, MP) regarding the alleged brutal murder of the late Cosmas Mutunga at the Kenyatta National Hospital.

(The Chairperson, Departmental Committee on Health)

7. **STATEMENT PURSUANT TO STANDING ORDER 44(2)(a)**

Pursuant to the provision of Standing Order 44(2)(a), the Leader of the Majority Party issued a Statement regarding the Business of the House for the week commencing Tuesday, February 14, 2017.

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

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Prevention of Torture Bill (National Assembly Bill No.47 of 2016 be now read a Second Time

(The Leader of the Majority Party – 08.02.2017)

Debate on the Motion having been concluded on Wednesday, February 08, 2017 – Afternoon Sitting;

Question put and agreed to;

Bill read a Second Time and committed to the Committee of the whole House tomorrow.

9. **MOTION – ADOPTION OF THE REPORT ON RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENTS OF THE REPUBLIC OF KENYA AND THE UNITED STATES OF AMERICA**

THAT, this House adopts the Report of the Departmental Committee on Health on the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United States of America concerning Cooperation in Threat Reduction Biological Engagement Programs, laid on the Table of the House

on Tuesday, November 22, 2016, and pursuant to the provisions of section 8 of the Treaty Making and Ratification Act, 2012, **approves** the ratification of the Agreement between the Government of the Republic of Kenya and the Government of the United States of America concerning Co-operation in Threat Reduction Biological Engagement Programs.

(Chairperson, Departmental Committee on Health – 08.02.2017)

Debate on the Motion having been concluded on Wednesday, February 08, 2017;
Sitting;

Question put and agreed to;

10. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Fourth Chairperson in the Chair

(i) The Division of Revenue Bill (National Assembly Bill No. 2 of 2017)

<u>Clauses 3, 4 and 5</u>	-	<u>agreed to.</u>
<u>Schedule</u>	-	<u>agreed to.</u>
<u>Clause 2</u>	-	<u>agreed to.</u>
<u>Title</u>	-	<u>agreed to.</u>
<u>Clause 1</u>	-	<u>agreed to.</u>

Bill to be reported without amendments.

(ii) The Privatization (Amendment) Bill (National Assembly Bill No. 27 of 2016)

Clause 2 - amendment proposed –

THAT, clause 2 be amended by inserting the following new paragraph immediately after paragraph (b)—

“(c) in the definition of the word “privatization”, by inserting the words “but excludes sale of new shares to existing shareholders through a rights issue or any balance sheet reorganization which may lead to dilution of the percentage of shares held by a public entity” immediately after the words “ a state corporation”.

(Hon. Aden Duale)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to

Clause 3 - amendment proposed -

THAT the Bill be amended by deleting clause 3 and substituting therefor the following new clause—

Amendment of
section 5 of
No.2 of 2005

“3. The Privatization Act is amended in section 5(1)(d) by inserting the words “through a competitive process” immediately after the word “Minister”

(Hon. Wafula Wamunyinyi)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to

Clause 4 - agreed to

Clause 5 - amendment proposed -

THAT clause 5 of the Bill be amended by inserting the following new subsection immediately after the proposed new subsection (2) —

“(3) The Cabinet Secretary shall submit a report in form of a Sessional Paper on a privatization proposal approved by the Cabinet to the National Assembly for consideration”.

“(4) Upon laying before the National Assembly, a report under subsection (3) shall stand referred to the relevant committee”.

(Hon. Wafula Wamunyinyi)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 5 - as amended agreed to

Clause 6 - amendment proposed -

THAT clause 6 of the Bill be deleted.

(Hon. Wafula Wamunyinyi)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 6 - deleted.

New Clauses

New Clause 5A - amendment proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 5—

Amendment of
section 37 of No.
2 of 2005.

5A. The Privatization Act, 2005, is amended in section 37 by inserting the words “and any other objections and appeals relating to implementation of the privatization programme” immediately after the words “under section 36”.

(Hon. Aden Duale)

Motion made and Question proposed –

THAT, the New Clause 5A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 5A be part of the Bill;

Question put and agreed to.

New Clause 5A - agreed to.

New Clause 6A - amendment proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 6—

Amendment
of Second
Schedule to
No.2 of
2005.

7. The Second Schedule to the Privatization Act, 2005, is amended in paragraph 2 by—

- (a) inserting the words “or any other objection relating to
- (b) implementation of the privatization programme” in subparagraph (1) at the end thereof;
- (c) deleting subparagraph (2) and substituting therefor the following subparagraph—
 - “(2) An objection to what has been determined and published under section 36 may not be filed later than five working days after the publication”.
- (d) deleting subparagraph (3) and substituting therefor the following subparagraph—

“(3) The Commission shall make a decision with respect to the objection to what has been determined and published under section 36 or any other objection relating to implementation of the privatization programme and give a copy of its decision to the objector within five working days after receiving that objection”.

(Hon. Aden Duale)

Motion made and Question proposed –

THAT, the New Clause 6A be read a Second Time

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Clause 6A be part of the Bill;

Question put and agreed to;

New Clause 6A - agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments

11. **HOUSE RESUMED** - the Fourth Chairperson in the Chair

(i) The Division of Revenue Bill (National Assembly Bill No. 2 of 2016)

Bill reported without amendments;

Motion made and Question proposed –

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

Question put and agreed to;

Motion made and Question proposed –

THAT, the Privatization (Amendment) Bill (National Assembly Bill No.27 of 2016) be now read a Third Time

(Hon. Mutava Musyimi)

Question for Third Reading deferred.

(ii) The Privatization (Amendment) Bill (National Assembly Bill No.27 of 2016)

Bill reported with amendments;

Motion made and Question proposed –

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

Question put and agreed to;

Motion made and Question proposed –

THAT, the Privatization (Amendment) Bill (National Assembly Bill No.27 of 2016) be now read a Third Time

(The Leader of the Majority Party)

Question for Third Reading deferred.

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

Motion made and Question proposed –

THAT, the Movable Property Security Rights Bill (National Assembly Bill No.50 of 2016) be now read a Second Time

(The Leader of the Majority Party)

Debate *(interrupted on Wednesday, February 08, 2017 –Afternoon Sitting)* Resumed;

Debate Concluded;

Mover Replied;

Question for Second Reading deferred;

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

Motion made and Question proposed –

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

(Chairperson, Public Investments Committee)

Debate Arising;

And the time being thirty minutes past Six O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

14. **HOUSE ROSE** - at thirty minutes past Six O'clock

M E M O R A N D U M

The Speaker will take the Chair on
Tuesday, February 14, 2017 at 2.30 p.m.

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