

REPUBLIC OF KENYA



TWELFTH PARLIAMENT – (SECOND SESSION)

THE NATIONAL ASSEMBLY

COMMUNICATION FROM THE CHAIR

(No. 54 of 2018)

REGARDING CONSIDERATION OF THE HEALTH LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 14 OF 2018)

Honourable Members,

Before the House proceeds to Order No. 10, being the *Committee of the Whole House on the Health Laws (Amendment) Bill, 2018*, I wish to give the following communication regarding the consideration of the Bill.

Honourable Members, firstly, I have received a letter from the Leader of the Majority Party who is the sponsor of the said Bill, conveying his wish to withdraw amendments relating to four (4) statutes proposed for amendment by way of the Bill. Specifically, the Leader of the Majority Party has sought my consent to withdraw, at this stage, of **ALL** amendments as published in the Bill relating to-

1. *the Radiation Protection Act (Cap 243),*
2. *the Food and Drugs and Chemical Substances Act (CAP 254),*
3. *the Narcotic Drugs and Psychotropic Substances Act No. 4 of 1994; and,*
4. **SOME ASPECTS** of the *Pharmacy and Poisons Act (CAP 244).*

Honourable Members, with regard to the first three legislations, that is, the Radiation Protection Act (Cap 243), the Food and Drugs and Chemical Substances Act (CAP 254), and the Narcotic Drugs and Psychotropic Substances Act No. 4 of 1994, the sponsor of the Bill notes that the reason for withdrawing the amendments is that they will be included in respective separate Bills which are to be introduced and considered at a later date. As for the fourth statute, that is the Pharmacy and Poisons Act (CAP 244), the Leader of the Majority Party wishes to withdraw amendments relating to granting marketing authorization (Section 25A) and the establishment of National Quality Control Laboratory as a body corporate.

These relate to the proposed amendments to sections 35A, 35D, 35E, 35F, 35G, 35H, 35I, 35J, 35K of the principal Act. The justification for withdrawal is that they are now to await the finalization of the Kenya Food and Drug Authority legislation, but the House may proceed to consider other aspects of the proposed amendments to the said statute as published in the Bill.

Honourable Members, having considered the request from the Leader of the Majority Party, I have consented to the **total** withdrawal of the amendments to the first three (3) statutes, that is, the Radiation Protection Act (Cap 243), the Food and Drugs and Chemical Substances Act (CAP 254), and the Narcotic Drugs and Psychotropic Substances Act No. 4 of 1994. I therefore direct that, when the House resolves to Committee of the Whole, the Committee will proceed as though the amendments proposed to the **three (3) statutes** were **not** part of the Bill. As for the request relating to the Pharmacy and Poisons Act (CAP 244), I am constrained by our parliamentary practice, which requires that withdrawal of proposed amendments to a specific statute in an omnibus Bill ought to affect the entire statute as contained in the Bill, as opposed to part of it. In this regard, I am therefore not able to allow the part withdrawal of the proposed amendment to the Pharmacy and Poisons Act (CAP 244), as requested. Indeed, doing so would be unconventional and would convolute the procedure in the Committee of the Whole House.

Honourable Members, in mitigation, my advice with regard to the amendments on the Pharmacy and Poisons Act CAP 244, is that the sponsor of the Bill or the relevant Committee may move that the Committee of the Whole House deletes the **specific** provisions of the Bill at the Committee stage. As a matter of fact, I do recall approving proposed amendments in the name of the Committee chairperson whose passage by the Committee of the Whole House would have the same effect. Alternatively, the sponsor of the Bill or indeed any other Member may move that the Committee of the Whole House do negative the specific clauses, should the Chairperson of the Departmental Committee fail to move the amendments.

Secondly, **Honourable Members**, from the Order Paper, you may note that there are six (6) other Members proposing to make amendments to the Health Laws (Amendment) Bill, 2018. I wish to notify the House that I have declined to approve amendments proposed by Nominated Member, the Hon. Godfrey Osotsi. The amendments proposed by the Honourable Member were seeking the House to amend the **Health Act, 2017** to, *inter alia* –*establish a Health Disputes Tribunal, provide for remuneration of the Tribunal as well as defining the jurisdiction of the Tribunal.*

Honourable Members, you will agree with me that the proposed amendments sound quite noble and would go a long way in improving service delivery in the health sector while providing a mechanism for the resolution of disputes. However, as your Speaker, I must stay true to our Standing Orders, and specifically, Standing Order 133(5). For clarity, the Standing Order states, as follows and I quote –

(5) No amendment shall be permitted to be moved if the amendment deals with a different subject or proposes to unreasonably or unduly expand the subject of the Bill, or is not appropriate or is not in logical sequence to the subject matter of the Bill.

Honourable Members, you will notice that the Bill, as published is proposing to amend thirteen (13) pieces of statutes. The Health Act, 2017, which the nominated Member wishes to amend is not one of these statutes. This will directly offend the above provisions of the Standing Orders by expanding the scope of the Bill. Invariably also, by creating a body corporate with attendant remuneration for the office bearers, the proposal falls within the matters defined as 'Money Bill, which requires me to invoke the provisions of Article 114 of the Constitution. The said Article provides that the House may proceed only as recommended by the relevant Committee having consulted the Cabinet Secretary for finance. It is for this reason that I have declined to approve the amendments. The Hon. Osotsi should therefore not get disheartened but should indeed proceed to introduce a legislative proposal as envisaged under Standing Order 114.

The House and the Committee of the Whole House are accordingly guided.

I thank you!

THE HON. JUSTIN B.N. MUTURI, EGH, MP
SPEAKER OF THE NATIONAL ASSEMBLY
Wednesday, October 24, 2018