



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

WEDNESDAY, MARCH 27, 2019 AT 2.30 PM

PRAYERS

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions (as listed in the Appendix)
5. Papers (as listed in the Appendix)
6. Notices of Motion
7. Statements (as listed in the Appendix)
8. **MOTION**- (The Senate Majority Leader)

THAT pursuant to Standing Order 159, the amendments of the National Assembly to the County Governments (Amendment) Bill (Senate Bills No.11 of 2017) be now considered.

9. **COMMITTEE OF THE WHOLE**

****THE COUNTY EARLY CHILDHOOD EDUCATION BILL (SENATE BILLS NO. 26 OF 2018)**

(Chairperson, Standing Committee on Education)

10. **COMMITTEE OF THE WHOLE**

***THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)**

(Sen. Amos Wako, MP)

11. **COMMITTEE OF THE WHOLE**

***THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)**

(Sen. Ledama Olekina, MP)

12. **COMMITTEE OF THE WHOLE**

***THE DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)**

(Chairperson, Standing Committee on Information and Technology)

...../Bill

- 13. **COMMITTEE OF THE WHOLE**
***THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL**
(SENATE BILLS NO. 17 OF 2018)
 (Sen. Aaron Cheruiyot, MP)
- 14. **COMMITTEE OF THE WHOLE**
***THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING**
BAYS) BILL (SENATE BILLS NO. 18 OF 2018)
 (Sen. Ledama Olekina, MP)
- 15. **COMMITTEE OF THE WHOLE**
***THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE**
BILLS NO. 19 OF 2018)
 (Sen. Samuel Poghisio, MP)
- 16. **COMMITTEE OF THE WHOLE**
***THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE**
BILLS NO. 22 OF 2018)
 (Sen. Judith Pareno, MP)
- 17. **COMMITTEE OF THE WHOLE**
***THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL**
(SENATE BILLS NO. 23 OF 2018)
 (Sen. Fatuma Dullo, MP)
- 18. ***THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS**
NO. 31 OF 2018)
 (Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

(Resumption of debate interrupted on Tuesday, 26th March, 2019)
- 19. ***THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS**
NO. 28 OF 2018)
 (Sen. Ledama Olekina, MP)

(Second Reading)
- 20. ***THE NATIONAL COHESION AND PEACE BUILDING BILL (SENATE BILLS**
NO. 35 OF 2018)
 (Sen. Judith Pareno, MP)

(Second Reading)
- 21. ***THE ELECTION LAWS (AMENDMENT) (NO.2) BILL (SENATE BILLS NO. 37**
OF 2018)
 (Sen. (Dr.) Agnes Zani, MP)

(Second Reading)

22. **MOTION – REPORT OF THE STANDING COMMITTEE ON FINANCE AND BUDGET ON THE COUNTY GOVERNMENTS’ INFRASTRUCTURE PROJECTS**

(Chairperson, Standing Committee on Finance and Budget)

THAT, this House adopts the Report of the Standing Committee on Finance and Budget on the County Governments’ infrastructure projects comprising County Executive Headquarter offices, Assembly Chambers and offices and County State officers’ residences, laid on the Table of the Senate on Thursday, 29th November, 2018.

(Resumption of debate interrupted on Thursday, 21st March, 2019)

23. **MOTION - THE REALIZATION OF GENDER EQUITY IN ELECTIVE AND APPOINTIVE POSITIONS IN KENYA**

(Sen. (Canon) Naomi Waqo Jilo, MP)

AWARE THAT, the Constitution of Kenya recognizes dignity, economic, social and cultural rights, education, housing and the right to health including reproductive health; and that the principle of equality and non-discrimination is established as a core value of leadership and the national values and principles of governance include human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of marginalized groups, among others;

FURTHER AWARE THAT, the Constitution of Kenya has very progressive articles that indicate commitment to the international and regional obligations arising from treaties and conventions and other Commitments signed or ratified;

COGNIZANT that Kenya has ratified the Convention on Elimination of all forms of discrimination against Women and the Protocol to the African Charter on Human and People’s Rights of the Right of Women which are international instruments that are key to promoting women’s rights;

RECALLING that policy framework to enhance gender equality has also been developed, and include the National Gender and Development Policy 2000, the Kenya Vision 2030, Sessional paper No. 2, of 2006, the National Land Policy, the National Policy for Response to Gender Based Violence, and the National Policy for the Abandonment of Female Genital Mutilation;

...../Motion

NOTING THAT, despite there being sound constitutional provisions and elaborate policy framework to realise gender equity, both national government and county governments have not done enough to realise the achievement of gender equality;

CONCERNED that women in Kenya experience hardships when it comes to elective offices, and are underrated by society with most opportunities for elective and appointive offices being awarded to men;

NOW THEREFORE THE SENATE RESOLVES

- 1) that Parliament fast track the enactment of the law that shall give effect to the one third gender rule; and,
- 2) that pursuant to Article 81 of the Constitution both the National and County governments observe the principle of equality, and empowers the female gender by increasing the appointive position to at least fifty per cent.

NOTICE

The Senate resolved on 13thFebruary, 2019 as follows:-

THAT, pursuant to Standing Order 106 (1), the Senate resolves that debate on a Motion not sponsored by the Majority or Minority Party or a Committee shall be limited in the following manner:-

A maximum of three hours with not more than twenty minutes for the Mover, twenty minutes for the Majority Party Official Responder, twenty minutes for the Minority Party Official Responder and fifteen minutes for each other Senator speaking and that fifteen minutes before the time expires, the Mover shall be called upon to reply.

KEY

******** - Denotes a Majority /Minority Party Bill

******* - Denotes a National Assembly Bill

****** - Denotes a Committee Bill

***** - Denotes any other Bill

A. *THE COUNTY GOVERNMENT (AMENDMENT) BILL, (SENATE BILLS NO. 11 OF 2017)

(Schedule of amendments as passed by the National Assembly on Wednesday, 6th March, 2019)

CLAUSE 8 –

Clause 8 of the Bill amended in the proposed amendment to section 25 in the new subsection (2) by deleting the words “and the county Gazette” appearing immediately after the words “Kenya Gazette”.

CLAUSE 11 –

Clause 11 of the Bill amended in the proposed amendments to section 31 by deleting the proposed new paragraph (a) and substituting therefor-
“a) may dismiss a county executive member, if the governor considers appropriate and shall give reasons for dismissal”

CLAUSE 15-

Clause 15 of the Bill deleted and substituted therfor with the following-

Amendment to section 44 of No. 17 of 2012.

15. Section 44 of the principal Act is amended by-

(a) deleting subsection(2) and substituting therefor-

“(2) A person shall be qualified for appointment as a county secretary under subsection (1), if that person-

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years relevant professional experience;
- (d) has at least five years’ experience in a leadership position at senior management level in a public service or private sector organization; and
- (e) meets the requirements of leadership and integrity as prescribed in Chapter Six of the Constitution.

