



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – (THIRD SESSION)

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, OCTOBER 14, 2015

1. The House assembled at thirty minutes past Nine O'clock
2. The Proceedings were opened with Prayer
3. **PRESIDING** – the First Chairperson
4. **PAPER LAID**

The following Paper was laid on the Table –

The Third Report of the Committee of Privileges on its consideration of the Parliamentary Powers and Privileges Bill, 2014

(Hon. Joyce Emanikor – Member, Committee of Privileges)

5. **THE CONSTITUTION OF KENYA (AMENDMENT) (NO.5) BILL (NATIONAL ASSEMBLY BILL NO.56 OF 2015)**
(Hon. (Eng.) Nicolas Gumbo)

Order for First Reading read;

Bill read a First Time and referred to the Departmental Committee on Justice and Legal Affairs, pursuant to Standing Order 127(1)

6. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The First Chairperson in the Chair

- (i) **The Kenya National Examination Council (Amendment) Bill (National Assembly Bill No.3 of 2015)**

Clause 2 - agreed to.

New Clause 2A proposed -

THAT, the following new clause be inserted immediately after clause 2-

Amendment
section 46 of
No. 29 of
2012.

2A. That the Principal Act is amended by inserting the following new section immediately after section 46-

Imposition of
penalty on
institutions for
delayed
examination
registration.

46A.

(1) The Council shall charge a non-monetary penalty to institutions whose examination registrations are received outside the stipulated time, if the delay is occasioned by the authority responsible for registration of schools.

(2) The Council may make rules prescribing the non- monetary penalties.

(Hon. Michael Munyao)

Proposed amendment dropped in the absence of the Mover;

Title - agreed to

Clause 1 - agreed to

Bill to be reported without amendments;

(ii) **The Parliamentary Powers and Privileges Bill (National Assembly Bill No. 35 of 2014)**

Clause 3 – amendment Proposed

THAT, Clause 3 (1) be amended by inserting the following paragraph immediately after paragraph (f)—

(g) such other areas as the Speaker may designate, in writing, for the purpose of parliamentary business.”

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 3 - as amended agreed to.

Clauses 4, 5, 6, & 7 - agreed to

Clause 8 - amendment proposed -

THAT, clause 8 of the Bill be amended in sub clause 1 by deleting the words “within or outside” appearing immediately after the words “areas” and substituting therefor the words “proximate to”.

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 8 - as amended agreed to.

Clauses 9, 10, 11 & 12 - agreed to

Clause 13 - amendment proposed -

THAT, the Bill be amended by deleting clause 13.

(Hon. Joyce Emanikor)

Question of the deletion proposed;

Debate arising;

Question put and agreed to;

Clause 13 - as amended agreed to.

Clauses 14 & 15 - agreed to

PART IV – amendment Proposed

THAT, Bill be amended by deleting the title to PART IV and substituting therefor the title—
“COMMITTEE OF POWERS AND PRIVILEGES”.

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

PART IV - as amended agreed to.

Clause 16 - amendment proposed -

THAT, Clause 16 of the Bill be amended—

(a) in subclause (4) by inserting the expression “(b)” immediately before the words “perform such other functions”

(b) by deleting subclause (7) and substituting therefor the following subclause—

“(7) Each House of Parliament shall consider the report and recommendations by the Committee of Privileges in the manner set out in the Third Schedule.”.

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 16 - as amended agreed to.

Clause 17 – amendment proposed -

THAT, Clause 17 of the Bill be amended in sub clause (a) by deleting the expression “27(1)” appearing immediately before the words “sections 26,”.

(Hon. Joyce Emanikor)

Proposed amendment withdrawn;

Further amendment proposed –

THAT, the Bill be amended by inserting the following new Heading immediately after clause 16—

“PART IVA—BREACHES OF PRIVILEGES”.

(Hon. Adan Keynan)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 17 - as amended agreed to.

Clause 18 – amendment proposed -

THAT clause 18 of the Bill be amended by—

(a) renumbering subclause (5) as subclause (4);

(b) renumbering subclause (6) as subclause (5);

(c) renumbering sub clause (7) as subclause (6).

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 18 - as amended agreed to.

Clause 19 - agreed to.

Clause 20 - amendment proposed -

THAT, clause 20 of the Bill be amended—

(a) in sub clause (1), by deleting the words “,and may order the property of the witness , or any part thereof to be attached and sold for the purpose of satisfying all costs of such attachment together with the amount of the said fine, if any”.

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

“(2) A person may pay the fine under subsection (1) to the Clerk of the relevant House.”

(c) by deleting subclause (3) and substituting therefor the following subclause—

“(3) Parliament or its committee may order the arrest of a person who fails to honour a summons.”

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 20 - as amended agreed to.

