



REPUBLIC OF KENYA
TWELFTH PARLIAMENT – (THIRD SESSION)

THE SENATE

ORDER PAPER

TUESDAY, MARCH 12, 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 (as listed in the Appendix)
7. Statements (as listed in the Appendix)
8. ***THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO. 1 OF 2019)**
(Sen. Aaron Cheruiyot, MP and Sen. Isaac Mwaura, MP)
(First Reading)
9. ***THE PRESERVATION OF HUMAN DIGNITY AND ENFORCEMENT OF ECONOMIC AND SOCIAL RIGHTS BILL (SENATE BILLS NO. 27 OF 2018)**
(Sen. Abshiro Halake, MP)
(Second Reading)
(Resumption of debate interrupted on Thursday, 28th February, 2019)
(Division)
10. **COMMITTEE OF THE WHOLE**
*****THE WAREHOUSE RECEIPTS SYSTEM BILL (SENATE BILLS NO. 10 OF 2017)**
(The Senate Majority Leader)
(Consideration of the National Assembly Amendments)
11. **COMMITTEE OF THE WHOLE**
***THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)**
(Sen. Kimani Wamatangi Paul, MP)
(Consideration of the National Assembly Amendments)

...../Bill

12. ****THE COUNTY STATUTORY INSTRUMENTS BILL (SENATE BILLS NO. 21 OF 2018)**
(Chairperson, Sessional Committee on Delegated Legislation)
(Second Reading)
13. ****THE COUNTY OVERSIGHT AND ACCOUNTABILITY BILL (SENATE BILLS NO. 28 OF 2018)**
(Sen. Ledama Olekina, MP)
(Second Reading)
14. ****THE DETERMINATION OF THE NATURE OF BILLS (PROCEDURE) BILL (SENATE BILLS NO. 30 OF 2018)**
(Sen. Mutula Kilonzo Jnr., MP and Sen. Sakaja Johnson, MP)
(Second Reading)
15. ****THE NATURAL RESOURCES (BENEFIT SHARING) BILL (SENATE BILLS NO 31 OF 2018)**
(Sen. (Dr.) Agnes Zani, MP)
(Second Reading)
16. ****THE MENTAL HEALTH (AMENDMENT) BILL (SENATE BILLS NO. 32 OF 2018)**
(Sen. (Arch.) Sylvia Kasanga, MP)
(Second Reading)
17. ****THE ELECTION LAWS (AMENDMENT) BILL (SENATE BILLS NO. 33 OF 2018)**
(Sen. Ledama Olekina, MP)
(Second Reading)
18. ****THE COUNTY WARDS (EQUITABLE DEVELOPMENT) BILL (SENATE BILLS NO. 34 OF 2018)**
(Chairperson, Standing Committee on Finance and Budget)
(Second Reading)
19. ****THE TEA BILL (SENATE BILLS NO. 36 OF 2018)**
(Sen. Aaron Cheruiyot, MP)
(Second Reading)

KEY

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

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

****** - Denotes a Committee Bill

***** - Denotes any other Bill

A. **THE WAREHOUSE RECEIPTS SYSTEM BILL (SENATE BILLS NO. 10 OF 2017)**

(The Senate Majority Leader)

(Consideration of the National Assembly Amendments)

Schedule of amendments as passed by the National Assembly to the Bill on Tuesday, 27th November, 2018

CLAUSE 2

Clause 2 of the Bill amended—

- (a) in the definition of “holder” by deleting the words “who is in possession of the receipt” appearing immediately after the words “warehouse receipts”;
- (b) by deleting the definition of “owner”;
- (c) by deleting the definition of the word “warehouse operator” and substituting thereof the following new definition—
 - “warehouse operator” means a person engaging in the business of hiring out space for storing goods and issuance of warehouse receipts;
- (d) in the definition of the term “warehouse receipt system” by deleting the word “receipts” appearing immediately after the words “the management of the transfer of the” and substituting therefor the term “receipt”; and
- (e) by inserting the following new definition in its proper alphabetical sequence—
 - “inspector” means an officer of the Council or an authorized officer appointed by the Council in the *gazette*, to carry out inspections under this Act.

