



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – SECOND SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**THURSDAY, AUGUST 30, 2018 (SPECIAL MORNING SITTING)**

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

The Member for Wundanyi (Hon. Danson Mwashako) presented a petition on behalf of residents of Taita Taveta County regarding re-classification of Taita Taveta County as a marginalized area eligible to benefit from the Equalization Fund;

Petition referred to the relevant Departmental Committee pursuant to Standing Order 227(1).

5. **MOTION – REPORT ON THE AIR PASSENGER SERVICE CHARGE ACT (APPORTIONMENT) ORDER, 2018**

Motion made and Question proposed –

**THAT**, this House adopts the Report of the Committee on Delegated Legislation on the Air Passenger Service Charge Act (Apportionment) Order, 2018 laid on the Table of the House on Thursday, August 23, 2018 and pursuant to the provisions of section 15(1) of the Statutory Instruments Act and Standing Order 210 (4) (b) ***annuls in entirety*** the said Regulation.

*(Chairperson, Committee on Delegated Legislation)*

Debate arising;

Mover replied;

Question put and agreed to.

6. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read

**IN THE COMMITTEE**

The Fourth Chairperson in the Chair

**(i) The Finance Bill (National Assembly Bill No. 20 of 2018)**

*(Resumption of Consideration of the Finance Bill, commencing with New Clause 58A)*

New Clause 58A -      New Clause 58A proposed

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 58—

Insertion of new section 33C in Cap. 488. 58A. The Banking Act is amended by inserting the following new clause immediately after clause 33B—

Power of Central Bank to prescribe conditions on deposits or withdrawals.	of	<p><b>33B.</b>(1)The Central Bank may prescribe, in regulations, conditions on deposits or withdrawals by customers in banks and financial institution.</p> <p>(2) The Central Bank shall prescribe the regulations under sub-section (1) within thirty days of coming into force of this section.</p>
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(3) For avoidance of doubt no other person shall purport to make regulations required under this section and any existing guidelines or regulations prescribing conditions on deposits or withdrawals by customers shall cease to be operational within fourteen days of the coming into force of the regulations made under this section.

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Question of the New Clause 58 A proposed;

Debate arising;

**Further Amendment proposed-**

**THAT:** (a) Section 33B(1) be amended by replacing the word ‘may’ appearing immediately after the words ‘The Central Bank’ and substituting therefor with the word ‘**shall**’; and,

(b)Proposed paragraph (2) be deleted and substituted therefor with the words **‘The Central Bank shall, within thirty days of coming into force of this Act, prescribe regulations setting out conditions for deposits and withdrawals by customers in banks and financial institutions in accordance with the Statutory Instruments Act’.**

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Question of the further amendment proposed;  
Debate on the further amendment arising;  
Question on the further amendment put and agreed to;

New Clause 58A -      New Clause 58A proposed

**THAT**, the following new clause be inserted immediately after clause 58—

Insertion of  
new section  
33C in Cap.  
488.

**58A.** The Banking Act is amended by inserting the following  
new section immediately after section 33B—

Reserving of      **33C.** Every bank or financial institution shall  
money for      reserve at least ten per cent of its loan portfolio for  
some loans.      lending to small and medium scale enterprises.

*(Hon. Jude Njomo)*

Question of the New Clause 58A proposed;  
Debate arising;  
Amendment withdrawn.

New Clause 58C -      New Clause 58C proposed

**THAT**, the following new clause be inserted immediately after clause 58—

Amendment  
of the  
Second  
Schedule to  
Cap. 488.

**58C.** The Second Schedule to the Banking Act is amended by  
deleting paragraph (d) and substituting therefor the following  
paragraph—

“(d) a core capital of at least five billion Kenya  
shillings by the 31st December, 2021, in the case of a  
bank or a mortgage finance company:

Provided that the provisions of this paragraph shall  
apply in accordance with the following table—

<i>Compliance date</i>	<i>Minimum core capital for banks and mortgage finance companies (Ksh. Million)</i>
31 <sup>st</sup> December 2019	2000
31 <sup>st</sup> December 2020	3500
31 <sup>st</sup> December 2021	5000

*(Hon. Jude Njomo)*

Question on New Clause 58C proposed;

Debate arising;

Question put and Negatived;

New Clause 58C - Not Introduced.