Clauses 21 & 22 - agreed to.

Clause 23 - amendment proposed -

THAT, clause 23 of the Bill be amended by deleting subclause (2).

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 23 - as amended agreed to.

Clauses 24, 25 & 26 - agreed to.

Clause 8 - amendment proposed -

THAT, the Bill be amended by deleting Clause 27.

(Hon. Joyce Emanikor)

Question of the deletion proposed;

Debate arising;

Question put and agreed to;

Clause 27 - as amended agreed to.

Clause 28 - amendment proposed -

THAT, clause 28 of the Bill be amended in sub clause (2) by deleting the word “including” appearing immediately after the word “person” and substituting therefor the word “or”.

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 28 - as amended agreed to.

Clause 28 - amendment proposed -

THAT, clause 29 of the Bill be amended in sub clause (3) by inserting the word “a” immediately after the words “directed at” appearing in paragraph (b).

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 29 - as amended agreed to.

Clauses 30, 31, 32 & 33 - agreed to.

Clause 34 - amendment proposed -

THAT, the Bill be amended by deleting Clause 34.

(Hon. Joyce Emanikor)

Question of the deletion proposed;

Debate arising;

Question put and negatived;

Clause 34 - agreed to.

Clause 35 - agreed to.

Clause 36 - amendment proposed -

THAT, the Bill be amended by deleting Clause 36.

(Hon. Adan Keynan)

Question of the deletion proposed;

Debate arising;

Question put and agreed to;

Clause 36 - as amended agreed to.

Clause 37 - amendment proposed -

THAT, the Bill be amended by deleting clause 37 and substituting therefor the following clause—

Officers of a House of Parliament to have powers of police officer.

37. (1) Every officer of a House of Parliament shall, for the purposes of this Act and of the application of the provisions of the criminal law, have all the powers and enjoy all the privileges of a police officer.

(2) In this section, “officer of a House of Parliament” means any officer acting within the precincts of Parliament under the orders of the Speaker.”

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Further amendment proposed -

THAT, the Bill be amended by deleting clause 37 and substituting therefor the following clause—

37. That for the purposes of this Act and its application, the Offices of the Clerks of the Houses of Parliament shall have the powers to enforce summonses of either House or its Committees.

(Hon. Adan Keynan)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Clause 37 - as amended agreed to.

Clauses 38, 39 & 40 - agreed to.

Clause 41 - amendment proposed -

THAT, clause 41 of the Bill be amended—

(a) in sub clause (1) by deleting the words “the National Assembly” appearing immediately after the words “Speaker of” and substituting therefor the words “either House of Parliament”;

(b) by deleting sub clause (3) and substituting therefor the following sub clause—

“(3) The Code of Conduct regulating the conduct of Members of the respective House of Parliament shall be as set out in the Fourth Schedule.”

(c) in sub clause (4) by deleting the words “and Code of Conduct” appearing immediately after the words “copies of orders”;

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 41 - as amended agreed to.

Clause 42 - agreed to.

New Clause PART IV B - proposed Amendment

THAT, the Bill be amended by inserting the following new Part immediately after clause 18—

PART IVB—OFFICE OF STANDARDS AND ETHICS

Establishment
of Office.

18A. (1) There is established the Office of Standards and Ethics in each House of Parliament as an office in the Parliamentary Service.

(2) The Office shall be headed by an Administrator who shall be—

- (a) nominated for appointment by the Parliamentary Service Commission through a competitive recruitment process;
- (b) vetted by the relevant Committee of Powers and Privileges; and
- (c) approved for appointment by the relevant House of Parliament.

(3) The qualifications for appointment to the Office are the same as for the appointment as a judge of the High Court.

Functions of
the
Administrator.

18B. The Administrator shall—

- (a) on receipt of a formal complaint from any person or on the recommendation of the relevant Committee of Powers and Privileges, investigate any information or allegation of alleged breaches of parliamentary privilege or the Code of Conduct for Members of Parliament;
- (b) report to the Committee of Powers and Privileges at the conclusion of investigations for the Committee to consider and make recommendations to the House; and
- (c) maintain a register of interests declared by Members of Parliament.

Administrator's
term of office
and
remuneration.

18C. (1) The Administrator holds office for a term of six years and is not eligible for re-appointment.

(2) The terms and conditions of service for the Administrator shall be specified in the instrument of his or her appointment.

Removal from
office.

18D. (1) The Administrator may be removed from office for—

- (a) a serious violation of the Constitution, including a contravention of Chapter Six;
- (b) gross misconduct;
- (c) physical infirmity or mental incapacity to discharge his or her functions;
- (d) incompetence; or
- (e) bankruptcy.

(2) A person desiring the removal of the Administrator on any ground specified in subsection (1) may present a petition to the relevant House of Parliament setting out the alleged facts constituting that ground.

