



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

ORDERS OF THE DAY

SUPPLEMENTARY

WEDNESDAY OCTOBER 21, 2015 AT 2.30 P.M

ORDER OF BUSINESS

PRAYERS

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

8*. PROCEDURAL MOTION - THE PARLIAMENTARY POWERS AND PRIVILEGES BILL (NATIONAL ASSEMBLY BILL NO 35 OF 2014)

(The Leader of the Majority Party)

THAT, Pursuant to the provisions of Standing Order 49 (2) (a), this House resolves to rescind the decision made by the House on Wednesday, October 14, 2015 (Morning Sitting) regarding the Question that “this House do agree with the Report of the Committee of the whole House on the Parliamentary Powers and Privileges Bill (National Assembly Bill No 35 of 2014)” and further pursuant to the provisions of Standing Order 136 resolves to agree with the Committee of the whole House on the said report subject to re-committal of Clauses 34 and 37 of the Bill.

9*. COMMITTEE OF THE WHOLE HOUSE

The Parliamentary Powers and Privileges Bill, (National Assembly Bill No. 35 of 2014)
(The Hon. Adan Keynan, M.P.)

(Re-committal of Clauses 34 and 37)

10*. MOTION - THE NATIONAL DROUGHT MANAGEMENT AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 42 OF 2013)

(The Chairperson, Departmental Committee on Environment and Natural Resources)

THAT, the Senate Amendments to the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013) be now considered.

(Question to be put)

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

Consideration of the Senate Amendments to the National Drought Management Authority Bill (National Assembly Bill No. 42 of 2013)

(The Chairperson, Departmental Committee on Environment and Natural Resources)

12. THE COURT OF APPEAL (ORGANIZATION AND ADMINISTRATION) BILL (NATIONAL ASSEMBLY BILL NO. 52 OF 2015)**

(The Leader of the Majority Party)

Second Reading

(Resumption of debate interrupted on Thursday, October 15, 2015)

13*. MOTION - THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014)

(The Leader of the Majority Party)

THAT, the Senate Amendments to the Mining Bill (National Assembly Bill No. 9 of 2014) be now considered.

14*. COMMITTEE OF THE WHOLE HOUSE**IN THE COMMITTEE**

Consideration of the Senate Amendments to the Mining Bill (National Assembly Bill No.9 of 2014)

(The Leader of the Majority Party)

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

(The Leader of the Majority Party)

Second Reading

16. THE PROTECTION OF TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2015)**

(The Leader of the Majority Party)

Second Reading

17. THE FOREST CONSERVATION AND MANAGEMENT BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2015)**

(The Leader of the Majority Party)

Second Reading

18*. MOTION - ESTABLISHMENT OF A SELECT COMMITTEE

(The Hon. Samuel Chepkonga, M.P.)

THAT, aware that following the 2007 post-election violence, various state and non-state agencies carried out independent investigations, either on their own motion or in the exercise of their statutory functions; **Further aware** that, some of those agencies, including the

Commission appointed by the then President to inquire into the matters pertaining to the Post Election Violence (*the Waki Commission*), either submitted or publicized their findings and/or reports, which are yet to be discussed by the National Assembly; **Cognizant** of the fact that the matter of possible compromise and allegations of skewed investigations has been of concern to the People of Kenya, including allegations that some of the witnesses who testified before the Commission and other agencies may have been procured; **Recalling** that Article 95 of the Constitution provides that the National Assembly deliberates on and resolves issues of concern to the people; **Further recalling** that, in 2010, Parliament amended the Commission of Inquiry Act (CAP. 102) to accord the National Assembly an opportunity to receive and discuss such findings or reports; this House –

- (a) **resolves** to establish a select Committee to inquire into and report on the allegations of the skewed and compromised investigations by the various state and non-state agencies on the matter of the 2007-Post Election Violence;
- (b) **also resolves** that the Committee elects its chairperson and vice-chairperson from amongst its Members;
- (c) **further resolves** that the Committee submits its report to the House within ninety (90) days, to inform the debate on the subsequent motion for noting the contents of *the Report of the Commission of Inquiry into the Post Election Violence (CIPEV)* which was tabled in the House on 4th December 2008; and,
- (d) **approves** the appointment of the following Members to the Committee:-

