



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – THIRD SESSION**

**THE NATIONAL ASSEMBLY**

**VOTES AND PROCEEDINGS**

**TUESDAY, JUNE 25, 2019**

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Honourable Speaker
4. **COMMUNICATIONS FROM THE CHAIR**

The Speaker conveyed the following Communications –

- (i) **Guidance regarding Proposed Amendment by the Chairperson of the Departmental Committee on Finance and National Planning to the President's Memorandum to the Insurance (Amendment) Bill, 2018**

**“Honourable Members**, before the House undertakes consideration of the business indicated as Order Number 11 on the Supplementary Order Paper, I wish to inform you that the Chairperson of the Departmental Committee on Finance and National Planning proposes to amend New Clause 11 as proposed in the Reservations of the President to the Insurance (Amendment) Bill, 2018.

**Honourable Members**, I have determined that this Amendment has the effect of negating the President's Reservations in terms of Article 115(4) of the Constitution.

It therefore follows that pursuant to Article 115(4)(a) of the Constitution, this particular amendment may be passed only if supported by not less than two-thirds of the membership of this House.

The Committee of the Whole House on the President's Reservations to the Insurance (Amendment) Bill, 2018, is accordingly guided.

I thank you!”

- (ii) **Communication on Visiting Delegation from the Global Parliamentary TB Caucus**

“Honourable Members,

I wish to introduce to you a delegation of Members of the *Global Parliamentary TB Caucus*, seated at the Speaker's row. The delegation comprises Members from the Parliaments of Uganda, South Sudan and Ethiopia. They are:-

- (i) The Hon. Fred Baseke, MP - Uganda;
- (ii) The Hon. Yoweeri Ssebikaali, MP - Uganda;
- (iii) The Hon. Catherine Peter Laa Ajawin, MP - South Sudan; and,
- (iv) The Hon. Muntaha Ibrahim Ahmed, MP - Ethiopia.

The delegation is accompanied by: -

- (i) Mr. Samuel Njuguna - Africa TB Caucus, Regional Manager, Kenya;
- (ii) Mr. Daniel Ndugire - Stop TB Finance Manager, Kenya; and
- (iii) Ms. Katherine Thompson - West European Regional Caucus, United Kingdom.

Honourable Members, currently, in our Parliament, the Caucus is chaired by the Member for Matungulu, the Hon. Stephen Mule, MP. Honourable Members, the delegation is the country for a meeting that is aimed at bringing together Members of Parliament from the Eastern African Region to deliberate on TB response in the region. Further, the delegation is also to launch the Kenya Lunch Health Conference at the Nairobi Hospital today at 3.00 pm.

Honourable Members, on my own behalf and that of the House, I wish to welcome them to the National Assembly and wish them fruitful engagements during their stay in the country.

I thank you”.

**5. MESSAGE FROM THE SENATE**

The Speaker conveyed the following Message: -

**Passage of the Impeachment Procedure Bill (Senate Bills No. 15 of 2018), The Prevention of Terrorism (Amendment) Bills (Senate Bills No. 20 of 2018), The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 27 of 2018), The Tea Bill (Senate Bills No. 36 of 2018) and The Care and Protection of Older Members of Society Bill (Senate Bills No. 17 of 2018)**

“**Honourable Members**, pursuant to the provisions of Standing Order 41, I wish to report to the House that I have received Messages from the Senate regarding its decision on the following Bills:-

1. The Impeachment Procedure Bill (Senate Bills No. 15 of 2018);
2. The Prevention of Terrorism (Amendment) Bill (Senate Bills No. 20 of 2018);
3. The Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 27 of 2018);
4. The Tea Bill (Senate Bills No. 36 Of 2018); and
5. The Care and Protection of Older Members of Society Bill (Senate Bills No. 17 of 2018).

**Honourable Members**, the first Message relates to passage of the Impeachment Procedure Bill (Senate Bills No. 15 of 2018) which seeks *"to provide for the procedure for removal from*

*office, by impeachment, of a President, Deputy President, Cabinet Secretary, Governor, Deputy Governor and member of a county executive committee".*

The second Message is in respect of the passage of the Prevention of Terrorism (Amendment) Bill (Senate Bills No. 20 of 2018) seeking "*to amend the Prevention of Terrorism Act to provide for the duty of administrators in educational institutions to counter radicalization and violent extremism*".