(b) inserting the following new subsections immediately after subsection (2)-

(2A) The Governor shall, for the purpose of competitive recruitment of a county secretary under subsection (2), constitute a selection panel.

(2B) The selection panel shall consist of the following persons

- (a) a chairperson, not being a public officer;
- (b) one person from the private sector;
- (c) an Advocate of the High Court of Kenya, who is a member of the Law Society of Kenya;
- (d) an accountant who is a member of the Institute of Certified Public Accountants of Kenya; and
- (e) one person from an association representing workers.

(2C) The provisions of section 58A shall, with such modification as shall be necessary apply to the recruitment of a county secretary.

(2D) Upon interviewing the applicants for the position of county secretary-

- (i) the selection panel shall submit to the governor the names of two applicants who qualify for appointment as county secretary; and
- (ii) the governor shall submit the name of one applicant to the county assembly for approval for appointment as county secretary by the governor.

(2E) The county secretary shall hold office for a term of five years and shall be eligible for re appointment once.

(2F) The county secretary shall be an ex officio member of the County Executive Committee with no voting rights.

(c) inserting the following new subsection immediately after subsection (3) –

(3A) The county secretary may be removed from office on the following grounds-

- (a) inability to perform functions of the office arising out of physical or mental infirmity;

- (b) incompetence;
- (c) gross misconduct;
- (d) bankruptcy; or
- (e) violation of the Constitution.

(3B) Before removal under subsection (3A), the county secretary shall be informed, in writing, of the reasons for the intended removal, and shall be given an opportunity to put a defence against any such allegations, either in person or through a representative.

(3C) Subject to subsection (3A), (3B) and conditions of appointment, a county secretary may be dismissed by the governor.

B. *THE COUNTY EARLY CHILDHOOD EDUCATION BILL, (SENATE BILLS NO. 26 OF 2018)

A. NOTICE is given that Sen. (Dr.) Christopher Langat, MP Chairperson, Standing Committee on Education, intends to move the following amendments to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

CLAUSE 6

THAT clause 6 of the Bill be amended in paragraph (d) by deleting the words “that are secular in nature and that promote culture” appearing immediately after the words “curriculum programs” and substituting therefor the words “that promote positive culture”.

CLAUSE 19

THAT clause 19 be amended by-

- (a) deleting sub-clause (3) and substituting therefore the following new sub-clause-
 - (3)The compound in which an education centre is situated shall not be less than one acre in measurement.
- (b) deleting sub-clause (4).

CLAUSE 30

THAT clause 30 of the Bill be amended-

- (a) in sub-clause 1 by inserting the words “living with disability” immediately after the words “one person” appearing in paragraph (e);
- (b) in sub-clause (3) by deleting the words “and shall report to the County Education Board in the performance of his or her functions under this Act” appearing immediately after the words “board of management”; and
- (c) by inserting the following new sub-clause immediately after sub-clause (3)-
 (3A) The board of management shall report to the County Education Board on the performance of its functions under this Act.

CLAUSE 38

THAT clause 38 of the Bill be amended in sub-clause (1) by deleting the word “training” appearing immediately after the words “Recruitment and” in paragraph (a) and substituting therefor the words “professional development”.

CLAUSE 41

THAT clause 41 be amended in sub-clause (1) by deleting the word “three” appearing immediately after the words “the age of” and substituting therefor the word “four”.

CLAUSE 49

THAT clause 49 be amended by inserting the words “and the County Education Boards” at the end of the clause.

CLAUSE 63

THAT clause 63 be amended-

- (a) in sub-clause (1) by –
 - (i) inserting the words “of either gender” immediately after the words “two persons” in paragraph (a);
 - (ii) deleting paragraph (b) and inserting therefore the following new paragraph-
 (b)the county executive committee member responsible for education or a representative nominated by the county executive member in writing;
 - (iii) by inserting the following new paragraph immediately after paragraph (b)-
 (ba) one public officer in the department responsible for health, nominated by the respective county executive committee member responsible for matters relating to health;

(b) by inserting the following sub-clauses immediately after sub-clause (1)-

(1A) The appointments under subsections (1)(a) and (1)(d) shall be for a term of three years renewable for one further term.

(1B) The Committee shall, at its first meeting elect a Chairperson.

(C)The County executive committee member responsible for education shall establish a secretariat to support the Committee.

NEW CLAUSE 66A

That the following new clause be inserted immediately after clause 66-

Qualified persons. **66A.** A person employed as an early childhood teacher at the commencement of this Act and does not possess the minimum requirements as stated under section 36(1) shall continue to qualify for employment as an early childhood teacher if that person obtains the necessary qualifications within four years of the commencement of this Act.

CLAUSE 1

THAT clause 1 of the Bill be amended by deleting the word “County” appearing immediately after the words “cited as the”.

B. NOTICE is given that Sen. (Dr.) Agnes Zani, intends to move the following amendment to the County Early Childhood Education Bill, Senate Bills No. 26 of 2018, at the Committee Stage-

CLAUSE 67

THAT clause 67 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)-

(1A) The Cabinet Secretary shall in consultation with the Teachers Service Commission and the Council of County Governors prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

C.*THE PUBLIC PARTICIPATION BILL (SENATE BILLS NO. 4 OF 2018)

(Sen. Amos Wako, MP)

(i) **NOTICE** is given that Sen. Samson Cherarkey, MP Chairperson of the Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage-

...../ **Amendments**

CLAUSE 3

THAT clause 3 of the Bill be amended-

- (a) in the introductory clause by inserting the words “and developmental programmes” immediately after the words “in governance processes”;
- (b) by inserting the following new paragraph immediately after paragraph (f)-
 - (g) promote participation by non-state actors in decision-making processes.

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting paragraph (a) and substituting therefor the following new paragraph-

- (a) that the public, communities and organisations to be affected by a decision shall have a right to be notified, heard and involved in the decision-making process;

CLAUSE 5

THAT clause 5 of the Bill be amended in sub-clause (2)-

- (a) by deleting paragraph (c) and substituting therefor the following new paragraph-
 - (c) independent commissions or offices, boards, authorities or any other public body, the respective chief executive officer or secretary to the public body;
- (b) in paragraph (f) by deleting the words “County Secretaries” appearing immediately after the words “County Executive” and substituting therefor the words “respective county executive committee member”.

CLAUSE 6

THAT clause 6 of the Bill be amended in sub-clause (2) by deleting the word “specific” appearing immediately after the word “include” in paragraph (a) and substituting therefor the words “any further”;

CLAUSE 7

THAT clause 7 of the Bill be amended by inserting the words “publicize and” immediately after the words “authority shall”.

CLAUSE 8

THAT clause 8 of the Bill be amended in sub-clause (4) by inserting the words “including information on the purpose, dates and participants” immediately after the words “of public participation” in paragraph (a).

