

NATIONAL ASSEMBLY

OFFICIAL REPORT

Tuesday, 2nd July 2019

The House met at 2.30 p.m.

[The Speaker (Hon. Justin Muturi) in the Chair]

PRAYERS

PETITIONS

ALLOCATION OF MWEA SETTLEMENT SCHEME TO LEGITIMATE BENEFICIARIES

Hon. Speaker: Hon. Members, Standing Order 225(2)(b) requires the Speaker to report to the House any Petition, other than those presented by a Member. I, therefore, wish to report to the House that my Office has received a Petition, submitted by Mr. Stephen Ngari Njuki on behalf of the beneficiaries of the former Mwea Settlement Scheme LR No.26461 FR No.317/30.

Hon. Members, the Petitioner claims that the Member for Mbeere South Constituency requested for a statement on the allocation of Mwea Settlement Scheme in Mbeere South Constituency, Embu County to the legitimate beneficiaries. In a reply to the Statement dated 17th September 2018, the Cabinet Secretary for Interior and Coordination of National Government and Cabinet Secretary for Lands and Physical Planning undertook to resume the settlement of legitimate beneficiaries within 90 days. To date, the beneficiaries of the Mwea Scheme are yet to be resettled despite the undertaking by the relevant Cabinet Secretaries.

Hon. Members, the Petitioner is concerned that matters raised in this Petition have been brought before the relevant legal and constitutional bodies but remain unresolved.

Hon. 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). Thank you, Hon. Members.

Let us hear the Member for Saboti, Hon. Caleb Amisi.

COMPENSATION OF LAND OWNED BY MATISI COMMUNITY

Hon. Caleb Luyai (Saboti, ODM): Hon. Speaker, I beg to present the following Petition. I, the UNDERSIGNED, on behalf of the residents of Matisi Community in Kitale, draw the attention of the House to the following:

THAT, the Petitioners are business owners and property owners of land situated along the Kitale-Endebess-Suam Road;

THAT, the road has been scheduled for construction and expansion and, as a result, owners of property within the range of 40 metres of the road are required to vacate;

THAT, consequently, the Kenya National Highways Authority (KeNHA) and the National Land Commission (NLC) recently earmarked the property for demolition;

THAT, Gazette Notice No.4496 in the Kenya Gazette dated 10th May 2019 lists registered owners of the parcels of land along the road whose land is intended for compulsory acquisition by the NLC on behalf of KeNHA;

THAT, members of the Matisi Community whose land has been earmarked for demolition have not been listed in the stated Gazette Notice and yet, their land is also earmarked for acquisition;

THAT, the residents are apprehensive that they are likely to lose their property without compensation, since in the terms of the Gazette Notice, only the people listed therein are eligible for compensation;

THAT, despite assurances of compensation given to the residents by the two relevant authorities (KeNHA and NLC) during a public participation exercise on 12th June 2018, there seems to be no action on the matter;

THAT, efforts to resolve the matter by engaging the authorities by the community leaders have been futile; and,

THAT, the matter in respect of which this Petition is made is not pending before any court of law or constitutional body.

THEREFORE, your humble petitioners pray that the National Assembly, through its relevant Departmental Committee on Lands:

(i) investigates the status of compensation of land occupied by Matisi Community that is earmarked for compulsory acquisition for the expansion of Kitale-Endebess-Suam Road;

(ii) intervenes through the Ministry of Lands and the NLC to ensure that the residents of Matisi Community not listed in the Gazette Notice are also considered for compensation for their land and property earmarked for acquisition or demolition; and,

(iii) makes any other recommendations that it deems fit in the circumstances of the Petition.

And your petitioners will ever pray.

Hon. Speaker: The Member for South Imenti, you have the Floor.

Hon. Kathuri Murungi (South Imenti, Independent): Thank you, Hon. Speaker. I want to make a very brief comment on the first Petition. Since the last Parliament, the implementation of decisions made by this House through either Petitions or Questions has been very wanting. I have realised that the Petition by Mr. Ngari of Mbeere South has come again after the first Petition that was brought by the Member for Mbeere South, Hon. King'angi.

Hon. Speaker, that resident of Mbeere is again petitioning this House after the Petition was executed. Therefore, I do not know, through your wisdom, whether we can go another way of having a very special committee of the House to deal with petitions. There are too many petitions in the 12th Parliament touching on land. I do not know whether the Departmental Committee on Lands does any other work of this House apart from dealing with petitions which are coming here every day. I do not know whether the committee that is concerned with revising the Standing Orders can work on this matter. That is because when members of the public bring their petitions to this House or Members ask questions, decisions made either by the Executive or by this House are never implemented, I do not think we are really serving Kenyans. It is high time we rethought on the best formula to handle Petitions and Questions.

I thank you.

Hon. Speaker: Hon. Kathuri, your concerns have been raised in the past and the matter was referred to the Procedure and House Rules Committee. I am informed that a report of that Committee is on the way to the House. So, I believe, perhaps, there may be recommendations in it which might address the concerns that you have raised and which have been raised by other Members in the past. They are legitimate and valid concerns.

Next is Hon. Mutua Barasa, the Member for Kimilili.