(3) The Committee of Powers and Privileges of the relevant House shall consider the petition and make recommendations to the relevant House of Parliament.

(4) If the Committee reports that it finds the allegations—

- (a) unsubstantiated, no further proceedings shall be undertaken; or
- (b) substantiated, the relevant House of Parliament shall vote on the resolution requiring the Administrator to be removed from office.

(5) If a resolution under subsection (4) (b) requiring the removal from office of an Administrator is supported by a majority of the members of the relevant House of Parliament—

- (a) the relevant Speaker shall deliver the resolution to the Parliamentary Service Commission ; and
- (b) the Commission shall dismiss the Administrator.

(Hon. Joyce Emanikor)

Motion made and Question Proposed –

THAT the New PART IV B be read a Second Time;

Debate arising;

Question put and negatived;

First & Second Schedule - agreed to.

New Third Schedule - proposed Amendment

THAT, the Bill be amended by inserting the following new schedule immediately after the Second Schedule—

THIRD SCHEDULE

CONSIDERATION OF REPORT BY THE COMMITTEE OF POWERS AND PRIVILEGES (s. 16 (7))

1. Every Report by the Committee of Powers and Privileges concerning any inquiry into the conduct of a Member shall, as soon as possible after it has been completed, be laid by a member of that Committee on the Table of the House.

2. If the Report does not recommend any disciplinary action there shall be no further proceedings whatsoever in respect thereof, other than (where necessary) further inquiry and Report by the Committee of Powers and Privileges.

3. (1) If the Report recommends any disciplinary action, a member of the Committee of Powers and Privileges shall as soon as possible after the report has been laid, but after giving at least one day's previous notice, move that the House adopts the Report.

(2) A Motion to adopt the Report shall be debated in the usual manner and in the open; except that—

(a) in exceptional circumstances to be determined by the Speaker, strangers may be ordered to withdraw throughout the debate; and

(b) no amendment may be moved, other than an amendment of the disciplinary action recommended by the Report or an amendment to the effect that the Report be referred back to the Committee of Powers and Privileges for further inquiry.

4. Where the House adopts any recommendation of the Report for disciplinary action, with or without amendment, the Speaker shall forthwith take action accordingly.

(Hon. Joyce Emanikor)

Motion made and Question proposed –

THAT the New Third Schedule be read a Second Time;

Debate arising;

Question put and agreed to;

Motion made and Question Proposed –

THAT, the New Third Schedule be part of the Bill

Question put and agreed to;

New Fourth Schedule - proposed Amendment

THAT, the Bill be amended by inserting the following new schedule immediately after the proposed Third Schedule—

FOURTH SCHEDULE

CODE OF CONDUCT FOR MEMBERS OF PARLIAMENT

(s. 41(3))

Application
and Purpose.

1. (1) This Code applies to and provides a framework of reference for Members of Parliament when discharging their duties and responsibilities.

(2) The purpose of this Code is to create public trust and confidence in Members of Parliament and to protect the integrity of Parliament.

Members
bound by
General
Principles of
Conduct.

2. (1) Members are bound by the General Principles of Conduct whenever any of them performs the roles of either House of Parliament set out under Articles 97 and 98 of the Constitution.

(2) The General Principles of Conduct include—

- (a) selflessness;
- (b) integrity;
- (c) objectivity;
- (d) accountability;
- (e) openness;
- (f) honesty; and
- (g) leadership.

Members to
be faithful,
conscientious
and
impartial.

3. Members of the House shall—

- (a) be faithful and bear true allegiance to the people and the Republic of Kenya.
- (b) faithfully and conscientiously discharge their duties and obey, respect, uphold, preserve, protect and defend the Constitution and the rule of law;
- (c) do right to all persons in accordance with the Constitution and the laws and conventions of Parliament; and
- (d) promote unity among Kenyans, irrespective of race, tribe, colour, creed or sex.

Members to
act in the
public
interest.

4. Members of the House shall, in the conduct of their parliamentary duties, act in the public interest, and resolve any conflict between their personal interest and the public interest in favour of the public interest.

Members not
to accept
improper
reward.

5. Members of the House shall not—

- (a) accept or agree to accept any financial inducement as an incentive or reward for the performance of their duties;
- (b) seek to profit or profit from membership of the House by accepting or agreeing to accept payment or other incentive or reward in return for providing parliamentary advice or services; or
- (c) incur a financial or other obligation that unduly influences the Member in the performance of his or her duties.

Members to
register
interests.