CLAUSE 9

THAT clause 9 of the Bill be amended by inserting the words “within six months of the coming into operation of this Act” immediately after the words “the Cabinet Secretary may”.

SCHEDULE

THAT the schedule to the Bill be amended-

- (a) in paragraph 2 by deleting the word “continuing” appearing immediately after the words “shall facilitate” and substituting therefor the word “continuous”;
- (b) in paragraph 5 by inserting the words “youth, minorities and marginalized communities” immediately after the words “persons with disabilities” in sub-paragraph (2);
- (c) by deleting paragraph 8 and substituting therefor the following new paragraph-

8. Every public participation forum shall be undertaken within a reasonable timeframe from the earliest possible time for consultation, allowing a reasonable period for each stage of the process.

- (d) in paragraph 11 by deleting sub-paragraph (b) and substituting therefor the following new sub-paragraphs-

(b) the final decision, including the reasons for the decision, is made widely available in a timely manner to the public;

(ba) the final decision is publicized in the same manner required for giving notice for public participation under these guidelines;

- (e) in paragraph 13 by inserting the words “and may be subject to penal consequences under any relevant law” immediately after the words “from a meeting” in sub-paragraph (2).

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines”-

“public participation” means the process through which the public are broadly engaged in understanding and contributing to decision-making processes of the policy making, law making and implementation level.

TITLE

THAT the Bill be amended in the long title by inserting the words “at the national and county level of government” immediately after the words “effective public participation”;

(ii) **NOTICE** is given that Sen. Petronilla Were Lokorio, MP intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage—

CLAUSE 4

THAT clause 4 of the Bill be amended—

- (a) by numbering the existing clause as sub-clause (1);
- (b) in the new sub-clause (1) by deleting the words “taken into consideration in” appearing immediately after the words “views shall be” in paragraph (d) and substituting therefor the words “the basis of”;
- (c) by inserting the following new sub-clauses immediately after sub-clause (1)—
 - (2) In conducting public participation, the responsible authority shall—
 - (a) allocate sufficient time before the public participation event to create public awareness on the subject matter;
 - (b) avail the relevant information to the members of the public with respect to the issue under consideration;
 - (c) engage the relevant stakeholders in such manner as the responsible authority shall consider appropriate;
 - (d) where the issue under consideration is of a technical nature, avail an independent technical expert to take members of the public through the matter under consideration in detail; and
 - (e) put in place a feedback mechanism to enable stakeholders submit their views and to receive feedback on the decisions made by the responsible authority.
- (3) Where the issue for public participation relates to a matter that affects the nation generally, the responsible authority shall conduct public participation forums with respect to that matter in at least twenty-four counties.
- (4) The responsible authority shall, in determining the counties in which public participation is to be conducted under sub-section (3), ensure that the forums are held in the counties alternately and that the residents in the counties in which the forums are not conducted are carried out through an alternative appropriate method.

CLAUSE 6

THAT clause 6 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

(4) The responsible authority shall publicize and publish, by notice in the *Gazette*, the guidelines.

CLAUSE 8

THAT clause 8 of the Bill be amended in sub-clause (5) by deleting the words “in such other manner” appearing immediately after the words “and publicized in” and substituting therefor the words “through such other appropriate platform”.

SCHEDULE

THAT paragraph 10 of the schedule be amended by inserting the following new sub-paragraph immediately after sub-paragraph (4) to read—

(4A) The confidentiality requirement imposed by the responsible authority shall be reasonable and not unduly fetter the rights of the applicant.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 7—

Provision of **7A.** The responsible authority shall provide the resources for public necessary resources for the conduct of public participation. participation under this Act.

CLAUSE 2

THAT clause 2 of the Bill be amended by inserting the following new definition immediately after the definition of the word “general guidelines” —

“public participation” means an effective and reasonable process in which the public is properly engaged in a given matter of public interest for the purpose of obtaining their views with the aim of facilitating a favourable outcome.

(iii) **NOTICE** is given that Sen. (Dr.) Agnes Zani, MP intends to move the following amendments to the Public Participation Bill, Senate Bills No. 4 of 2018, at the Committee Stage-

...../ **Amendments**

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new subclause immediately after subclause (2)-

(2A) The responsible authority shall, in developing the guidelines specified under subsection (1), consult with the departments in the respective entity.

CLAUSE 6

THAT clause 6 of the Bill be amended in subclause (1) by inserting the words “in accordance with this Act” immediately after the words “shall develop guidelines”.

CLAUSE 8

THAT clause 8 of the Bill be amended in subclause (4) by inserting the following new paragraph immediately after paragraph (b)-

(ba) particulars of persons or organizations that have taken part in any public participation exercise conducted by the relevant entity.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 8-

General penalty.	8A. A person contravenes a provision of this Act commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings.
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SCHEDULE

THAT the schedule be amended-

(a) in paragraph 4(2) by deleting subparagraph (f) and substituting therefor the following new paragraph-

(f) radio stations and print media.

(b) in paragraph 5 by inserting the words “including ensuring non-discrimination and reasonable access to information by such persons” immediately after the words “public participation processes” appearing in subparagraph (2);

(c) in paragraph 10(3) by deleting subparagraph (c) and substituting therefor the following new sub-subparagraph -

(c) shall be subject to the limitations on the right to access to information as set out in section 6 of the Access to Information Act.

D. *THE RETIREMENT BENEFITS (DEPUTY PRESIDENT AND DESIGNATED STATE OFFICERS) (AMENDMENT) BILL (SENATE BILLS NO. 2 OF 2018)

(Sen. Ledama Olekina, MP)

- (i) **NOTICE** is given that Sen. Johnson Sakaja, MP the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) Bill, 2018, at the Committee Stage—

CLAUSE 2

Amend section 2 of Act No. 8 of 2015 **THAT** the Bill be amended by deleting clause 2 and substituting the following new clause—

Section 2 of the Retirement Benefits (Deputy President and Designated State Officers) Act, 2015, hereinafter referred to as the “principal Act”, is amended by—

- (a) inserting the following new definition immediately after the definition of the term “entitled person”—

“pensionable emoluments” means basic salary excluding housing, transport and any other allowances or fluctuating emoluments;

- (b) deleting the definition of the term “retired vice president” and substituting therefor the following new definition—

“retired Vice-President” means a person who, having held the office of the Vice President at any time after 1st January, 1993, has ceased to hold office as such in the manner specified in the Constitution;

CLAUSE 7

THAT clause 7 of the Bill be amended by—

- (a) renumbering the proposed new section 10 as subsection (1); and
- (b) inserting the following new subsection immediately after subsection (1)—

(2) Where an entitled person has no surviving spouse or an eligible child the benefits payable shall form part of the estate of the deceased for administration.

CLAUSE 8

THAT the Bill be amended by deleting clause 8.

CLAUSE 9

THAT the Bill be amended by deleting clause 9.

CLAUSE 10

THAT the Bill be amended by deleting clause 10.