- 1. The Hon. Florence Kajuju, MP
- 2. The Hon. Moses Cheboi, MP
- 3. The Hon. Kimani Ichung'wah, MP
- 4. The Hon. Alice Ng'ang'a, MP
- 5. The Hon. David Ochieng, MP
- 6. The Hon. Tom. J. Kajwang, MP
- 7. The Hon. Boniface Otsiula, MP
- 8. The Hon. Samuel Chepkonga, MP
- 9. The Hon. Mati Munuve, MP
- 10. The Hon. David Gikaria, MP
- 11. The Hon. Jimmy Angwenyi, MP
- 12. The Hon. Abdulaziz Farah, MP
- 13. The Hon. Mishi Mboko, MP
- 14. The Hon. Katoo Ole Metito, MP
- 15. The Hon. Wilber Ottichillo, MP

(THIS IS A MAJORITY PARTY SPONSORED MOTION)

(Resumption of debate interrupted on Wednesday, October 14, 2015 – Afternoon Sitting)
(Balance of time – 1 hr 24 mins)

*** Denotes Orders of the Day**

****Denotes Bill with Constitutional Timeline**

NOTICES

I. SENATE AMENDMENTS TO THE NATIONAL DROUGHT MANAGEMENT AUTHORITY BILL (NATIONAL ASSEMBLY BILL NO. 42 OF 2013)

(As passed by the Senate on Wednesday, 8th July, 2015)

CLAUSE 4

Senate Amendment

THAT, clause 4 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) The Authority shall establish offices in each county.

CLAUSE 8

Senate Amendment

THAT, clause 8 of the Bill be amended-

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

(da) one person who shall be nominated by the Council of County Governors.

(b) in sub-clause (5) by inserting the words “and (1)(da)” immediately after the words subsection (1)(d).

II. SENATE AMENDMENTS TO THE MINING BILL (NATIONAL ASSEMBLY BILL NO. 9 OF 2014)

(As passed by the Senate on Wednesday, 16th September, 2015)

CLAUSE 5

Senate Amendment

THAT, clause 5 of the Bill be amended by inserting the words “and the principles of leadership and integrity set out under Chapter Six of the Constitution” immediately after the words “of the Constitution”.

CLAUSE 7**Senate Amendment**

THAT, clause 7 of the Bill be amended in sub-clause (2) by inserting the words “in consultation with the Mineral Rights Board” immediately after the words “in the Gazette”.

CLAUSE 9**Senate Amendment**

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

(1A) The Cabinet Secretary shall, immediately upon receipt of a report under subsection (1) issue to the person an acknowledgement in writing of the receipt of the report.

CLAUSE 16**Senate Amendment**

THAT, clause 16 of the Bill be amended in sub-clause (3) by inserting the words “in consultation with the Mineral Rights Board” immediately after the words “Cabinet Secretary shall”.

CLAUSE 20**Senate Amendment**

THAT, clause 20 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (4) –

(5) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Mines under subsection (1) is entitled to fair, prompt and full compensation for such damage in accordance with this Act.

CLAUSE 21**Senate Amendment**

THAT, clause 21 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2) –

(3) In exercising the powers under subsection (2), the Director or a duly authorised officer shall ensure that as little damage or inconvenience as possible is caused to the legitimate owner or lawful occupier of the land in respect of which the powers are exercised.

(4) A person whose land or property is damaged as a result of the exercise of the powers of the Director of Geology under subsection (1) shall be entitled to fair, prompt and full compensation for such damage in accordance with this Act.