CLAUSE 3

Clause 3 of the Bill amended—

- (a) by deleting subclause (3) and substituting therefor the following new subclause—
 - (3) The Council shall consist of—
 - (a) a Chairperson, who shall be appointed by the President;
 - (b) the Principal Secretary for the time being responsible for matters related to agriculture or a representative;
 - (c) the Principal Secretary for the time being responsible for matters related to finance or a representative;
 - (d) one person nominated by the Council of Governors;
 - (e) the Director-General of Agriculture and Food Authority or a representative;
 - (f) the chief executive officer of the Council who shall be an *ex-officio* member;
 - (g) one person nominated by the Kenya Farmers Association;
 - (h) one person nominated by Kenyan members of the Eastern Africa Grain Council;
 - (i) one person nominated by Kenya Bankers Association; and
 - (j) one person nominated by the Kenya Warehouse Operators Association.”

...../ **Amendments**

(b) by deleting subclause (5) and substituting thereof with the following subclause—

(5) A person shall be qualified for appointment as chairperson of the Board if such a person—

- (a) is a citizen of Kenya;
- (b) meets the requirements of leadership and integrity set out in Chapter 6 of the Constitution;
- (c) holds relevant academic and professional qualifications including a university degree in a relevant field; and
- (d) has at least eight years’ experience in—
 - (i) agriculture;
 - (ii) finance;
 - (iii) business;
 - (iv) law;
 - (v) procurement; or
 - (vi) administration.

(c) in subclause (9), by—

- (i) inserting the words, “in contravention of the Public Officer Ethics Act and any other relevant law” immediately after the word “office” in paragraph (c);
- (ii) deleting the words “in the opinion of the Council” appearing in paragraph (e);
- (iii) deleting paragraph (g) and substituting therefor with the following paragraph—

“(g) conviction of an offence and sentenced to six months imprisonment without an option of a fine.”

CLAUSE 4

Clause 4 of the Bill amended—

(a) in paragraph (a) by inserting the word “produced” immediately after the word “commodities”;

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

(ja) in accordance with the provision of this Act, suspend operations of warehouse operators, inspectors, weighers, graders or other service providers operating under the Act for contravention of the Act;

(jb) issue, suspend or revoke registration or licenses issued under the Act;

CLAUSE 9

Clause 9 of the Bill amended in subclause (3) by deleting paragraph (a) and substituting therefor the following new paragraph—

“(a) holds a relevant university degree from a recognized university in Kenya.”

...../ **Amendments**

CLAUSE 10

Clause 10 of the Bill amended by inserting the words “a company secretary and” immediately after word “employ”.

CLAUSE 11

Clause 11 of the Bill amended—

(a) by renumbering the existing clause as subclause (1);

(b) by inserting the following new subclause immediately after subclause (1) —

(2) The Council shall publish the names of persons engaged as experts under subsection (1), in the *gazette*.

CLAUSE 16

Clause 16 of the Bill amended in subclause (5) by inserting the word “annual” immediately before the word “report”.

CLAUSE 17

Clause 17 of the Bill amended—

(a) by deleting subclause (3) and substituting therefore the following new clause—

“(3) The County Executive Committee member may—

(a) issue a license where the applicant meets all the requirements set out in the prescribed regulations;

(b) decline to issue a license for the conduct of a warehouse where the County Executive Committee member establishes that—

(i) the warehouse is not suitable for the proper storage of agricultural commodities;

(ii) the operator is incompetent to conduct such warehouse in accordance with this Act and the regulations made hereunder; or

(iii) there is any other sufficient reason within the purposes of Act for not issuing such licenses.

(b) by inserting the following new subclause immediately after subclause (4) —

(4A) A person who operates a warehouse under the Warehouse Receipts System without a license issued by the county executive committee commits an offence.