NEW CLAUSE

THAT the Bill be amended by inserting the following new clause immediately after clause 7—

Amendment **7A.** The First Schedule of the principal Act is amended in of First paragraph (h) by deleting the word “two” appearing at the Schedule of beginning of the paragraph.
Act No. 8 of
2015

- (ii) **NOTICE** is given that Sen. (CPA) Farhiya Ali Haji, MP intends to move the following amendments to the Retirement Benefits (Deputy President and Designated State Officers) (Amendment) Act, Senate Bills No. 2 of 2018, at the Committee Stage—

CLAUSE 5

THAT clause 5 of the Bill be amended by inserting the following new paragraphs after paragraph (a)-

(aa) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.

(ab) in subsection (1) by deleting the word“four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

NEW CLAUSES

THAT the Bill be amended by introducing the following new clauses after clause 5

NEW CLAUSE 5A

THAT section 5A of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

NEW CLAUSE 5B

THAT section 5B of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

NEW CLAUSE 5C

THAT section 6 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

NEW CLAUSE 5D

THAT section 7 of the Act be amended by-

- (a) deleting the word “four” appearing immediately after the words “once every” in paragraph (c) and substituting therefor the word “five”.
- (b) deleting the word “four” appearing immediately after the words “once every” in paragraph (d) and substituting therefor the word “five”

E. **THE DATA PROTECTION BILL (SENATE BILLS NO. 16 OF 2018)

(Chairperson, Standing Committee on Information and Technology)

NOTICE is given that Sen. Gideon Moi, MP the Chairperson of the Standing Committee on Information and Technology, intends to move the following amendments to the Data Protection Bill (Senate Bills No. 16 of 2018) at the Committee Stage –

CLAUSE 3

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

Application.

3. (1) This Act shall apply to –

(a) the protection of personal data of a data subject in the processing of such data by –

(i) an agency established in the Republic of Kenya; and

(ii) an agency not established in the Republic of Kenya but processes personal data of a data subject who is a resident of the Republic of Kenya; and

(b) the processing by automated or any other means of personal data which forms or is intended to form part of a filing system.

(2) This Act shall not apply to the processing of personal data –

(a) by or on behalf of a public body responsible for national security the purpose of which is the prevention, detection, investigation or punishment of a crime; or

(b) by a person in the course of a personal or household activity.

(3) Despite the provisions of subsection (2)(a) and except where the security of the country, the life, safety or health of a person, or property is in imminent danger, a public body that intends to process personal data without the consent of the data subject shall make an application *ex parte* to a court for orders to process such data.

CLAUSE 7

THAT clause 7 of the Bill be amended in sub-clause (2) by –

- (a) deleting paragraph (b) and substituting therefor the following new paragraph –
- (b) the data subject or a guardian, where the data subject is a child or a person who is legally incapacitated, has consented to the collection of the personal data from another source;
- (c) deleting paragraph (c);
- (d) by deleting the words “the interests” appearing immediately after the words “protection of” in paragraph (e)(ii) and substituting therefor the words “fundamental rights and freedoms”;
- (e) deleting paragraph (f) and substituting therefor the following new paragraph –
 - (f) the life, safety or health of a person or property is in imminent danger.
- (f) deleting sub-clause (3) and substituting therefor the following new sub-clause –

(3) An agency shall collect or process personal data using lawful means that do not intrude to an unreasonable extent upon the privacy of a data subject.

CLAUSE 8

THAT clause 8 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after sub-clause (1) –
 - (2) Where the data subject is in control of the means of inputting or processing his or her personal data, it shall be the responsibility of the data subject to ensure that personal data is complete, accurate, up-to-date and not misleading.

CLAUSE 9

THAT clause 9 of the Bill be amended by –

- (a) deleting paragraph (e) and substituting therefor with the following new paragraph –
 - (d) the deletion of personal data relating to the data subject which is in possession of an agency; and

- (b) inserting the following new paragraphs immediately after paragraph (f) -
 - (g) be informed of the period within which personal data is to be stored; and
 - (h) data portability.

CLAUSE 10

THAT clause 10 of the Bill be amended in sub-clause (1) by –

- (a) deleting the introductory clause and substituting therefor the following new clause –
 - (1) Before an agency collects personal data directly from a data subject, the agency shall inform the data subject, in a language the data subject understands, of –
- (b) deleting the word “hold” appearing immediately after the words “agency that will” in paragraph (d) and substituting therefor the words “be in possession of”;
- (c) deleting paragraph (h) and substituting therefor the following new paragraph –
- (g) the rights conferred on the data subject under section 9 of this Act.

CLAUSE 11

THAT clause 11 of the Bill be amended in sub-clause (1) by deleting the words “in the recent past” appearing immediately after the words “taken those steps” and substituting therefor the words “within the past twelve months”.

CLAUSE 12

THAT clause 12 of the Bill be amended –

- (a) in paragraph (a) by deleting the words “publicly available” and substituting therefor the words “a matter of public record”;
- (b) by deleting paragraph (c); and
- (c) by deleting paragraph (f) and substituting therefor the following new paragraph –
 - (e) compliance would endanger the life, safety or health of a person or endanger property;

CLAUSE 13

THAT clause 13 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) Subsection (1) shall not apply to a data subject where the decision is –

- (a) necessary for entering into, or performing, a contract between the data subject and the agency;
- (b) authorised by a law to which the agency is subject and which lays down suitable measures to safeguard the data subject’s rights, freedoms and legitimate interests; or
- (c) based on the explicit consent of the data subject.

CLAUSE 14

THAT clause 14 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “information on” at the beginning of paragraph (b);
- (b) inserting the words “information on” at the beginning of paragraph (c);
- (c) deleting the word “transmitted” appearing immediately after the words “is to be” in paragraph (d) and substituting therefor the word “disclosed”; and
- (d) deleting the words “processed data” appearing immediately after the words “deletion of” in paragraph (f) and substituting therefor the words “data which has been processed”.

CLAUSE 16

THAT clause 16 of the Bill be amended –

- (a) by re-numbering the existing clause as sub-clause (1);
- (b) in the new clause (1) by –
 - (i) inserting the words “is a breach of security or there” after the words “Where there” in the introductory clause;
 - (ii) deleting the words “as soon as reasonably practicable” appearing at the beginning of paragraph (a) and substituting therefor the words “within seventy two hours”;

(c) by inserting the following new sub-clauses immediately after the new sub-clause (1) –

(2) The notification under subsection (1)(a) shall set out sufficient information to enable the data subject to take protective measures against potential consequences of the data breach, including —

- (a) description of the nature of the breach;
- (b) description of the likely consequences of the breach;
- (c) description of the measures that the agency intends to take or has taken to address the breach;
- (d) recommendation on the measures to be taken by the data subject to mitigate the adverse effects of the breach; and
- (e) where possible, the identity of the person who may have accessed or processed the personal data.