Hon. Didmus Barasa (Kimilili, JP): Thank you, Hon. Speaker, for giving me this opportunity. I just want to comment briefly on the second Petition. Development is good for a country, but it must be done with the total respect to the rights of the people. It is very important that the people that are mentioned in the second Petition, whose property is going to be acquired by the Government, be properly compensated. The contrary is just impunity which should not be tolerated. People acquired those properties through hard work and savings that took them a very long time. I ask the relevant committee which you will assign to look into this Petition to expedite not only for that particular purpose, but also for other State agencies to be aware about the rights of people who have properties. For them to pave way for any development, their rights must be looked into.

Thank you, Hon. Speaker. I support this Petition.

Hon. Speaker: The Member for Endebess, you have the Floor.

Hon. (Dr.) Robert Pukose (Endebess, JP): Ahsante, Mhe. Spika kwa kunipa fursa hii nichangie Ombi ambalo limeletwa na jirani yangu, Mhe. Caleb Amisi. Wakazi wengi wa Matisi ambao wako kando ya barabara wamejenga majumba ya biashara. Hao ni watu wenye biashara ndogo ndogo. KeNHA iliposema kuwa inataka kujenga barabara hiyo kutoka Kitale hadi Endebess mpaka kule Suam ili kutuunganisha na majirani zetu, ni vizuri waangalie malalamishi ya wakaazi. Serikali huwa na *compulsory acquisition*. Sio Matisi tu peke yake lakini ningependa Kamati inapoangalia, iangalie barabara hiyo kwa ujumla kwa sababu wako wakazi wa Endebess pia ambao wameathirika na ujenzi wa barabara hiyo. Barabara imepitia huko na hawako kwa orodha ambayo ilitolewa na KeNHA.

Kwa hivyo, ninaungana na mwenzangu ili tufike mbele ya Kamati hiyo na watu wetu wa Matisi mpaka Endebess ili barabara ijengwe lakini wananchi pia wapate haki yao.

Ahsante, Mhe Spika.

Hon. Speaker: You have the Floor the Member for Kathiani.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Speaker, for giving me this opportunity to make a comment on those two petitions. First, I have observed that the two petitions have something to do with land, which is extremely sensitive. Issues to do with land need to be dealt with seriously in this country, if it is land that is being acquired for roads and resettlement. If you look at some of the reports that we get in this House, you will find that those are issues that are really sensitive to our people. So, I request that the Committee moves very fast.

On the issues of petitions, I think the committees must give us responses to them that can be acted upon so that, by the time we are through with this, the people who have raised the petitions can get substantive answers that can help them move forward.

Otherwise, I thank you, Hon. Speaker.

Hon. Speaker: It is your chance Member for Kwanza.

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Speaker. I want to comment on the Petition by my neighbour. The affected communities are on one side and we are on the other. As mentioned by the Petitioner, on 12th June last year, there was public

participation where there was assurance that people were going to be compensated. When the gazette notice came out, we found that people in the areas that my neighbour is talking about were not listed among those who were going to be compensated.

Efforts by the leaders of that community to have relevant people to assist them have been futile. Therefore, I think we should do something about it. I was also made to understand about the problem. I even went to the CS and up to now, nothing has happened. I am told the community is now agitated. They do not know what to do. I think we should move fast and assure the residents that they are going to be compensated. Otherwise, it is a very nasty situation on the ground.

I support this Petition.

Hon. Speaker: Finally, let us have the Member for Mwea.

Hon. Josphat Kabinga (Mwea, JP): Thank you, Hon. Speaker. I would like to comment on the first Petition. The land in subject is one that has interest from two counties, that is, Embu and Kirinyaga counties. In addition to that, this is land that has attracted many conflicts and people have died as a result. Therefore, it is my wish that this Petition is not only handled by the Departmental Committee on Lands, but also by the Departmental Committee on Administration and National Security. It should look into the security matters that surround that particular land.

Hon. Speaker: Any committee of the House can invite any Cabinet Secretary notwithstanding the dockets that they hold. The two petitions are referred to the Departmental Committee on Lands to process as appropriate.

Hon. Members, allow me to recognise the presence of the following guests and visitors: In the Speaker's Gallery, we have students from Nakuru High School, Bahati Constituency, Nakuru County; those from Alphonsa Kisau Girls' School, Mbooni East Constituency, Makueni County; Kenya Utalii College, Kasarani Constituency, Nairobi County; those from Ikatini Secondary School, Masinga Constituency, Machakos County; Ben Sono Training Institute, Westlands Constituency, Nairobi County; Saint Charles Lwanga High School, Kasarani Constituency, Nairobi County; Njonjo Girls' High School, Laikipia West Constituency, Laikipia County and those from Rombo Girls' Primary School, Kajiado South Constituency, Kajiado County.

They are all welcome to observe the proceedings of the National Assembly this afternoon.

Next Order!

PAPERS LAID

Hon. Benjamin Washiali (Mumias East, JP): Hon. Speaker, on behalf of the Leader of the Majority Party, I beg to lay the following Papers on the Table of the House:

The Third Annual Report to the National Assembly on Treaties Ratified by Kenya from the Ministry of Foreign Affairs.