CLAUSE 21

Clause 21 of the Bill amended—

(a) in subclause (4) by inserting the words “and shall be liable on conviction to a fine not exceeding a hundred thousand shillings or imprisonment for a term not exceeding three years, or both” immediately after the word “offence”;

(b) in subclause (5)–

- (i) by deleting the word “or” appearing immediately before the word “graders”;
- (ii) by inserting the words “or other service providers” immediately after the word “graders”; and

(c) by inserting the following new subclause immediately after subclause (8) –

“(8A) The Council shall maintain a database which shall be availed for inspection by any person upon application pursuant to Article 35 of the Constitution.”

CLAUSE 23

Clause 23 the Bill amended–

(a) by deleting the words “Warehouse Receipts Appeals Committee” wherever they appear and substituting therefor the words “Warehouse Receipts System Dispute Resolution Committee”;

(b) in subclause (1) by inserting the following new paragraph immediately after paragraph (d) –

(da) complaints by registered, licensed or other persons operating under this Act;

(c) in subclause (2) by–

(i) deleting paragraph (a) and substituting thereof with the following paragraph–

(a) a chairperson appointed by the Cabinet Secretary who shall be an advocate of not less than seven years standing and with experience in dispute resolution; and

(ii) deleting the word “adjudication” in paragraph (b) and substituting thereof with the word “resolution”.

(d) in subclause (4) by deleting the words “Appeals Committee” and substituting therefor the words “Dispute Resolution Committee”.

CLAUSE 24

Clause 24 of the Bill deleted and substituted thereof with the following new clause–

Grading and weighing of agricultural products. **24.** (1) A licensed warehouse operator shall ensure commodities stored in a licensed agricultural warehouse meet the standards published by the Kenya Bureau of Standards and are weighed using equipment certified in accordance with laws related to weights and measures.

(2) The grading of agricultural commodities shall be undertaken by agricultural commodity graders certified by a mandated institution.

(3) The Council shall provide guidelines on the minimum qualifications and competencies required of graders and weighers.

CLAUSE 25

Clause 25 of the Bill deleted and substituted thereof with the following new clause—

Inspection of stored agricultural products. **25.**(1) The Chief Executive Officer, appointed Council Inspectors or authorized officers of the Council may inspect any agricultural commodity stored in a licensed warehouse and records relating to warehouse receipts where its considered necessary.

(2) The Council shall appoint and gazette inspectors who shall exercise such powers in accordance with regulations made under this Act.

CLAUSE 27

Clause 27 of the Bill amended by inserting the words, “insurance contracts, professional indemnities, warehouse receipts registry” immediately after the words “examine all”.

CLAUSE 30

Clause 30 of the Bill amended by inserting the following new subclause immediately after subclause (1)—

“(1A) The Central Registry shall have the necessary infrastructure to link it with a central depository of a commodities exchange licensed by the Capital Markets Authority.”

CLAUSE 31

Clause 31 of the Bill amended in—

(a) subclause (2), by deleting the words “issue a warehouse receipt” and substitute thereof with the words, “issue a warehouse replacement receipt”;

- (b) subclause (3) by deleting the word “duplicate” and substituting thereof with the word “replacement”; and
- (c) subclause (4), by deleting the word “deals” immediately after the word “person” and substituting therefor the word “who”.

CLAUSE 32

Clause 32 of the Bill amended by deleting the word “duplicate” and substituting with the word “replacement”.

CLAUSE 39

Clause 39 of the Bill amended by deleting the phrase “section 35” and substituting therefor with the phrase “section 38”.

CLAUSE 41

Clause 41 of the Bill amended—

- (a) by deleting the words “in a case where endorsement is essential for negotiation” appearing in subclause (1);
- (b) in subclause (2) by deleting the words “In a case where it is essential that a warehouse receipt should be endorsed before it is transferred, that” and substituting therefor the word “A”.