(3) An agency may delay the issuance of a notification under subsection (1) for the purpose of preventing, detecting or investigating a crime by the relevant public entity.

CLAUSE 17

THAT clause 17 of the Bill be amended –

(a) by deleting sub-clause (1) and substituting therefor the following new sub-clause –

(1) Where an agency is in possession of personal data or where a person believes that an agency is in possession of personal data relating to him or her, that person —

- (a) may obtain from the agency a confirmation as to whether the agency possesses such personal data and the purposes for processing the personal data; and
- (b) shall have access to that data.

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

(2) An agency to which an application for access to personal data has been made may charge a prescribed fee for the provision of the personal data and the fee shall not exceed the actual costs of making copies of such information and if applicable, supplying them to the data subject.

CLAUSE 18

THAT clause 18 of the Bill be amended –

- (a) in sub-clause (1) by deleting the word “holds” appearing immediately after the words “an agency which” and substituting therefor the words “is in possession of”; and
- (b) in sub-clause (2) inserting the words “or such other personal data relating to the data subject as the data subject may request” immediately after the words “or misleading data”.

CLAUSE 19

THAT clause 19 of the Bill be amended –

- (a) in sub-clause (1) by –
 - (i) deleting paragraph (c) and substituting therefor the following new paragraph –
- (b) the retention of the data is necessary for a lawful purpose related to the function or activity performed by the agency;
 - (ii) by deleting the words “parties to the contract” appearing immediately after the words “contract between the” in paragraph (d) and substituting therefor the words “the data subject and the agency”;
- (c) by inserting the following new sub-clause immediately after sub-clause (3) –
 - (3A) An agency may, for purposes of subsection (3), anonymise the data retained under subsection (3) in such a manner as to ensure that the data subject is no longer identifiable.

CLAUSE 20

THAT clause 20 of the Bill be amended by deleting the word “holds” appearing immediately after the words “an agency that” and substituting therefor the words “is in possession of”.

CLAUSE 21

THAT clause 21 of the Bill be amended by –

- (a) re-numbering the existing clause as sub-clause (1); and
- (b) inserting the following new sub-clause immediately after the new sub-clause (1) –
 - (2) An agency that uses personal data for commercial purposes shall, where possible, anonymise the data in such a manner as to ensure that the data subject is no longer identifiable.

CLAUSE 23

THAT the Bill be amended by deleting clause 23.

CLAUSE 24

THAT clause 24 of the Bill be amended in sub-clause (2) by –

- (a) inserting the words “in the case of a data subject who is a child or a person who is legally incapacitated, the guardian” immediately after the words “the data subject” in paragraph (a);
- (b) deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) with respect to information that has made public by the data subject.

CLAUSE 25

THAT the Bill be amended by deleting clause 25.

CLAUSE 27

THAT the Bill be amended by deleting clause 27.

CLAUSE 29

THAT clause 29 of the Bill be amended –

- (a) in paragraph (a) deleting the words “or any other person having authority to make decisions on behalf of the child” appearing immediately after the words “parent or guardian”; and
- (b) by deleting paragraph (d) and substituting therefor the following new paragraph –
- (c) in the best interest of the child.

CLAUSE 30

THAT the Bill be amended by deleting clause 30.

CLAUSE 31

THAT clause 31 of the Bill be amended –

- (a) by re-numbering the existing clause as sub-clause (1);

(b) in the new sub-clause (1) by –

(i) deleting the words “third party” appearing immediately after the word “the” appearing at the beginning of paragraph (a) and substituting therefor the words “Commission satisfied that the other country”;

(ii) deleting paragraph (c) and substituting therefor the following new paragraph –

(c) the transfer is necessary -

(i) for the performance or conclusion of a contract between the data subject and the agency;

(ii) for the establishment, exercise or defence of a legal claim;

(iii) for the protection of fundamental rights and freedoms of a person; or

(iv) in the interest of the public.

(iii) by deleting paragraph (d); and

(c) by inserting the following new sub-clause immediately after the new sub-clause (1) –

(2) The Commission shall prescribe guidelines for the transfer of personal data outside the country and the filing of reports on personal data transferred outside the country by an agency.

CLAUSE 36

THAT clause 36 of the Bill be amended –

(a) by deleting sub-clause (4) and substituting therefor the following new sub-clause –

(4) Despite the provisions of this Act, a person whose personal data is collected or processed contrary to this Act or who suffers loss as a result of disclosure of personal data may lodge a claim before a court for an appropriate remedy.

(b) by inserting the following new sub-clause immediately after sub-clause (4) –

(5) In determining a claim under subsection (4) a court shall consider –

(a) the nature and the seriousness of the breach;

(b) the categories of personal data affected;

(c) any benefit gained or loss suffered as a result of the breach;

- (d) the number of previous violations;
- (e) the duration of time over which the breach occurred;
- (f) any action taken by the agency to remedy or mitigate the breach; and
- (g) the nature and status of the agency.

CLAUSE 38

THAT clause 38 of the Bill be amended –

(a) in sub-clause (1) by deleting the words “five hundred thousand” appearing immediately after the words “not exceeding” and substituting therefor the words “one million”; and

(b) by inserting the following new sub-clause immediately after sub-clause (1) –

(1A) Despite subsection (1), where the offence –

(a) committed relates to special personal information the person shall be liable, on conviction, to a fine not exceeding five million shillings or to a term of imprisonment not exceeding ten years; or

(b) is committed by a body corporate, the body corporate shall be liable, on conviction, to a fine not exceeding two million shillings or two percent of its annual turnover, whichever is higher.

NEW CLAUSE 18A

THAT the Bill be amended by inserting the following new clause immediately after clause 18 –

Right to data portability. **18A.** (1) A data subject has the right to receive personal data which the data subject has provided to an agency, in a structured, commonly used and machine-readable format.

(2) A data subject has the right to transmit the data obtained under subsection (1) to another agency.

(3) Where possible, the data subject shall have the right to have the personal data transmitted directly from one data agency to another.

(4) The right under this section shall not apply to circumstances where —

(a) processing is necessary for the performance of a task carried out in the public interest or in the exercise of an official authority; or

(b) it may adversely affect the rights and freedoms of another.

(5) An agency shall comply with data portability requests, free of charge and within a period of seven days from the date of the request.

CLAUSE 2

THAT clause 2 of the Bill be amended –

- (a) by deleting the definition of the word “data controller”;
- (b) by deleting the definition of the word “data subject” and substituting therefor the following new definition –

“data subject” means a natural person to whom personal data relates;

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

“disclosure”, in relation to personal data, includes the disclosure of information extracted from such data and the transfer of such data to another person but does not include a disclosure made directly or indirectly by an agency to its employee or agent for the purpose of enabling the employee or agent to carry out its duties and,

where the identification of a data subject depends partly on the data and partly on other information in the possession of the agency, the data shall not be considered as disclosed unless the other information is also disclosed;

- (d) by deleting the definition of the word “exempt information”;
- (e) in the definition of the word “personal data” –
 - (i) by deleting paragraph (d) and substituting therefor the following new paragraph –
 - (d) the biometrics of a person;
 - (ii) by deleting paragraph (g); and
 - (iii) by deleting paragraph (h);
- (f) in the definition of the word “processing” by inserting the word “storage” immediately after the words “collection, organisation” in paragraph (a); and

(g) by deleting the definition of the word “special personal information” and substituting therefor the following new definition –

“special personal information” means the personal data of a child or data revealing a natural person’s race, health status or ethnic origin.