**Honourable Members,** The third Message is with regards to the passage of the Preservation of Human Dignity and Enforcement of Economic and Social Rights Bill (Senate Bills No. 27 of 2018) which seeks "*to establish a framework for the preservation of Human Dignity; for the promotion, monitoring and enforcement of economic and social rights, and to establish mechanisms to monitor and promote adherence by county governments to Article 43 of the Constitution*"

The fourth Message is in respect to the passage of the Tea Bill (Senate Bill No. 36 of 2018) which seek "*to provide for the regulation, development and promotion of the tea industry*"; and the Fifth Message relates to the passage of the Care and Protection of Older Members of Society Bill (Senate Bills No. 17 of 2018). The Bill seeks "*to provide a framework for the care of older members of society; to establish a framework for the empowerment and protection of the elderly and maintenance of their well-being, safety and security*."

**Honourable Members,** the Messages read "that the Senate considered and passed the Bills **with amendments** on Wednesday, June 12, 2019 and now seeks the concurrence of the National Assembly."

Standing Order 143(1) (a) requires the Speaker to cause a Bill received from the Senate to be read a First Time upon conveyance of a Message from the Senate. Accordingly, I direct that the Bills be read a First Time during the next sitting.

**Honourable Members,** Paragraph (2) of Standing Order 143 provides that –

*"Following First Reading, the Speaker shall, within reasonable time, pronounce his or her **opinion** contemplated under Article 114(2) of the Constitution".*

The opinion envisioned under Standing Order 143(2) is a pronouncement, by the Speaker, as to whether a Bill originating in the Senate is a 'Money Bill' in terms of Article 114 of the Constitution.

In this regard, I direct that, after First Reading, the five Bills be referred to the Parliamentary Budget Office to offer advice that will enable the Speaker to form the opinion contemplated under Standing Order 143(2). Thereafter, I shall guide the House accordingly on how to proceed with the consideration of the said Bills.

I thank you!"

## 6. **PETITIONS**

(i) The Speaker conveyed the following Petition -

"Honourable Members,

“Standing Order 225(2) (b) requires the Speaker to report to the House any Petition, other than those presented through a Member. I therefore wish to convey to the House that my office has received a Petition submitted by one Mr. Peter Kairang’a of Post Address 7183 Nakuru calling for the settlement of over 25,000 shareholders of Gwataniro Mutukanio Company in what the Petitioner asserts is their rightfully-owned parcels of land in Nakuru and Laikipia.

Honourable Members, the Petitioner avers that Mutukanio Gwataniro Company raised money from its shareholders with the objective of investing the funds in buying land for them to settle in. The Company, according to the Petitioner, owns a total of 82,000 acres in Nakuru and Laikipia, as well as the Amigos House, Oyster Shell building and three plots in Nakuru Town, Farm Houses in Bahati, various buildings in Laikipia and Rumuruti, among other properties.

Honourable Members, balloting of land is said to have been undertaken in 1983 in a bid to ensure that each shareholder got a piece of the Company’s land, but the initiative was extremely flawed and as a result over 25,000 shareholders did not obtain any land. Further, in areas such as Malan-Ngarua balloting was done on non-surveyed land, and several Company properties including Amigo House, Oyster Shell and other properties were grabbed or illegally sold without the consent of the shareholders under the direction of Company directors and the then provincial administration.

Honourable Members, it is on account of these misgivings that the Petitioner seeks the intervention of this House primarily in spearheading investigations into the affairs of Mutukanio Gwataniro Company with a view to attaining the recovery of the irregularly allocated plots of land and other lost properties and for the conduct of a fresh survey of the Mutukanio Gwataniro land.

Honourable Members, pursuant to the provisions of Standing Order 227, this Petition therefore stands committed to the Departmental Committee on Lands. The Committee is requested to consider the Petition and report its findings to the House and the petitioner in accordance with Standing Order 227(2).