CLAUSE 43

Clause 43 of the Bill deleted and substituted thereof with the following new clause—

<p>Issuing of fraudulent warehouse receipts.</p>	<p>43. A warehouse operator, or any officer, agent, or employee of a warehouse operator, who issues or aids in issuing a receipt knowing the goods for which such receipt is issued have not been actually received by such warehouse operator, or are not under his actual control at the time of issuing such receipt, commits an offence and is liable on conviction to a term of imprisonment not exceeding ten years or a fine not exceeding ten million Kenya shillings, or to both.</p>
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CLAUSE 44

Clause 44 of the Bill deleted and substituted thereof with the following new clause—

Issuing of receipts with false information. **44.** A warehouse operator, or any officer, agent, or employee of a warehouse operator, who fraudulently issues or knowingly facilitates the fraudulent issuing of a receipt for goods based on a false statement or a false statement to the effect that the warehouse is licensed under this Act or the goods are insured if they are not so insured or fails to disclose such fact, commits an offence and is liable on conviction a fine not exceeding ten million Kenya shillings or to a term of imprisonment not exceeding ten years, or both.

CLAUSE 45

Clause 45 of the Bill deleted and substituted thereof with the following new clause—

Unlawful issuing of duplicate receipts. **45.** A warehouse operator or any officer, agent, or employee of a warehouse operator, who issues or facilitates the issuing of a duplicate or additional negotiable receipt for goods knowing that a former negotiable receipt for the same goods or any part of them is outstanding and not cancelled, without plainly placing upon the face thereof the word “Replacement”, commits an offence and is liable on conviction to a fine not exceeding ten million Kenya shillings or a term of imprisonment not exceeding ten years, or both.

CLAUSE 48

Clause 48 of the Bill amended by deleting the word “one” and substituting therefor the word “three”.

CLAUSE 50

Clause 50 of the Bill amended by deleting the word “shall” and substituting therefor the word “may”.

SCHEDULE

The Schedule to the Bill amended-

- (a) in paragraph 1 by deleting subparagraph (4) and substituting therefor the following new subparagraph—
 - (4) A meeting shall be presided over by the chairperson or in the absence of the chairperson, the members present shall appoint one of their members to preside at the meeting.
- (b) in paragraph (2) by deleting the word “three” in sub-paragraph (2) and substituting thereof with the word “five”.

B *THE ASSUMPTION OF OFFICE OF THE COUNTY GOVERNOR BILL (SENATE BILLS NO. 1 OF 2018)

(Sen. Paul Kimani Wamatangi, MP)

Schedule of amendments as passed by the National Assembly on Thursday, 6th December, 2018

CLAUSE 2

Clause 2 amended by inserting the definition of the word “county public officer” in its proper sequence—

“county public officer” has the meaning assigned to it under the County Governments Act.

CLAUSE 5

Clause 5 of the Bill amended in sub clause 2 by inserting the following new paragraph immediately after paragraph (f)–

“(fa) a representative of the Ministry responsible for matters related to devolution;

CLAUSE 6

Clause 6 of the Bill amended in sub clause (1) by deleting the words “to be at the service of the Governor elect” appearing in paragraph (c) and substituting therefor the words “for the Governor-elect”.

CLAUSE 16

Clause 16 of the Bill amended by-

- (a) renumbering the proposed clause as subclause (1);
- (b) inserting the following new paragraph immediately after paragraph (b) —
“(c) to swearing of a speaker of a county assembly who assumes office under Article 182(5) of the Constitution”;
- (c) inserting the following new subclause after the proposed clause—
“(2) Upon nullification of an election of a county governor and a receipt of the notification by a relevant speaker, the speaker of a county assembly shall assume office as a governor within seven days and an election shall be held pursuant to Article 182(5) of the Constitution.”

CLAUSE 21

Clause 21 of the Bill amended by inserting the word “committee” immediately after the word “governor”.