Legal Notice No.78 relating to the Public Finance Management (Biashara Kenya Fund) Regulations, 2019 and the Explanatory Memorandum.

Legal Notice No.79 relating to the Public Finance Management (Uwezo Fund) (Revocation) Regulations, 2019 and the Explanatory Memorandum.

Legal Notice No.80 relating to the Public Finance Management (Women Enterprise Fund) (Revocation) Regulations, 2019 and the Explanatory Memorandum.

Legal Notice No.81 relating to the Public Finance Management (Youth Enterprise Development Fund) (Revocation) Regulations, 2019 and the Explanatory Memorandum.

The Reports of the Auditor-General and the Financial Statements in respect of the following institutions for the year ended 30th June 2018, and the certificates therein:

- (a) State Department for Agriculture;
- (b) Ministry of Health;
- (c) Kenya Education Management Institute;
- (d) Kenya Veterinary Board;
- (e) Kenya National Shipping Line Limited;
- (f) Centre for Mathematics, Science and Technology Education in Africa;
- (g) State Department for Irrigation;
- (h) State Department for Petroleum;
- (i) State Department for Water Services; and,
- (j) National Irrigation Board.

Hon. Speaker: Let us have the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to lay the following Papers on the Table of the House:

The Report of the Mediation Committee on its Consideration of the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018); and,

The Report of the Mediation Committee on its Consideration of the Irrigation Bill (National Assembly Bill No.46 of 2017).

Hon. Speaker: Very well. Next Order!

NOTICES OF MOTIONS

ADOPTION OF REPORT OF THE MEDIATION COMMITTEE ON THE IRRIGATION BILL

Hon. Aden Duale (Garissa Township, JP): Hon. Speaker, I beg to give notices of the following Motions:

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order No.150, this House adopts the Report of the Mediation Committee on the Irrigation Bill (National Assembly Bill No.46 of 2017), laid on the Table of the House on Tuesday, 2nd July 2019, and approves the mediated version of the Irrigation Bill (National Assembly Bill No.46 of 2017).

ADOPTION OF REPORT OF MEDIATION COMMITTEE ON THE LAND VALUE INDEX LAWS (AMENDMENT) BILL

THAT, pursuant to the provisions of Article 113(2) of the Constitution and Standing Order No.150, this House adopts the Report of the Mediation Committee on the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018), laid on the Table of the House on Tuesday, 2nd July 2019, and approves the mediated version of the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018).

Hon. Speaker: Very well. Next Order!

ORDINARY QUESTIONS

Hon. Speaker: The first Question is by the Member for Trans Nzoia County, Hon. Janet Nangabo.

Question No.274/2019

HARASSMENT OF STAFF OF ADC

Hon. (Ms.) Janet Nangabo (Trans Nzoia CWR, JP): Thank you, Hon. Speaker.

I beg to ask the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation:

(i) whether he is aware that the staff of the Agricultural Development Corporation (ADC) are being harassed, working without pay and dues, forced to take compulsory leave and face unprocedural dismissal by the management;

(ii) whether is further aware that those activities have had severe negative impact on ADC's operations thus affecting the economy which relies greatly on agriculture; and,

(iii) what measures the Ministry is putting in place to ensure that the rights and welfare of staff are safeguarded so as to improve on the productivity of the Corporation and the economy at large.

Hon. Speaker: The Question is referred to the Departmental Committee on Agriculture and Livestock to prioritise and invite the CS to respond.

The next Question is by the Member for Voi, Hon. Jones Mlolwa.

Question No.286/2019

ESTABLISHMENT OF A STOP-OVER AT VOI RAILWAY STATION

Hon. Jones Mlolwa (Voi, ODM): Thank you, Hon. Speaker.

I beg to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

(i) whether he is aware that Voi Railway Station is the third largest Standard Gauge Railway (SGR) station in the country that is serving thousands of local and international passengers visiting several tourist attractions in the area; such as the Tsavo East and West National Parks, and is the gateway to Tanzania; and,

(ii) whether he could consider establishing a stop-over of the afternoon passenger express train at Voi Railway Station so as to offer services to the many passengers who are in need.

Hon. Speaker: The Question is referred to the Departmental Committee on Transport, Public Works and Housing to arrange to invite the CS responsible to appear and respond. The next Question is by the Member for North Imenti, Hon. Abdul Rahim Dawood.

Question No.293/2019

**VALUE OF UNCLAIMED ASSETS IN
GOVERNMENT AND PRIVATE SECTOR CUSTODY**

Hon. Rahim Dawood (North Imenti, JP): Thank you, Hon. Speaker.

I beg to ask the Cabinet Secretary for the National Treasury and Planning:

(i) whether he could state the total value of unclaimed assets that belong to Kenyans and foreign citizens that are currently in the custody of both the Government and private sector entities; and,

(ii) what measures the Ministry is putting in place to guarantee efficient and prudent management of the said unclaimed assets.

Hon. Speaker: Very well. The Question is referred to the Departmental Committee on Finance and National Planning to arrange when the CS will appear before it to respond.

The next Question is by the Member for Kwanza, Hon. Wanyonyi.