I thank you”.

- (ii) The Member for Embakasi East (Hon. Babu Owino presented a Petition regarding demolition of houses in Chokaa, Embakasi East Constituency by Kenya Power Limited.

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

## 7. **PAPERS LAID**

The following Papers were laid on the Table –

- (i) Legal Notice No. 84 relating to the Tax Procedures (Unassembled Motor Vehicles and Trailers) Regulations, 2019;
- (ii) Legal Notice No. 85 relating to the Miscellaneous Fees and Levies (forms) Regulations, 2019;
- (iii) Legal Notice No. 86 relating to the Value Added Tax (Amendment) Regulations, 2019;

- (iv) Legal Notice No. 87 relating to the Retirement Benefits (Umbrella Retirement Benefits Schemes) (Amendment) Regulations, 2019;
- (v) Legal Notice No. 88 relating to the Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations, 2019;
- (vi) Legal Notice No. 89 relating to the Retirement Benefits (Individual Retirement Benefits Schemes) (Amendment) Regulations, 2019;
- (vii) Legal Notice No. 90 relating to the Public Finance Management (National Government) (Amendment) Regulations, 2019;
- (viii) Legal Notice No. 91 relating to the Insurance (Policyholders Compensation Fund (Amendment) Regulations, 2019;
- (ix) Legal Notice No. 92 relating to the Insurance (Motor Vehicles Third Party Risks) (Certificate of Insurance) (Amendment) Rules, 2019;
- (x) Legal Notice No. 93 relating to the Insurance (Amendment) Regulations, 2019);
- (xi) Legal Notice No. 94 relating to the Excise Duty (Excisable Good Management System) (Amendment) Regulations, 2019; and
- (xii) Legal Notice No. 95 relating to the Capital Markets (Securities) (Public Offers, Listing and Disclosures) (Amendment) Regulations, 2019.
- (xiii) Bi-Annual Report for the Commission on Administrative Justice for the period January to July 2018.
- (xiv) Performance Audit Report on administration of Public Service Pensions Schemes by the National Treasury.
- (xv) Reports and Resolutions adopted at the 5<sup>th</sup> Meeting of the 2<sup>nd</sup> Session of the 4<sup>th</sup> East African Legislative Assembly as follows: -
  - a) Report of the Committee on Agriculture, Tourism and Natural Resources with Stakeholders on Budgetary enhancement in the Agricultural Sector;
  - b) Report of the Committee on Regional Affairs and Conflict Resolution on the Report of the Council on the progress made by the East African Community on the Development of its Common Foreign and Security Policies;
  - c) Report of the First Annual General Meeting and Launch of the Eastern Africa Parliamentary Alliance for Food Security and Nutrition;
  - d) Report of the Delegation to the Training Workshop on Research and Evidence use in the Parliamentary Context;
  - e) Report of the Delegation to the 44<sup>th</sup> Plenary Assembly Session of the SADC Parliamentary Forum (SADC-PF) held from 26<sup>th</sup> November to 10<sup>th</sup> December, 2018 in Maputo, Mozambique;
  - f) Resolution of the Assembly recommending to the Council to ban the manufacturing and importation of soaps and cosmetics containing hydroquinone in the Community;

- g) Report of EALA on the 140<sup>th</sup> IPU Assembly held from 6<sup>th</sup> to 10<sup>th</sup> April 2019 in Doha, Qatar; and
- h) Resolution of the Assembly recommending to the Council of Ministers the establishment of an institution responsible for the development of Agriculture within the Community.

(xvi) Annual Report and Financial Statements of the Public Procurement Oversight Authority for the period ended 30<sup>th</sup> June, 2015.

(xvii) The Reports of the Auditor-General and Financial Statements in respect of the following Institutions for the year ended 30<sup>th</sup> June, 2018 and the certificates therein:-

- a) Parliamentary Service Commission;
- b) The National Assembly;
- c) Nzoia Sugar Company Limited; and
- d) Tourism Research Institute.