CLAUSE 30**Senate Amendment**

THAT, clause 30 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause (2) –

(2) The Mineral Rights Board shall comprise of –

- (a) a chairperson with demonstrable knowledge and experience of the minerals and mining sector, who shall be appointed by the President;
- (b) the Principal Secretary responsible for matters relating to mining;
- (c) the Principal Secretary responsible for the National Treasury;
- (d) one person who shall be nominated by the Council of County Governors from amongst the Governors;
- (e) the Chairperson of the National Land Commission;
- (f) the Director of Mines who shall be the secretary to the Mineral Rights Board;
- (g) the Director of Geological Surveys; and
- (h) two persons with professional qualifications and experience in the mining industry who shall be appointed by the Cabinet Secretary.

CLAUSE 33**Senate Amendment**

THAT, clause 33 of the Bill be amended by deleting sub-clauses (7) and (8).

CLAUSE 34**Senate Amendment**

THAT, clause 34 of the Bill be amended in sub-clause (4) by deleting paragraph (a).

CLAUSE 37**Senate Amendment**

THAT, clause 37 of the Bill be amended in sub-clause (1) by deleting the words “A prospecting and” appearing at the beginning of the sub-clause.

CLAUSE 38**Senate Amendment**

THAT, clause 38 be amended in sub-clause (1) by deleting the word “un-alienated” appearing at the end of paragraph (b) and substituting therefor the word “unregistered”.

CLAUSE 40**Senate Amendment**

THAT, clause 40 of the Bill be amended by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) The Cabinet Secretary may submit a request under section 107 of the Land Act for the compulsory acquisition of land or rights or interests in land, to vest the land or area in question, or rights or interests in such land or area, in the Government or on behalf of the Government, where the consent required under sections 36, 37 or 38 is—

(a) unreasonably withheld; or

(b) the Cabinet Secretary considers that withholding of consent is contrary to the national interest.

CLAUSE 41**Senate Amendment**

THAT, clause 41 be amended in sub-clause (2) by deleting the words “which recognise the uniqueness of procurement and tendering process of minerals” appearing at the end of the sub-clause.

CLAUSE 46**Senate Amendment**

THAT, clause 46 of the Bill be amended in sub-clause (3) by deleting the words “number of expatriates per capital investment” appearing immediately after the words “shall serve”.

CLAUSE 47**Senate Amendment**

THAT, clause 47 of the Bill be amended in sub-clause (1) by inserting the words “members of the community and” immediately after the words “in employment to”.

CLAUSE 49**Senate Amendment**

THAT, clause 49 of the Bill be amended in sub-clause (2) by deleting the word “four” appearing immediately after the words “exchange within” and substituting therefor the word “three”.

CLAUSE 50**Senate Amendment**

THAT, clause 50 of the Bill be amended in paragraph (b) by inserting the words “members of the community and” immediately after the words “offered by”.

CLAUSE 51**Senate Amendment**

THAT, clause 51 of the Bill be amended –

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

(2) The Cabinet Secretary shall not unreasonably withhold consent to assign, transfer, mortgage or trade a mineral right and shall inform an applicant of the decision within thirty days of receipt of an application to assign, transfer, mortgage or trade a mineral right.

- (b) By inserting the following new subsection immediately after subsection (8)–

(8A) The Cabinet Secretary shall, in consultation with the Mineral Rights Board, prescribe a criteria for the conditions required to be met by an applicant for an assignment, mortgage or trade in a mineral right.

CLAUSE 53**Senate Amendment**

THAT, clause 53 of the Bill be amended –

- (a) in sub-clause (1) by inserting the words “and the Kenya Revenue Authority” immediately after the words “the Cabinet Secretary”; and
(b) inserting the following new sub-clause immediately after sub-clause (1) –

(1A) The Cabinet Secretary shall submit to the National Assembly and the Senate, an analysis of the audited annual financial statement submitted under subsection (1).

CLAUSE 67**Senate Amendment**

THAT, clause 67 of the Bill be amended in sub-clause (1) by deleting paragraph (e) and substituting therefor the following new paragraph –

- (e) inform and consult on an ongoing basis with the national and county government authorities and communities about the reconnaissance operations that require physical entry onto the land within their jurisdiction;

CLAUSE 77**Senate Amendment**

THAT, clause 77 of the Bill be amended in sub-clause (2) by deleting the words “by the Cabinet Secretary” appearing at the end of the sub-clause and substituting therefor the words “Regulations made under this Act”.