Question No.294/2019

COMPLETION OF TECHNICAL TRAINING
INSTITUTES IN ALL CONSTITUENCIES

Hon. Ferdinand Wanyonyi (Kwanza, FORD-K): Thank you, Hon. Speaker.

I beg to ask the Cabinet Secretary for Education:

(i) whether he could state how many technical training institutes have been established so far in the country under the Technical and Vocational Education and Training Act (TVET) 2013, per constituency; and,

(ii) in view of the fact that the Government has earmarked funds for establishing those institutes in every constituency, what the scheduled road-map for completion of the remaining institutes to cover all the 290 constituencies is.

Hon. Speaker: The Question will be responded to before the Departmental Committee on Education and Research. The Committee will arrange when the CS will appear before it.

The last Question is by the Member for Lungalunga, Hon. Khatib Mwashetani.

Question 306/2019

RE-CARPETING OF DILAPIDATED
RAMISI-LUNGALUNGA ROAD

Hon. Khatib Mwashetani (Lungalunga, JP): Hon. Speaker, I beg to ask the Cabinet Secretary for Transport, Infrastructure, Housing and Urban Development:

(i) whether he is aware that the Ramisi-Lungalunga Road in Lungalunga Constituency, which serves as a gateway to Tanzania *via* the Horohoro Border Point has, for many years, been in a bad state as exemplified by its many potholes;

(ii) whether he is further aware that the contractor responsible for the re-carpeting of the road has deserted the site and yet, he has been receiving annual funding for the project;

(iii) what the Ministry is doing to ensure that this project is finally completed and what the amount that has been allocated to this road since 2013 is; and,

(iv) whether the CS is aware that the bridge in Mwachande in Lungalunga Constituency was washed away by heavy rains in 2014, and to date, no remedial action has been taken despite the fact that this is the main bridge connecting Kikoneni-Pongwe and Dzombo Wards.

Thank you, Hon. Speaker.

Hon. Speaker: The Question is referred to the Departmental Committee on Transport, Public Works and Housing. The Committee will decide when the CS will appear before them.

Hon. Baya Yaa, do you have a Statement?

(Hon. John Mbadi consulted Hon. Robert Mbui)

Hon. Owen Baya (Kilifi North, ODM): Thank you very much, Hon. Speaker. I requested for a Statement under Standing Order No. 44(2)(c) a week ago. It was directed that the matter be responded to last Thursday, but that Statement was never made on that day. Somebody is opening another Parliament here. My party bench needs to get organised here. Hon. Speaker, you need to rein in on this bench.

(Laughter)

Hon. Speaker: Hon. Baya, you are complaining about your leader.

Hon. Owen Baya (Kilifi North, ODM): My leaders here are not behaving like leaders.

Hon. Speaker: Hon. Baya, the Leader of the Minority Party is consulting with the Deputy Leader of the Minority Party.

Hon. Owen Baya (Kilifi North, ODM): They have displaced the Minority Whip. Somebody with a briefcase party here has displaced the Minority Whip from his seat.

Hon. Speaker: Proceed now. Your leader is not consulting.

Hon. Owen Baya (Kilifi North, ODM): I requested for a Statement under Standing Order No. 44(2)(c), and you directed that it would be brought by the Departmental Committee on Agriculture and Livestock on Thursday, last week. But it was not brought.

Hon. Speaker: The Chairperson of the Departmental Committee on Agriculture and Livestock, why was the Statement not issued? I do not see him. Does he have a Deputy? Who is the Vice-Chair?

Hon. Member: Hon. Wangwe!

Hon. Speaker: As you can see Hon. Baya, the Chair and the Vice-Chair are absent today. The Leader of the Majority Party should step in and rescue you. The Member for Kilifi North sought a Statement under Standing order No. 44(2)(c) and the response was to be given on Thursday, last week. He is complaining that there was no response. The Leader of the Majority Party can take up the matter with the Chair of the Committee.

Hon. Aden Duale (Garissa Township, JP): Both the Chair and the Vice-Chair of the Departmental Committee on Agriculture and Livestock are not in the House. However, I will communicate with the Member for Kilifi North before the end of the day. I will talk to the Director of Committees and the Clerk's Office to see how far the matter has reached.

Hon. Speaker: Very well. Are these interventions for Statements or what are they about? I can see that the Member for West Mugirango, Hon. Kemosi, wants to say something?

Hon. Vincent Kemosi (West Mugirango, FORD-K): Thank you, Hon. Speaker. Allow me to bring to the attention of this House that in the last few days, there has been a behaviour by some Members of this honourable House during various functions, particularly during development projects--- They try to portray some Members of this honourable House as if they are not Hon. Members.

This happened recently in my constituency. This escalated to other constituencies in Nyeri and Murang'a counties the other day, when Members were initiating different projects. Some Hon. Members whom I do not know whether they fear competition or have ulterior motives have been interrupting the said meetings and making the crowd to heckle some Hon. Members. This happened in my constituency two weeks ago when we were launching a development project in a school, where I had already given Kshs3.2 million in the last one year. Without my knowledge, some Members had brought together some members of the public who made noise. I tried to speak about it by saying that, that was a development project and not a rally. The same thing played out last week in Nyeri County.

Hon. Members: On a point of order.