8. **NOTICES OF MOTION**

The following Notice of Motion was given:-

THAT, this House notes the Annual Reports on the State of the Judiciary and the Administration of Justice Report for the Year 2016/2017 and 2017/2018 submitted to the House pursuant to the provisions of Article 254(1) of the Constitution, and adopts the Recommendations of the Departmental Committee on Justice and Legal Affairs as contained in the Reports laid on the Table of the House on Thursday, May 9, 2019.

*(Chairperson, Departmental Committee on Justice and Legal Affairs)*

9. **QUESTIONS**

The following Questions were asked –

a) Question by Private Notice

- (i) Question No.29/2019 by the Member for Kajiado North (Hon. Joseph W. Manje) regarding demolition of buildings in Kajiado North Constituency by Kenya Railways Corporation.

*(To be prioritized for Reply by the Cabinet Secretary for Land and Physical Planning before the Departmental Committee on Lands.)*

b) Ordinary Questions

- (i) Question No.285/2019 by the Member for Turkana North (Hon. Christopher Nakuleu) regarding disappearance of one Mr. Peter Makale at the Kenya-Ethiopia border.

*(To be replied by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)*

- (ii) Question No.287/2019 by the Member for Mwingi Central (Hon. Gideon Mulyungi) regarding invasion of two villages in Mwingi East Sub-County by herders.

*(To be replied by the Cabinet Secretary for Interior and Coordination of National Government before the Departmental Committee on Administration and National Security)*

- (iii) Question No.288/2019 by the Member for Matuga (Hon. Kassim Sawa Tandaza) regarding involvement of Kenyan firms and engineers in dams being constructed nationwide.

*(To be replied by the Cabinet Secretary for Water and Sanitation before the Departmental Committee on Environment and Natural Resources)*

- (iv) Question No.289/2019 by the Member for Westlands (Hon. Timothy Wanyonyi) regarding health risks associated with the Always brand of sanitary pads.

*(To be replied by the Cabinet Secretary for Industry, Trade and Cooperatives before the Departmental Committee on Trade, Industry and Cooperatives)*

10. **PROCEDURAL MOTION - REDUCTION OF PUBLICATION PERIOD FOR A SPECIFIED BILL**

Motion made and Question proposed –

**THAT**, notwithstanding the provisions of Standing Order 120, this House resolves to reduce the publication period of the Appropriation Bill (National Assembly Bill No. 46 of 2019) from 7 days to 1 day.

*(The Leader of the Majority Party)*

There being no debate arising;

Question put and agreed to.

11. **MOTION - REPORT OF THE MEDIATION COMMITTEE ON THE PHYSICAL PLANNING BILL (NATIONAL ASSEMBLY BILL NO. 34 OF 2017)**

Motion made and Question proposed –

**THAT**, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House **adopts** the Report of the Mediation Committee on the Physical Planning Bill (National Assembly Bill No. 34 of 2017) *laid on the Table of the House on Wednesday, June 12, 2019*, and **approves** the Mediated Version of the Physical Planning Bill (National Assembly Bill No. 34 of 2017).

*(Vice-Chairperson, Mediation Committee on the Physical Planning Bill, 2017)*

Debate on the Motion having been concluded on 20.06.2019;

Question out and agreed to.

Thereupon the Honourable Speaker conveyed the following Message from the Senate:-

Message on Approval of the Mediated Version of the Physical Planning Bill (National Assembly Bill No. 34 of 2017)

“Honourable Members, the House now having approved the mediated version of the Physical Planning Bill (National Assembly Bill No. 34 of 2017) under Order No. 9, I wish to report to the House that I have since received a Message from the Senate conveying that the Senate had also approved the said Mediated version of the Bill.

Honourable Members, the Message reads in part, and I quote, “the Senate, by way of resolution passed on Wednesday, 19th June 2019, approved the mediated version of the said Bill in the form developed by the Mediation Committee.”

Honourable Members, this therefore concludes the bicameral approval of the Bill and paves way for me to present the Bill to the President for assent, in accordance with the provisions of Article 113(3) of the Constitution.

I thank you.”

12. **THE APPROPRIATION BILL (NATIONAL ASSEMBLY BILL NO. 46 OF 2019)**  
(Chairperson, Budget and Appropriations Committee)

Order for First Reading read;

Bill read a First Time and ordered to be read a Second Time tomorrow.

13. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

**IN THE COMMITTEE**

The Chairperson of Committees in the Chair

**a) Consideration of the President’s Reservations to the Insurance (Amendment) Bill (National Assembly Bill No. 21 of 2018)**

Clause 2 - amendment proposed –

**THAT**, clause 2 of the Bill be amended by deleting all the following proposed new definitions-

- (i) “independent agent”;
- (ii) “tied agent”;
- (iii) “broker”; and,
- (iv) “intermediary”.

*(Leader of the Majority Party)*

Question of the Amendment proposed;

Debate on the Amendment arising;

Question of the Amendment put and agreed to.

Clause 2 - as amended agreed to

Clause 3 - amendment proposed –

**THAT**, clause 3 of the Bill be deleted and substituted therefor with the following -



Insertion of new section in Cap. 487

3. The Principal Act is amended by inserting the following new section immediately after section 5-

*(Leader of the Majority Party)*

Powers of the Commissioner on groupwide supervision

**5A.** (1) The Commissioner may direct any member of the group to provide any information necessary for effective group-wide supervision.

Question of the Amendment proposed;

(2) In the event of any breach or failure to comply with the directives of the Commissioner or safeguard the interests of the policyholders, the Commissioner shall impose any of the sanctions provided in the Act on the holding company or any member of the group.

Debate on the Amendment arising;

Question of the Amendment put and agreed to.

Clause 3 - as amended agreed to

Clause 11 - amendment proposed –

**THAT**, clause 11 of the Bill be deleted and substituted therefor with the following -

Repeal and replacement of section 156 of Cap. 487. Advance payment of premiums

**11.** The Principal Act is amended by repealing section 156 and replacing it with the following new section-

**156.** (1) No insurer shall assume a risk in Kenya in respect of insurance business unless and until the premium payable thereon is received by insurer.

(2) An intermediary shall not receive any premiums on behalf of an insurer.

(3) An intermediary who contravenes subsection (2) shall be liable to a penalty equivalent to twenty percent of the unremitted premium on each contravention, payable to the Policyholders Compensation Fund.

(4) Any officer or director of an intermediary who contravenes subsection (2) shall be guilty of an offence, and upon conviction shall be liable to a fine not exceeding one hundred thousand shillings or to an imprisonment term of three months, or to both.

(5) An insurer shall pay an intermediary insurance commission due within thirty days upon receipt of premium.

(6) An insurer who contravenes subsection (5) shall be liable to a penalty of five million shillings on each contravention, payable to the Policyholders Compensation Fund.

*(Leader of the Majority Party)*

Question of the Amendment proposed;

Debate on the Amendment arising;

Clause 11 - further amendment proposed –

**THAT**, the new clause 11 as proposed in the Reservations of the President be deleted.

*(Hon. Waihenya Ndirangu, Member, Departmental Committee on Finance and National Planning)*

Question of the Further Amendment proposed;

Debate on the Further Amendment arising;

Question of the Further Amendment put and negative;

Debate on the Amendment by the Leader of the Majority Party resumed;

Question of the Amendment by the Leader of the Majority Party put and agreed to.

Clause 11 - as amended by the Leader of the Majority Party agreed to

**b) The Kenya Accreditation Service Bill (National Assembly Bill No. 17 of 2018)**

Order deferred.

14. **THE NUCLEAR REGULATORY BILL (NATIONAL ASSEMBLY BILL NO.27 OF 2018)**

Order for Second Reading read;

Motion made and Question proposed –

**THAT**, the Nuclear Regulatory Bill (National Assembly Bill No.27 of 2018) be now read a Second Time.

*(The Leader of the Majority Party – 20.06.2019)*

Debate interrupted on Thursday, June 20, 2019 resumed;

Mover replied;

Question deferred to another day.

And the time being five Minutes to seven o'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

16. **HOUSE ROSE** - at five minutes past seven O'clock

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

The Speaker will take the Chair on  
Wednesday, June 26, 2019 at 9.30 a.m.

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