New Clause 67A - New Clause 67A proposed

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 67-

Amendment of section 2 of No. 11 of 2007. **67A.** Section 2 of the Employment Act is amended by inserting the following new definition in the proper alphabetical sequence-

"employer contribution" means the employer's contribution payable into the National Housing Development Fund;

"employee contribution" means a contribution payable under this Act for the benefit of the employee;

"employee earnings" means the taxable amount determined under the Income Tax Act for purposes of levying income tax on the employee emoluments.

"National Housing Development Fund" means to the Fund established under section 6 of the Housing Act.

Proposed New Clause 67A **dropped**.

New Clauses 69A,B,C,D,E,F,G,H,I & J - New Clauses proposed by the Chairperson

**THAT**, the Bill be amended by inserting the following new clauses immediately after clause 69—

Amendment of section 5 of No. 15 of 2008.

**69A.**Section 5 of the Accountants Act is amended by—

(a) renumbering section 5 as section 5(1); and

(b) inserting the following new subsection immediately after subsection (1)—

(2) Despite subsection (1), a trainee accountant, student or a person required by the Institute to be registered as a member prior to attaining the qualifications under section 26 shall not be required to pay any fees or subscriptions.

Amendment of section 8 of No. 15 of 2008.

**69B.** Section 8 of the Accountants Act is amended by inserting the following new paragraph immediately after paragraph (f)—

(fa) prescribe the remuneration order for the accountancy profession with the approval of the Cabinet Secretary responsible for finance.

Amendment of section 17 of No.

**69C.** Section 17 of the Accountants Act is amended by inserting the following new subsection immediately after subsection (2)—

(2A) The Examinations Board shall, prior to registering a

- 15 of 2008. person to undertake an examination in accounting, require that the person be registered as a member of the Institute.
- Amendment of section 18 of No. 15 of 2008. **69D.** Section 18 of the Accountants Act is amended in subsection (2) by deleting the words “one hundred thousand” and substituting therefor the words “five hundred thousand”.
- Amendment of section 19 of No. 15 of 2008. **69E.** Section 19 of the Accountants Act is amended by inserting the following new subsection immediately after subsection (3) —  
(4) An entity in either the private or public sector shall not employ a person to practice accountancy unless the person is a member of the Institute.
- Amendment of section 21 of No. 15 of 2008. **69F.** Section 21 of the Accountants Act is amended in subsection (8) by deleting the words “five thousand” and substituting therefor the words “five hundred thousand”.
- Amendment of section 24 of No. 15 of 2008. **69G.** Section 24 of the Accountants Act is amended in subsection (5) by deleting the words “fifty thousand” and substituting therefor the words “five hundred thousand”.
- Amendment of section 30 of No. 15 of 2008. **69H.** Section 30 of the Accountants Act is amended by inserting the following new subsections immediately after subsection (2)—  
(2A) An accountant shall observe the ethical guidelines and applicable standards in the discharge of duty.  
(2B) The ethical guidelines and applicable standards of the accountancy profession shall take precedence over any instructions from a client or other person.  
(2C) An accountant shall not be liable for taking such actions or decisions or rejecting instructions from a client if such action, decision or rejection is in pursuance of the provisions of subsections (2A) and (2B).
- Amendment of section 41 of No. 15 of 2008. **69I.** Section 41 of the principal Act is amended by deleting subsection (4) and substituting therefor the following new subsection—  
(4) A person who commits an offence under this section is liable on conviction to a fine not exceeding two million shillings, and, in the case of a continuing offence, a further fine not exceeding two thousand shillings for each day on which the offence continues
- Amendment of Fifth Schedule to No. 15 of 2008. **69J.** The Fifth Schedule to the principal Act is amended in—  
(a) paragraph (4) by deleting the words “one hundred thousand” appearing in subparagraph (1)(d) and substituting therefor the words “one million”; and  
(b) paragraph (8) by deleting the words “twenty thousand” appearing in subparagraph (3) and substituting therefor the words “five hundred thousand”.

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Debate arising;  
Further Amendment proposed-

**THAT**, the proposed New Clauses 69A,B,C,D,E,F,G,H,I & J be amended by **deleting New Clause 69E**.

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Question of the further amendment proposed;

Debate on the further amendment arising;

Question of the further amendment put and agreed to.

Debate on the New Clause as Amended resumed;

Question on the New Clause as Amended put and agreed to;

New Clauses 69A,B,C,D,F,G,H,I & J - Introduced and agreed to.

New Clause 72 - New Clause 72 proposed by the Chairperson

**THAT**, the Bill be amended by inserting the following new clause immediately after clause 71—  
Amendment **72**. Section 20 of the Limitation of Actions Act is amended in  
of section subsection (2) by deleting the expression “six years” and substituting  
20 of therefor the expression “twenty years”.  
Cap.22.