6. (1) Members of the House shall—

- (a) register with the Office of Standards and Ethics all financial and non-financial interests that may reasonably influence their parliamentary actions;

- (b) before contributing to debate in the House or its Committees, or communicating with State Officers or other public servants, declare any relevant interest in the context of parliamentary debate or the matter under discussion; and
- (c) observe any rules agreed of the House in respect of financial support for Members or the facilities of the House.
- (2) A relevant interest is an interest that may be seen by a reasonable member of the public to influence the way in which a Member discharges his or her parliamentary duties.
- (3) Members shall ensure that registered interests are accurate and updated within one month of any change in particulars.
- Members to uphold the dignity of the House.
- 7.** A member of the House shall uphold the dignity and integrity of the House by—
- (a) promoting respect for the House and its institutions at all times.
- (b) ensuring that the member's non-parliamentary activities do not interfere with or compromise the member's official duties or bring the House into disrepute.
- Members to treat others with respect.
- 8.** A member of the House shall treat other members with respect and strive to have cordial relations with all other members.
- Members' official duties to take precedence.
- 9.** A member of the House shall ensure that parliamentary duties of the member take precedence over the member's other activities.
- Members to abide by Code.
- 10.** Members undertake to abide by this Code upon taking the oath of office and at the start of each Parliament.
- Members to comply with General Code.
- 11.** A member of the House shall comply with the requirements imposed under the General Leadership and Integrity Code set out in Part II of the Leadership and Integrity Act, 2012.
- No. 19 of 2012.
- Committee to enforce Code, prescribe penalties for breach.
- 12.** The Committee shall enforce this Code and have power to recommend penalties for its breach similar to penalties for breach of parliamentary privilege.

(Hon. Joyce Emanikor)

Motion made and Question proposed –

THAT the New Third Schedule be read a Second Time;

Debate arising;

Further amendment proposed-

THAT, the proposed new Fourth Schedule be further amended in section 3(c) by deleting the words '*do right to*' appearing before the words '*all person*' and substituting therefor the words '*proceed in a judicious manner when dealing with*'

(Hon. T.J. Kajwang)

Question of the further amendment proposed;

Debate arising;

Question put and agreed to;

Motion made and Question proposed –

THAT, the New Fourth Schedule be part of the Bill

Question put and agreed to;

Clause 2 – amendment Proposed -

THAT, Clause 2 of the Bill be amended by inserting the following definition in its proper alphabetical sequence—

“proceedings” means—

(a) all things said, done or written by a Member or by any officer of either House of Parliament or by any person ordered or authorised to attend before such House or its committees, in or in the presence of such House or its committees and in the course of a sitting for the purpose of transacting the business of the House or its committees; and

(b) all things said, done or written between Members or between Members and officers of either House of Parliament for the purpose of enabling any Member or any such officer to carry out his or her functions.

(Hon. Joyce Emanikor)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 2 - as amended agreed to.

Title - agreed to.

Clause 1 - agreed to.

Bill to be reported with amendments;

7. **HOUSE RESUMED** - the Third Chairperson in the Chair

(i) **The Kenya National Examination Council (Amendment) Bill (National Assembly Bill No.03 of 2015**

Bill reported without amendments;

Motion made and Question proposed –

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

(Hon. Emmanuel Wangwe)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Kenya National Examination Council (Amendment) Bill (National Assembly Bill No. 03 of 2015 be now read a Third Time

(Hon. Emmanuel Wangwe)

Question of the Third Reading deferred to another day

(ii) **The Parliamentary Powers and Privileges Bill (National Assembly Bill No. 35 of 2014)**

Bill reported with amendments;

Motion made and Question proposed –

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

(Hon. Adan Keynan)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Parliamentary Powers and Privileges Bill (National Assembly Bill No. 35 of 2014) be now read a Third Time

(Hon. Adan Keynan)

Question of the Third Reading deferred to another day.

8. **THE AGRICULTURE, FISHERIES AND FOOD AUTHORITY (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO.17 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, The Agriculture, Fisheries and Food Authority (Amendment) Bill (National Assembly Bill No.17 of 2015) be now read a Second Time

(Hon. Silas Tiren)

Debate arising;

Rising under Standing Order 95, the Member for Homa Bay Town (Hon. Peter Kaluma) claimed to move that “the Mover be now called upon to reply”;

And the Third Chairperson acceding to the claim;

Question put and agreed to;

Thereupon Mover replied;

Question of the Second Reading deferred to another day.

9. **THE HEALTH RECORDS AND INFORMATION MANAGERS BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2015)**

Order for Second Reading read;

Motion made –

THAT, the Health Records and Information Managers Bill (National Assembly Bill No.24 of 2015) be now read a Second Time

(Hon. Agostinho Neto)

And the time being One O’clock, the Third Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

10. **HOUSE ROSE** - at One O’clock

M E M O R A N D U M

The Speaker will take the Chair today,
Wednesday, October 14, 2015 at 2.30 p.m.

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