SHORT TITLE

THAT the Bill be amended by deleting clause 1 and substituting therefor the following new clause –

Short title and commencement. **1.** This Act may be cited as the Personal Data Protection Act, 2018, and shall come into operation six months from the date of assent.

F. *THE CARE AND PROTECTION OF OLDER MEMBERS OF SOCIETY BILL
(SENATE BILLS NO. 17 OF 2018)

(Sen. Aaron Cheruiyot, MP)

NOTICE is given that Sen. Johnson Sakaja, MP the Chairperson to the Standing Committee on Labour and Social Welfare, intends to move the following amendments to the Care and Protection of Older Members of Society Bill, 2018, at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended in paragraph (b) by inserting the word “dignity” immediately after the words “protect the status”.

CLAUSE 4

THAT clause 4 of the Bill be amended in paragraph (b) by deleting the words “human being” appearing immediately after the words “of every” and substituting therefor the words “older member of society”.

PART II

THAT the Bill be amended by deleting the heading to Part II and substituting the following new title—

“RIGHTS AND ENTITLEMENTS OF OLDER MEMBERS OF SOCIETY”

CLAUSE 5

THAT the Bill be amended by deleting clause 5 and substituting therefor the following clause—

Rights of Older Members of Society.

5. An older member of society has the right to enjoy the rights conferred under the Constitution and in particular shall not be unfairly denied the right to—

- (a) participate in community life in a position appropriate to their interests and capabilities;
- (b) participate in intergenerational programmes;
- (c) establish and participate in associations of older members of society;
- (d) participate in activities that enhance their income generating capacity;
- (e) access opportunities that promote their optimal level of social, physical, mental and emotional wellbeing;
- (f) fully participate in the affairs of the society;
- (g) pursue their personal development;
- (h) manage their own property;
- (i) live in dignity and respect and be free from abuse; and
- (j) receive reasonable care and assistance from their family and the State.

NEW CLAUSES

THAT the Bill be amended by inserting the following New Clauses immediately after Clause 5-

Right to Legal Capacity.

5A. (1) An older member of society has a right to legal capacity and the right to access support necessary to exercise that legal capacity.

(2) An express or implied disqualification on the grounds of age prescribed in a law, custom or practice shall not deprive an older member of society the right to legal capacity.

Right to Equality and Non-Discrimination.

5B. (1) An older member of society shall be entitled to equal protection and equal benefit of the law.

(2) An affirmative action measure aimed to achieve equality of older members of society shall not constitute discrimination.

(3) An older member of society shall live in dignity and security, free from exploitation and physical or mental abuse and be treated fairly.

Right to Documents of Registration.

5C. (1) An older member of society has a right to be issued with a passport, national identity card, certificate of birth and any other document of registration or identification irrespective of their age.

(2) Where a birth certificate is not issued, the older member of society shall use alternative document including a national identity card to serve the purpose.

Right to Protection and Safety in Situations of Risk and Humanitarian Emergencies.

5D. (1) An older member of society has a right to suitable and specialised protection and safety in a situation of risk, including a situation of armed conflict, humanitarian emergency and the occurrence of a natural disaster.

(2) An institution whether public or private shall maintain an inventory of all older members of society and shall submit the inventory quarterly to the national government, county government and other agencies responsible for disaster management.

(3) The national government and each county government shall be responsible for emergency management and shall take appropriate measures to ensure the inclusion of older members of society in every scheme, program, mission as well as its disaster management system during the occurrence of any disaster emergency, for the safety and protection of such persons.

Right to Education.

5E. (1) The national government and each county government shall ensure that older members of society have access to educational, cultural, spiritual and recreational resources.

(2) The Ministry responsible for education shall develop programmes and structures for the education and training of older members of society.

Right to Health

5F. (1) The national government and each county government shall take appropriate measures to ensure that an older member of society who is not covered in an existing medical scheme gets affordable, accessible, adequate and quality free medical care.

(2) Medical assessment reports for older members of society shall be free of charge in public health institutions.

(3) An older member of society shall not be compelled to undergo any test as a precondition to or for continued enjoyment of provision of health cover.

Right to Admission into Public and Private Premises, and Public Transport

5G. (1) A person shall not, on the ground of old age be denied-
(a) admission into a premise to which members of the public are ordinarily admitted; or
(b) the provision of a service or amenity to which members of the public are entitled.

(2) The proprietor of a premise referred to in subsection (1) (a) shall not have the right, on the ground of a person's age, to reserve the right of admission to the premises against an older member of society.

Right to Sports, Recreation, Leisure and Culture.

5H. (1) An older member of society has a right to participate in sports, recreation, leisure and cultural activities including national and international sports events.

(2) Public and private institution with sporting, recreation, leisure and cultural activities shall ensure that the activities are sensitive to the needs of older members of society.

(3) An older member of society shall be entitled to the use, free of charge, of recreational or sports facilities owned or operated by the government during social, sporting or recreational activities.

(4) The national and county governments shall provide older members of society with a suitable environment for sports, recreation and leisure, including training support and medical personnel.

(5) Section (4) shall not apply in cases where there is exclusive private hire of such facilities.

Right of Access to Justice

5I. (1) Law enforcement agencies shall take into consideration the age of an older member of society on arrest, detention, trial or confinement.

(2) A suit involving an older member of society shall be disposed off expeditiously having due regard to their age and suffering.

CLAUSE 6

THAT clause 6 of the Bill be amended in subclause (2) by inserting the word “periodic” immediately after the word “promote” appearing at the beginning of paragraph (c).

CLAUSE 26

THAT clause 26 of the Bill be amended in subclause (1) by inserting the following new paragraphs immediately after paragraph (e) —

(f) the number of older members of society who have died in the home within the year and the cause of death; and

(g) the number of accidents in the home and complaints reported in relation to older members of society.

CLAUSE 27

THAT clause 27 of the Bill be amended-

(a) in paragraph (d) by inserting the words “county executive committee member and” immediately after the words “reports to the”;

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

(f) facilitate the enjoyment of all the rights of older members of society as conferred under the Constitution.

CLAUSE 30

THAT clause 30 of the Bill be amendedby inserting the following new paragraph immediately after paragraph (e)—

(f) the right of expression on matters regarding their welfare.