Hon. Vincent Kemosi (West Mugirango, FORD – K): There is no point of order, Hon. Speaker. Development projects are not political rallies. If you want to show your might, go and do it in political rallies.

Hon. Speaker: Hon. Kemosi, you are complaining about things which are happening out there in the villages. The Speaker has absolutely no role in those village functions. As I said the other week, the best I can do is to respect every Member who makes his or her way through that door. How you made your way to this place, you know how best to do it. So, when you find those kinds of things in the village, just deal with them the way you know best. That is because I am unlikely to be in every village to know who is disrupting rallies.

Hon. Kemosi, if the function is in your constituency and other people have organised it, then you are expected to know what is happening in your constituency. I may not have any cure for that for the time being. You also talked about Nyeri and Murang'a counties. Again, I have no way of dealing with those kinds of situations. When I visit any constituency, I always make sure that the Member of Parliament is aware of my visit. That is courtesy.

(Hon. Jimmy Angwenyi consulted loudly)

Just a minute, Hon. Angwenyi! I advise that any Member desirous of visiting another Member's constituency should have the courtesy of notifying his colleague. Do not go to a Member's constituency without informing him. That is because you can be visited with some unforeseeable situations. You can find problems. Remember that Member knows how to organise the constituents. He or she managed to organise them to vote for him or her. Therefore, when you are visiting another Member's constituency, please, have the courtesy of informing him or her that you will be there on a particular date, at a given time, the nature of your intended visit and whether you want the Member to participate in what you intend to do there, so that he or she can give you a go-ahead to visit it.

Hon. David ole Sankok (Nominated): Point of information, Hon. Speaker.

Hon. Speaker: Who are you informing? No! He never sought your information or intervention. Because Hon. Vincent Kemosi did not seek intervention from Hon. Sankok, you are out of order. The Member did not seek intervention from you. So, if you want to inform, why do you not just walk across and whisper to him as the House continues with its business? We should not make that the business of the day.

Hon. Kemosi, with tremendous respect, I will not intervene in such situations. Deal with them in the best way you know. You are the elected person in West Mugirango. If somebody

else does not have the courtesy of notifying you of their intention to visit your constituency, the rest we should leave it to the law enforcement agencies and yourself.

Let us hear the Member for Nairobi County.

REQUEST FOR STATEMENT

STATUS OF LEGISLATION RELATING TO CHILDREN

Hon. (Ms.) Esther Passaris (Nairobi CWR, ODM): Hon. Speaker, pursuant to Standing Order No.44(2)(c), I wish to request for a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare on the current status of the legislation relating to children. The National Steering Committee was set up by His Excellency the President to review and propose changes to the legislation related to children and update the Ministry of Labour and Social Protection on its recommendations. There has been an inordinate delay in finalising the relevant legislation relating to children. It is in view of these delays and their subsequent inconveniences that I seek a Statement from the Chairperson of the Departmental Committee on Labour and Social Welfare on the following:

(i) whether the Committee is seized of any draft legislation on children from the Ministry of Labour and Social Protection; and,

(ii) confirmation whether the Ministry of Labour and Social Protection has received any report or recommendations from the National Steering Committee regarding the proposed legislation, children related welfare matters and matters that have been put in place to ensure that delays in reviewing legislation relating to children do not prejudice the rights of children in Kenya.

Hon. Speaker, I would like to bring it to your attention that the Children Act 2001 was enacted 18 years ago. Today, our children are very vulnerable. We have in mind children who are not adopted, children who are lured into extremism, terrorism and drug abuse and children who are defiled and raped resulting in early teenage pregnancies.

Recently, a Member of Parliament proposed that pregnant children should be locked up in jail. Judges are interrogating whether boys who impregnate girls in school should also be jailed. We have a lot of issues that need to be addressed. We should put legislation in place with a view to protect our children in line with the Sustainable Development Goals (SDGs) that we have adopted, and in line with all the UN conventions that we are a signatory to.

Hon. Speaker: Hon. Passaris, when you go beyond what you have provided here, I have to stop you in the manner that I have. I have a copy of your Statement, which does not include the debate you have engaged in. The matter is before the Departmental Committee on Labour and Social Welfare. Because I expect everybody to understand the Standing Orders properly, when you go beyond what you provided me with, I just have to stop you at that point. The Departmental Committee will deal with your Statement. There is nothing else to debate on it.

The Leader of the Majority Party does not have to respond to the Member for Kilifi. In fact, the Member for Kilifi should be informed that the response sought was provided and the Statement tabled before the House on Thursday, 26th June 2019. It was tabled here, but the Member was absent. When a Member is absent, he or she should not come to complain that the Statement has not been provided. Just go to the Table Office and get it. You are engaging us in a debate which is spent. The Statement was tabled. Go and look for it in the Table Office so that you can prosecute it beyond here.

Is Hon. Ali Wario or his Vice-Chair present? Chair of the Departmental Committee on Labour and Social Welfare, or his Vice-Chair? They will respond to the request for a Statement by Hon. Esther Passaris in two weeks' time.

Let us move on to the next Order.

MOTION

ADOPTION OF REPORT ON STATUS OF NATIONAL REFERRAL HOSPITALS

THAT, this House adopts the Report of the Departmental Committee on Health on the Status of National Referral Hospitals, laid on the Table of the House on Thursday, 9th May 2019.