CLAUSE 106**Senate Amendment**

THAT, clause 106 of the Bill be amended by inserting the following new paragraph immediately after paragraph (i) –

- (j) such other information as the Cabinet Secretary may consider necessary.

CLAUSE 117**Senate Amendment**

THAT, clause 117 of the Bill be amended in sub-clause (5) by deleting the word “Parliament” appearing immediately after the words “submitted to” and substituting therefor the words “the National Assembly and the Senate”.

CLAUSE 120**Senate Amendment**

THAT, clause 120 of the Bill be amended in sub-clause (2) by deleting the word “Parliament” appearing immediately after the words “submitted to” and substituting therefor the words “the National Assembly and the Senate”.

CLAUSE 149**Senate Amendment**

THAT, clause 149 of the Bill be amended by deleting sub-clause (3) and substituting therefor the following new subclauses –

(3) All immovable assets of the holder under the mining licence shall vest in the County Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the County Government.

(3A) Where the County Government is unable to pay for the assets under subsection (3), the assets shall vest in the National Government from the effective date of the surrender or termination of the licence upon payment of the book value of the assets by the National Government.

CLAUSE 4**Senate Amendment**

THAT, clause 4 of the Bill be amended –

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

“community” means a people living in a ward or wards within which minerals are situated and who are affected by the exploration of the minerals or mining operations with respect to the minerals;

- (b) by inserting the following new definition immediately after the definition of the word “corporation”

—

“Council of County Governors” means the Council of County Governors established under section 19 of the Intergovernmental Relations Act;

- (c) by deleting the definition of the word “strategic minerals” and substituting therefor the following new definition —

“strategic minerals” means minerals declared as such by the Cabinet Secretary with the approval of the Cabinet and by notice in the *Gazette*;

The House resolved on Wednesday, February 11, 2015 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 shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that Order.
- IV. THAT,** notwithstanding the provisions of Standing Order 97(4), each speech in a debate on any **Motion**, including a Special motion shall be limited in the following manner:- A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and that ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and that priority in speaking be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that Order.

NOTICE PAPER

Tentative business for

Thursday October 22, 2015

(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 , October 22, 2015:-

A. COMMITTEE OF THE WHOLE HOUSE

Consideration of the **Presidential Memorandum** on the Excise Duty Bill (National Assembly Bill No. 28 of 2015)

(The Leader of the Majority Party)

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

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, October 21, 2015 – Afternoon Sitting)

C. THE PROTECTION OF THE TRADITIONAL KNOWLEDGE AND TRADITIONAL CULTURAL EXPRESSIONS BILL (NATIONAL ASSEMBLY BILL NO. 48 OF 2015)

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, October 21, 2015 – Afternoon Sitting)

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

(The Leader of the Majority Party)

Second Reading

(If not concluded on Wednesday, October 21, 2015 – Afternoon Sitting)

E. MOTION - ESTABLISHMENT OF A SELECT COMMITTEE

(The Hon. Samuel Chepkonga, M.P.)

(THIS IS A MAJORITY PARTY SPONSORED MOTION)

(Resumption of debate interrupted on Wednesday, October 14, 2015 – Afternoon Sitting)

(Balance of time – 1 hr 24 mins)

(If not concluded on Wednesday, October 21, 2015 – Afternoon Sitting)

APPENDIX

Status of Business Before Committees

Wednesday October 21, 2015

In accordance with the Speaker's communication of 14th October, 2015 the Chairpersons of the following Committees will **today** be called upon to appraise the House on the Status of the Business pending before their respective Committees:

1. The Departmental Committee on Administration and National Security;
2. The Departmental Committee on Agriculture, Livestock and Cooperatives; and
3. The Departmental Committee on Finance, Planning and Trade.