G. *THE COUNTY PLANNING (ROADS, PAVEMENTS AND PARKING BAYS) BILL
(SENATE BILLS NO. 18 OF 2018)

(Sen. Ledama Olekina, MP)

NOTICE is given that Sen. Wamatangi Kimani Paul, MP Chairperson to the Standing Committee on Roads and Transportation, intends to move the following amendments to the County Planning (Roads, Pavements and Parking Bays) Bill, 2018, (Senate Bill No. 18 of 2018) at the Committee Stage—

CLAUSE 3

THAT clause 3 of the Bill be amended by deleting paragraph (b) and substituting therefor the following new paragraph—

(b) provide a framework for planning of commercial structures along county roads in accordance with the Physical Planning Act;

No. 6 of 1996

CLAUSE 4

THAT clause 4 of the Bill be amended by deleting the words “and all commercial buildings constructed along major roads” appearing immediately after the words “county roads”.

CLAUSE 5

THAT clause 5 of the Bill be amended—

(a) in sub-clause (1) by—

(i) deleting the words “all roads” and appearing immediately after the words “drainage systems along” in paragraph (b) and substituting therefor the words “county roads”;

(ii) deleting the words “national and” appearing immediately after the words “constructed along” in paragraph (c);

(iii) deleting paragraph (d) and substituting therefor the following new paragraph—

(d) construct, maintain and facilitate the construction and maintenance of adequate parking bays in the respective county.

(iv) deleting paragraph (e);

(v) deleting paragraph (f) and substituting therefor the following new paragraph—

No 6 of (f) facilitate regular inspection of all buildings, roads, streets, lanes, alleys, parking bays and walkways under the jurisdiction of the county government to ensure that they adhere to prescribed building codes and standards as set out in the Physical Planning Act, the Urban Areas and Cites Act and any other written law;

(b) by inserting the following new sub-clause immediately after sub-clause(2)—

(3) The CEC shall, for purposes of subsection (2) consult with the National Council for Persons with Disabilities established under section 3 of the Persons with Disabilities Act.

CLAUSE 6

THAT clause 6 of the Bill be amended by inserting the words “in accordance with the Physical Planning Act” immediately after the words “in the county”.

CLAUSE 7

THAT clause 7 of the Bill be amended —

- (a) by deleting sub-clause (1); and
- (b) by deleting sub-clause (2) and substituting therefor the following new sub-clause—

(1) The county executive committee member shall, in consultation with the National Lands Commission, designate public land for the construction of parking bays within the county.

CLAUSE 8

THAT the Bill be amended by deleting clause 8 and substituting therefor the following new clause—

<p>Construction and maintenance of walkways by the county government</p>	<p>8. Each county government shall construct and maintain walkways along all county roads in the respective county.</p>
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(3) Every person who, immediately before the commencement of this Act, owns a commercial building situated along a county road shall comply with provisions of this section—

(a) within a period of twelve months from the date of the commencement of this Act; or

(b) within a period of twelve months from the date of completion of the construction of an alternative means of access to the building as provided under subsection (2).

(4) A person who contravenes subsection(1)(b) commits an offence and is liable, on conviction, in accordance with section 30 of the Physical Planning Act.

CLAUSE 11

THAT the Bill be amended by deleting clause 11 and substituting therefor the following new clause—

<p>Construction and maintenance of walkways by owners of commercial buildings.</p>	<p>11. (1) The owner of a commercial building may construct and maintain a walkway next to the commercial building where the county government—</p> <p style="padding-left: 40px;">(a) has designated an area next to the building for the construction of a walkway; and</p> <p style="padding-left: 40px;">(b) has not constructed or has failed to maintain the walkway.</p> <p>(2)A person shall not construct or maintain a walkway under subsection(1)—</p> <p style="padding-left: 40px;">(a) unless such person has applied for and obtained approval of the county executive committee member; and</p> <p style="padding-left: 40px;">(b) otherwise in accordance with the prescribed standards.</p>
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CLAUSE 12

THAT clause 12 of the Bill be amended in sub-clause (2) by deleting the words “in accordance with the standards prescribed under this Act” and substituting therefor with the words “in accordance with the Physical Planning Act and any other written law”.

CLAUSE 13

THAT clause 13 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “pavement” appearing immediately after the word “A” and substituting therefor the word “walkway”;
- (b) in sub-clause(2) by deleting the word “pavement” appearing immediately after the words “commercial activity on a” and substituting therefor the word “walkway”; and
- (c) by deleting sub-clause (3).

CLAUSE 14

THAT clause 14 of the Bill be amended —

- (a) by deleting sub-clause (3); and
- (b) in sub-clause (4) by deleting the word “seize” appearing immediately after the words “committee member may” and substituting therefor the word “walkways”.

CLAUSE 15

THAT the Bill be amended—

- (a) by deleting sub-clause (4) and substituting therefor the following new sub-clause—

(4) A person who contravenes this section commits an offence and is liable, on conviction in accordance with section 52A of the Traffic Act.

Cap 39 of 1953

- (b) by deleting sub-clause 5.

CLAUSE 16

THAT the Bill be amended

- (a) by deleting sub-clause (1) and substituting therefor the following new sub-clause—
 - (1) The county executive committee member may, in consultation with the Cabinet Secretary and all relevant stakeholders, make regulations for the better carrying out of the provisions of this Act;
- (b) in sub-clause (2)
 - (i) by deleting paragraph (a); and

(ii) in sub-clause (2)(b) by deleting the word “pavement” appearing immediately after the words “parking bays and” in paragraph (b) and substituting therefor the word “walkways”.

CLAUSE 2

THAT clause 2 of the Bill be amended—

(a) by deleting the definition of the word “commercial building” and substituting therefor the following new definition:

“commercial building” shall have the same meaning assigned to it under the Physical Planning Act;

(b) by inserting the following new definition immediately after the definition of the word “national road”—

“walkway” means any egress, footpath, pathway or route for use by non-motorized traffic and shall not include cycle lanes ;

(c) by deleting the definition of the word “heavy commercial vehicle” and substituting therefor the following new definition—

“heavy commercial vehicle” has the meaning assigned to it under section 2 of the Traffic Act;

(d) by deleting the definition of the word “county road” and substituting therefore the following new definition—

“county road” means all roads falling within the mandate of the county governments under Part 2 of the Fourth Schedule to the Constitution and specified under any other written law;

(e) by deleting the definition of the word “major road”;

(f) by deleting the definition of the word “minor road”; and

(g) by deleting the definition of the word “national road”.