(Hon. Swarup Mishra on 26.6.2019)

(Debate concluded on 27.6.2019)

(Hon. Clement Kigano stood up in his place)

Hon. Speaker: Let the Member for Kangema take his seat. Hon. Members, we are now getting to business. The Report on the status of national referral hospitals, which was tabled before the House, was debated at great length of two days. What remained was for the Question to be put.

(Question put and agreed to)

Next Order!

COMMITTEE OF THE WHOLE HOUSE

(Order for Committee read)

[The Speaker (Hon. Justin Muturi) left the Chair]

IN THE COMMITTEE

*[The Temporary Deputy Chairlady
(Hon. (Ms) Soipan Tuya) took the Chair]*

THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, we are in the Committee of the whole House to consider the President's Reservations to the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019) as well as the Kenya Accreditation Service Bill (National Assembly Bill No.17 of 2018)

Provisions Relating to the Merchant Shipping Act, 2009 (No 4 of 2009)

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Schedule to the Bill be amended in the provisions relating to the Merchant Shipping Act, No.4 of 2009, by deleting the new subsection 16(1A) and substituting with the following new provision-

“(1A) The provisions of subsection (1) shall not apply to a shipping line owned or controlled by the Government.”

The President is doing this in exercise of his powers under Article 115 of the Constitution. This is about amending Section 16(1) where the amendment to that section was to exempt the Kenya National Shipping Line (KNSL) from any restrictions imposed by that Section.

Why do we want to do this? The restriction on the shipping line was excluding it from certain important services required for the revival of KNSL. This service includes the crewing agency, the pilotage work, clearing and forwarding, port facility operator, shipping agent, terminal operator and container freight station.

The House amended that section and said that the Shipping Line must be wholly owned by the Government. That amendment by the House which was brought by the honourable Member for Mvita, excludes completely the KNSL from the advantage sought by amending this section due to the fact that it is not wholly owned by the Government and, therefore, does not qualify for its exemption.

This is a matter of national interest. It is not about Mombasa or a certain community. It is about the interest of Kenya and improving on the port facilities of Mombasa. This hampers Government efforts to revitalise the KNSL whose revival is part of the Government's development agenda. It, therefore, slows the implementation of the constitutional provision on the creation of employment opportunities for young people, especially those near the maritime resource areas. So, the people of Coast region will benefit more than what we are being told by other people.

This practice to establish National Shipping Line in partnership with other agencies is not unique to Kenya. It is a global phenomenon. It is an exercise which enables Government agencies to collaborate with other partners. In this case, to collaborate with Mediterranean Shipping Company (MSC) who have already established other companies and tested shipping routes. This one increases the shipping routes and the networks, and thereby creates competitiveness in the global and regional shipping markets. If we do not do this, then we have no business in expanding the Port of Lamu.

The Port of Lamu is supposed to be a trans-shipment hub. The President of Kenya told Salva Kirr that he would give them 10 acres at Naivasha Economic Zone. We have told President Museveni we will give him land. All this is to make sure that the ports of Mombasa and Lamu become hubs. With that in mind, we must have KNSL as a key player in all this. I am proud as a country that we have a shipping line with our flag. Why do we have shipping lines with other countries' flags? We want to have a shipping line. This is a factor in favour of Kenya.

For the foregoing reasons, I recommend that the new Subsection 16(1)(A) be deleted and substituted with the following new provisions which the President is recommending. It means provisions of subsection (1) shall not apply to a shipping line owned or controlled by the Government. Because we have 54 per cent of KNSL, it does not apply. This cannot apply to Maersk Seaside, PLC or other shipping lines. It applies to KNSL.

Lastly, MSC bought their share of the KNSL in 1997. The story going round that some people have bought some shares in two years or three years... A time will come when we must act as a House in the interest of the nation. I am sure if I was a Member of Parliament from the Coast region and, more so, Mombasa, this could have been a very good opportunity for me to accept it because it is an opportunity for my people to get jobs like being crew liners and others. When the ports expand and KNSL becomes big, their office will be in Mombasa. They will employ the people of Mombasa. Hon. Sherrif Nassir and my other colleagues, we are not doing anything mischievous. This is for the interest of the nation.

I beg to move.

(Question of the amendment proposed)

Hon. Abdullswamad Nassir (Mvita, ODM): Thank you, Hon. Temporary Deputy Chairlady. As much as we will not be in agreement with the sentiments of the President, we will equally respect the Constitution of this country. Today, the Leader of the Majority Party has stressed on the fact that these shares had been bought way back at Kshs50 million for business asset and opportunities. When calculated, it is about Kshs50 million *vis-a-vis* Kshs100 million. We might not be able to agree that this will provide opportunities for employment for our people because we believe that there were better alternatives to let go of our ports. Again, we are respecting the Constitution of this country, the way this amendment has been worded by the President to indicate that the shipping line that can run a terminal to be owned or operated, means legally that tomorrow, the shares can be diluted and a foreign entity can hold more than

90 per cent of the shares. Whether it is futuristic, we create laws not for now but for the future generations. This day will be remembered that Kenyans lost, but the Constitution of this country won. We will be remembered for that.