CLAUSE 23

Clause 23 of the Bill amended by inserting the following new subsection immediately after the proposed new subsection (1B)—

“(1C) Where a vacancy arises as contemplated under section (1A), the speaker of a county assembly shall act as a governor and an election shall be held pursuant to Article 182(5) of the Constitution”.

APPENDIX

1. **PETITION**

Report on the Petition from Residents of Isiolo County regarding agreement between Living Goods and County Government of Isiolo.

(Chairperson, Standing Committee on Health)

2. **PAPERS**

(i) First Ordinary Session of the Fifth Parliament of the Pan African Parliament held in Kigali, Rwanda, from 18th October to 3rd November, 2018.

(Sen. (Dr.) Abdullahi Ali, MP)

(ii) Report of the Auditor-General on the Financial Statements of the County Executive of Embu for the Year ended 30th June 2018;

(iii) Report of the Auditor-General on the Financial Statements of the County Executive of Nyeri for the Year ended 30th June 2018;

(iv) Report of the Auditor-General on the Financial Statements of the County Executive of Meru for the Year ended 30th June 2018;

(v) Report of the Auditor-General on the Financial Statements of the County Executive of Kilifi for the Year ended 30th June 2018;

(vi) Report of the Auditor-General on the Financial Statements of the County Executive of Migori for the Year ended 30th June 2018;

(vii) Report of the Auditor-General on the Financial Statements of the County Executive of Kisii for the Year ended 30th June 2018;

(viii) Report of the Auditor-General on the Financial Statements of the County Executive of Marsabit for the Year ended 30th June 2018;

(ix) Report of the Auditor-General on the Financial Statements of the County Executive of Taita Taveta for the Year ended 30th June 2018;

(x) Report of the Auditor-General on the Financial Statements of the County Executive of Kitui for the Year ended 30th June 2018;

(xi) Report of the Auditor-General on the Financial Statements of the County Executive of Tharaka Nithi for the Year ended 30th June 2018;

(xii) Report of the Auditor-General on the Financial Statements of the County Executive of Isiolo for the Year ended 30th June 2018;

(xiii) Report of the Auditor-General on the Financial Statements of the County Executive of Mombasa for the Year ended 30th June 2018; and

...../Appendix

- (xiv) Report of the Auditor-General on the Financial Statements of Nairobi City County Executive for the Year ended 30th June 2018.

(The Senate Majority Leader)

3. **NOTICE OF MOTION-SESSIONS OF THE PAN-AFRICAN PARLIAMENT**

(Sen. (Dr.) Abdullahi Ali, MP)

THAT, this House notes the Reports of the Sixth Ordinary Session of the Fourth Pan-African Parliament held in Midrand, South Africa, from 7th to 18th May, 2018, laid on the Table of the House on Tuesday, 24th July, 2018; and, the First Ordinary Session of the Fifth Parliament of the Pan African Parliament held in Kigali, Rwanda, from 18th October to 3rd November, 2018, laid on the Table of the House on Tuesday, 12th March, 2019.

4. **STATEMENTS PURSUANT TO STANDING ORDER NO. 48(1)**

- a) The Senator for Vihiga County (Sen. George Khaniri, MP) to seek a statement from the Standing Committee on Tourism, Trade and Industrialization regarding increased circulation in the country of counterfeit and substandard products especially alcoholic brands.
- b) The Senator for Vihiga County (Sen. George Khaniri, MP) to seek a statement from the Standing Committee on Labour and Social Welfare regarding the status of implementation of the Senate Resolution of 18th July, 2018, on registration of persons with disabilities.
- c) Nominated Senator (Sen. (Dr.) Agnes Zani, MP) to seek a statement from the Standing Committee on Devolution and Intergovernmental Relations on the Policy on the Devolved System of Government.
- d) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) to seek a statement from the Standing Committee on National Security, Defence and Foreign Relations regarding increased drug abuse in Wajir county.
- e) The Senator for Wajir County (Sen. (Dr.) Abdullahi Ali, MP) to seek a statement from the Standing Committee on Education on technical and vocational training centres in North Eastern Kenya.