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Debate arising;

And the Chairperson, declaring the proposed amendment as offending the provisions of  
Standing Order 133(5);

And the Chairperson, declining to put the question on the amendment;

Amendment **dropped**.

**Recommittal** **-Recommittal of Clause 18(b) (New Paragraph ‘c’)**

Clause 18(b) recommitted:-

**THAT**, clause 18 of the Bill be amended by inserting the following new paragraph  
immediately after paragraph (b)—

“(c) in section B of Part I, by deleting the expression “1<sup>st</sup> September, 2016”  
appearing in paragraph (2) and substituting therefor the expression “1<sup>st</sup>  
September, **2018**.”

*(Hon. Junet Mohammed)*

Question of the amendment proposed;

Debate arising;

Question on the amendment put and agreed to;

Clause 18 - agreed to

**Recommittal**

**Recommittal of Clause 31 Sub Clause (a)(iii)**

Clause 31 recommitted:-

Clause 31, Sub Clause (a)(iii) - amendment proposed -

**THAT**, clause 31 of the Bill be amended—

(a) in paragraph (a)(iii) by deleting the proposed new item—

Sugar Confectionery (including white chocolate) of tariff heading 17.04; chocolate in blocks, slabs or bars of tariff Nos. 1808.31.00, 1806.32.00, 1806.90.00 Shs. 20. per Kg

*(Chairperson of the Departmental Committee on Finance and National Planning and Hon. T.J. Kajwang [Similar Amendment])*

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Clause 31, Sub Clause (b)(New Paragraph 'c') - amendment proposed -

**THAT**, clause 31 of the Bill be amended—

(b) by inserting the following new paragraph immediately after paragraph (b)—

(c) in Part III by inserting the following new definition in proper alphabetical sequence—

“money transferred” means money transferred from one account to another account either within a bank or from one bank to another bank or from a person to another person through a money transfer agency or other financial service providers, but does not include—

- (a) transfer of taxes to or tax refunds from the Kenya Revenue Authority;
- (b) transfers from the Kenya Revenue Authority’s collection accounts to the Central Bank of Kenya;
- (c) transfers by or to the National Government, County Governments or Central Bank of Kenya;
- (d) transfers relating to the purchase and sale of shares and securities on the Nairobi Securities Exchange by banks or financial service providers on behalf of customers;
- (e) transfers between accounts belonging to the same person; or
- (f) any other category money transfer that the Cabinet Secretary may specify through a gazette notice.

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Question of the amendment proposed;

Debate arising;

Question of the amendment put and negatived.

Question that Sub-Clause 5 and Sub-Clause 6 under Clause 31(b)(ii) be part of the Bill proposed;

Debate arising;

Question put and negatived

Clause 31 -as amended agreed to

Title - agreed to

Clause 1 - agreed to

*[Committee of the Whole House on the Division of Revenue Bill (National Assembly Bill No. 20 of 2018) deferred].*

**BILL TO BE REPORTED WITH AMENDMENTS**

Motion made and Question proposed –

THAT, the Committee do report to the House its consideration of the Finance Bill (National Assembly Bill No.20 of 2018) and its approval thereof with amendments.

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Question put and agreed to;

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

**The Finance Bill (National Assembly Bill No.20 of 2018)**

**BILL REPORTED TO THE HOUSE**

Motion made and Question proposed –

THAT, the House do agree with the Committee of the Whole House in its Report of the Finance Bill (National Assembly Bill No.20 of 2018).

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Question put and agreed to.



**THIRD READING**

Motion made and Question proposed –

THAT, the Finance Bill (National Assembly Bill No.20 of 2018) be now Read a Third Time.

*(Chairperson of the Departmental Committee on Finance and National Planning)*

Question put and agreed to

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

**8. THE HEALTH LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2018)**

Order deferred.

**9. THE URBAN AREAS AND CITIES (AMENDMENT) BILL (SENATE BILL NO. 4 OF 2017)**

Order deferred.

**10. THE WAREHOUSE RECEIPT SYSTEM BILL (SENATE BILL NO. 10 OF 2017)**

Order deferred.

And the time being one minute to One O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

**11. HOUSE ROSE** - at one minute to One O'clock

**M E M O R A N D U M**

The Speaker will take the Chair today Thursday,  
August 30, 2018 at 2.30 p.m.

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