Thank you.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Let us hear the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you have heard what the Member for Mvita has said – that this Constitution won. Yes, because the President is using a provision of the Constitution. The President is using Article 115 in the event...

(Hon. Abdullswamad Nassir spoke off record)

Let me finish, Hon. Nassir. We listened to you. We are not in Majengo, Mombasa. We are in the Chamber of the Republic of Kenya.

(Hon. Abdullswamad Nassir spoke off record)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Order, Hon. Sherrif!

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Order, Hon. Members! I cannot listen to the noise. I notice there is a lot of interest in contributing to this matter. We will give you, Hon. Members, a chance. But we have to do it in an orderly manner. So, let the Leader of the Majority Party finish his bit and then you will have a chance.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): The Leader of the Majority Party, kindly withdraw that.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I apologise and withdraw. I said there is nothing unconstitutional. The President has such power, in a presidential system of government. I have said it earlier. If you go to a parliamentary system, the Prime Minister will not have veto powers. In a presidential system of government, under Article 115, the President, who is elected by more than 8 million people, has the power to veto the legislature in the interest of the nation. That is what the President is doing.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Order, Hon. Members. Hon. Members, you need to note that we are in the Committee of the whole House. We are not going to engage in many lengthy debates. When you get a chance, make your point precisely and then we move on. I will give chances to as many people as we can.

The Leader of the Minority Party, you have the Floor.

Hon. John Mbadi (Suba South, ODM): Thank you, Hon. Temporary Deputy Chairlady. As I agree with the President and support his proposed amendments, I have a somewhat...

(Hon. David Pkosing gestured)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Order, Hon. Members! The Leader of the Minority Party has priority to speak. You know that, Hon. Chairman of the Departmental Committee on Transport, Public Works and Housing. So, relax. Your chance will come.

Hon. John Mbadi (Suba South, ODM): I agree with the President that sometimes, we tend to think that Government can run businesses. I think we need to start accepting that the Government's job is not to run businesses. However, to me, we need to go back to the Constitution and talk about public participation. When Government, through ministries, is making far-reaching recommendations such as this one, the people of the Coast need to be comfortable. When I hear Hon. Nassir talk, we should not dismiss him. He represents people and there are Members of Parliament from Coast.

The Government should start engaging people through public participation. Before you bring these legislations to the House, you need to engage and have the leaders and the people understand and appreciate. That is so that we do not have a situation where we are like disagreeing with our colleagues who come from Coast. If this is for the benefit of the people of Coast, why can the leaders from Coast not be engaged? Why can the public at the Coast not be engaged so that they appreciate the good things or intentions of the Government? That is where I have a problem. In future, let the Government learn to engage with the public through public participation.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Let us now hear Hon. Chairman of the Departmental Committee on Transport, Public Works and Housing.

Hon. David Pkosing (Pokot South, JP): Thank you, Hon. Temporary Deputy Chairlady. I support the President's proposal which, of course, is in line with what our Committee had earlier suggested.

Yes, we did public participation. We want to be on record that we did public participation. During the Second Reading of this Bill, I announced on the Floor of the House... I am on record. We conducted public participation and very many people came from Mombasa. The Senator of Mombasa County appeared before my Committee and made his presentations. I think, in terms of public participation, it was done.

Let me speak about this as the Chair of that relevant Departmental Committee. One, what the Leader of the Majority Party has said about the President's Memorandum is true. But what do we want to achieve as a country? I want to persuade Members to say that we have done a campaign and this is what we want to achieve as a country. We did a campaign, as a country, about the blue economy. It was from 2015 up to today. This has attracted a lot of investment to this country. The last conference which was done in the Kenyatta International Convention Centre (KICC) attracted more than seven Presidents in the world. They came to Nairobi on the issue of blue economy. Now that we are getting revenue and business coming to our country, the question, therefore is, who are we doing it for? That is why we are reviving the Kenya National Shipping Line (KNSL). There is nothing behind the scenes. We are reviving it so that we can benefit from our campaign.

Two, as the Chairman of the Committee, I want to clarify the views we got from the public on the propaganda to try to kill this initiative. Number one is on the argument that, maybe, we are selling the KPA to private entities. It is not true. It is not true, completely. After all, the 53 per cent shares of KNSL are held by KPA. So, what do you sell there? There is nothing to sell. Number two is on the idea that we are privatising Terminal 2. It is not true. This is a lie. Even as I talk to you...

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chairman, you have made your point. I just said that we should not engage in lengthy debates. You have made your point.

Hon. Kamoti, you have the Floor.

Hon. William Mwamkale (Rabai, ODM): Thank you, Hon. Temporary Deputy Chairlady. I want the House to appreciate that the power to legislate comes from the people and it is vested in Parliament. The President making many reservations is not good. This might not be the last one. Today, we are grappling with the KPA matters or those of KNSL. Tomorrow, it will be matters of the KQ, or matters about interest capping. So, as Parliament, we need to recapture our line of duty.

Articles 94 and 95 are very clear on the role of Parliament. The President is only allowed to make reservations. However, if reservations will automatically be law such that they even override laws that have gone through public participation, then the powers of Parliament are being watered down.