SHORT TITLE

THAT the Bill be amended by deleting clause (1) and substituting therefor the following new clause—

Short Title	1. This Act may be cited as the County Roads, Walkways and Parking Bays Act, 2018.
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H. *THE COUNTY OUTDOOR ADVERTISING CONTROL BILL (SENATE BILLS NO. 19 OF 2018)

(Sen. Samuel Poghio, MP)

NOTICE is given that the Chairperson of the Standing Committee on Information and Technology, Sen. Gideon Moi, MP intends to move the following amendments to the County Outdoor Advertising Control Bill (Senate Bills No. 19 of 2018) at the Committee Stage –

CLAUSE 4

THAT clause 4 of the Bill be amended –

(h) in subclause (2)(b) by deleting subparagraph (ii) and substituting therefor the following new paragraph –

(ii) the Kenya National Highway Authority or any other entity responsible for the management of road reserves, where the advertisement is to be displayed on a road reserve;

(i) by inserting the following new subclause immediately after subclause (2) –

(2A) The county executive committee member shall keep and maintain a register in which shall be recorded all applications made and licences issued under this Act.

CLAUSE 15

THAT clause 15 of the Bill be amended –

(a) by deleting the marginal note and substituting therefor the following new marginal note –

Publication of application for a licence.

(b) in subclause (2) by inserting the words “within seven days from the date of the notice” immediately after the words “under this Act”.

NEW CLAUSE 14A

THAT the Bill be amended by inserting the following new clause immediately after clause 14 –

No other government entity to levy fees. **14A.** Subject to this Act or any other written law, no other government entity shall levy fees on outdoor advertising.

NEW CLAUSE 18A

THAT the Bill be amended by inserting the following new clause immediately after clause 18 –

Dispute
resolution.

18A. (1) The National government, a county government or any other person who is a party to a dispute arising under this Act shall take reasonable measures to resolve the dispute by alternative dispute resolution before resorting to judicial proceedings.

(2) A party is considered to have taken reasonable measures to resolve a dispute by alternative dispute resolution if such a party–

- (a) notifies the other party of the issues that are in dispute and offering to settle them;
- (b) responds appropriately to a notification under paragraph (a);
- (c) provides relevant information and documents to the other party to enable that party understand the issues and determine the best approach to take in responding to the issues; or
- (d) where an alternative dispute resolution mechanism is agreed to –
 - (i) collaborating with the other party in determining the person to facilitate resolution of the dispute; and
 - (ii) attending the alternative dispute resolution process.

I. *THE PETITION TO COUNTY ASSEMBLIES (PROCEDURE) BILL (SENATE BILLS NO. 22 OF 2018)
(Sen. Judith Pareno, MP)

NOTICE is hereby given that the Chairperson of the Senate Standing Committee on Justice Legal Affairs and Human Rights, intends to move the following amendments to the Petition to County Assemblies (Procedure) Bill, (Senate Bills No. 22 of 2018), at the Committee Stage-

CLAUSE 5

THAT clause 5 of the Bill be amended by-

- (a) deleting subclause (1);
- (b) deleting the introductory phrase to paragraph (4) and substituting therefor the following new introductory phrase-
 - (4)The relevant county assembly committee shall in considering the petition-

J. *THE TREATY MAKING AND RATIFICATION (AMENDMENT) BILL (SENATE BILLS NO. 23 OF 2018)

(Sen. Fatuma Dullo, MP)

NOTICE is hereby given that the Chairperson of the Senate Standing Committee on Justice, Legal Affairs and Human Rights, intends to move the following amendments to the Treaty Making and Ratification (Amendment) Bill, (Senate Bills No. 23 of 2018), at the Committee Stage-

CLAUSE 2

THAT clause 2 of the Bill be amended in the proposed new section 8 by inserting the following new subsection immediately after subsection (1)-

(1A) The memorandum submitted under subsection (1) shall include the same information specified under section 7.

NEW CLAUSE 1A

THAT the Bill be amended by inserting the following new clause immediately after clause 1-

Amendment **1A.** Section 3 of the principal Act is of section 3 amended in subsection (2) by inserting of No. 45 of the following new subparagraph 2012. immediately after subparagraph (v)-

(vi)any matter that may have an impact on national revenue and public finance.

NEW CLAUSE 4A

THAT the Bill be amended by inserting the following new clause immediately after clause 4-

Amendment **4A.**Section 10 of the principal Act is of section amended by inserting the following new 10 of No. subsection immediately after subsection 45 of 2012. (2)-

(2A) Where the Cabinet Secretary intends to withdraw a reservation to a treaty ratified under this Act, the Cabinet Secretary shall submit the proposed reservation to Parliament for approval in accordance with the procedure set out under this Part.

APPENDIX

1. PETITIONS

- a) Petition by Residents of Taita Taveta County regarding the effects of iron ore mining at Kishushe in Taita Taveta County.

(Sen. Johnes Mwaruma, MP)

- b) Petition by Dr. Eric Mugambi Kinyua concerning the review of the Basic Education Curriculum framework by the Ministry of Education.

(The Speaker of the Senate)

- c) Report of the Standing Committee on Finance and Budget on a Petition to the Senate regarding issuance of Kenya currency usable by blind and visually impaired persons.

(The Chairperson, Standing Committee on Finance and Budget)

- d) Report of the Standing Committee on Health on a Petition to the Senate by Residents of Isiolo County regarding agreement between Living Goods Ltd and the County Government of Isiolo.

(Chairperson, Standing Committee on Health)

2. PAPERS

- a) Report of the Auditor-General on the Financial Statements of Garissa Water and Sewerage Company for the year ended 30th June 2015;

- b) Report of the Auditor-General on the Financial Statements of County Assembly of Kitui Staff Car and Mortgage Loan Scheme for the year ended 30th June 2017;and

(The Senate Majority Leader)

- c) Report of the Standing Committee on Finance and Budget on the Annual Report of the County Governments Budget Implementation Review for financial year 2017/2018.

(The Chairperson, Standing Committee on Finance and Budget)

3. STATEMENTS

(i) Pursuant to Standing Order No. 47(1)

The Senator for Nairobi City County (Sen. Johnson Sakaja, MP) to make a statement on compensation to residents of Mihango Ward, Embakasi East Constituency, Nairobi City County by the Kenya Power Ltd for illegal demolition of their houses.

(ii) Pursuant to Standing Order No. 48(1)

- (a) The Senator for Migori County (Sen. (Dr.) Ochilo Ayacko, MP) to seek a statement from the Standing Committee on National Security and Foreign Relations on the criminal activities of the “*Sangwenya*” gang in Migori County;
- (b) The Senator for Migori County (Sen. (Dr.) Ochilo Ayacko, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources concerning the mining activities in Migori County;
- (c) Nominated Senator (Sen. Mary Seneta, MP) to seek a statement from the Standing Committee on Agriculture, Livestock and Fisheries on the current status of Emali holding ground in Kajiado County.
- (d) Nominated Senator (Sen. (Canon) Naomi Jilo Waqo, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations on the increased insecurity in Marsabit County; and
- (e) Nominated Senator (Sen. (Dr.) Alice Milgo, MP) to seek a statement from the Standing Committee on Land, Environment and Natural Resources on the recent move by the National Environment Management Authority (NEMA) to ban the non-woven polypropylene carrier bags.