I am saying no to this because we cannot allow shares that were bought for Kshs50 million to take over a national asset. Two, it was built for over Kshs27 billion. So, we cannot allow people who have invested Kshs50 million to take over a berth that has costed Kenyans over Kshs27 billion.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Mwamkale, you have the Floor.

Hon. Khatib Mwashetani (Lungalunga, JP): Thank you, Hon. Temporary Deputy Speaker. I rise up to oppose this reservation that has been brought by the President. It is out of the respect that we have for him. It is not even about the Bill itself but about the target after the Bill is passed. The target is the CT2, Container Terminal 2. The Government spent Kshs27 billion to put up that facility, the CT2. It comes in three phases. The First Phase has cost the Government Kshs27 billion and it is complete. That terminal normally collects about Kshs10 billion in terms of revenue, through the KPA. What they are telling us is that, after this Bill has been passed, and I know it is going to be passed, automatically, the KPA will lose Kshs6.7 billion annually.

Apart from that, looking at the agreement which has already been entered, you will see that KPA predetermined the matter. This amendment was predetermined. It is because looking at the predeterminedness of this amendment, the Second Phase is continuing now. It has cost the Government Kshs16 billion. That is a total of about Kshs43 billion which the Government will spend, but looking at how the company which MSC coming in, it has a share of 47 per cent.

Kenya Ports Authority (KPA) has a share of 53 per cent. Forty seven per cent is not an amount that we can assume. Definitely, The MSC is going to control the revenue that comes in. Every activity that will be undertaken at the KPA will be controlled by MSC. As we talk, all the

decisions that are being made by MSC are done from Italy. All the operations of the Standard Gauge Railway (SGR) that were in Mombasa have been transferred to Nairobi. The beehive activities that were taking place in Mombasa are no more. Right now, Mombasa is a ghost city. In the proposed amendment, MSC wants to have control of the City as well, and then transfer its operations to Italy. Therefore, this amendment will haunt us if we approve it. So, I oppose it with the whole of my heart.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Hon. Temporary Deputy Chairlady, first, we have to understand that Kenya Shipping Line is now dead. It is not working. The Government is trying to revive it. There are 27 shipping lines operating in Mombasa now. All of them are foreign companies. The Government must add value to its assets. There is no need of having an asset that has no value to you. For example, today, we are mourning the death of Bob Collymore. But Safaricom is 40 per cent owned by Vodafone and 60 per cent owned by Kenyans. Look at the kind of revenue the company generates. If that company was still part of Telecom today, would we be discussing Safaricom today in Kenya? It is the responsibility of the Government to revitalise and make good of its assets in whichever part of the country they are domiciled. For example, the sugar companies in our place are all dead. The Government is unable to run them. Can we say that because I own 3,000 hectares of land in Migori, I cannot give somebody an opportunity to come and operate the sugar factories? What matters is the revenue the asset will generate for the country and the benefit the people of coast region will get. It is not about owning an asset for the sake of it.

The KPA has been in existence for many years. Is it operating in the best form required? No! It is not. It is supposed to be improved on. It is now a national asset. I agree that, the views of the leaders from that area must be considered. But they must be considered in line with national interests. If every fiefdom is to say its interest must come first, we will not have the nation as it is supposed to be. This matter, in the end, is going to be of benefit to the country and Mombasa County. The headquarters of the revamped Kenya National Shipping Line will be in Mombasa. They are going to employ people there.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Junet, you have made your point. Let us have the last Member from this side. Hon. Members, we have ventilated enough on this one.

Hon. Pukose, you have the Floor.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. This is an emotive amendment.

(An Hon. Member shouted from his seat.)

The Hon. Member shouting, you are out of order! If you had logged in your card, I would have seen you on the gadget. Right now, I cannot see you.

Hon. Mbogo Ali (Kisauni, WDM-K): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Member, what is out of order? Do you have your card here? Order Hon. Pukose. Let us hear the Member. I am just being benevolent to you. Next time, do not stand and shout from your sitting position.

Hon. Mbogo Ali (Kisauni, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I seek your guidance on the Report that was tabled by the Departmental Committee on Transport, Public Works and Housing. Is the House in order to debate it? It was only signed by nine Members and yet the quorum is 11 Members. Is it in order for this House to debate it? I have the Report.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Member, I do not know what you are reading. We are discussing the Presidential Memorandum.

Hon. Mbogo Ali (Kisauni, WDM-K): I agree with you, Hon. Temporary Deputy Chairlady. But the Presidential Memorandum is based on this Report that was tabled last week on 26th June, 2019 by Hon. Tobiko. The Report was only signed by nine Members. The Standing Orders are clear.

Hon. Aden Duale (Garissa Township, JP): On a point of order, Hon. Speaker.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, the Leader of the Majority Party.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, this is a House of procedure. We are past the Second Reading and the Committee of the Whole House stages on this matter. What we are dealing with this afternoon, is the Presidential Memorandum. If the Committee's Report has an issue, he should have raised it when the Report was tabled by the Chairperson of the Departmental Committee on Transport, Public Works and Housing. So, the Member is out of Order. He is flogging a dead horse. I want to teach him. He is a new Member and I am a ranking Member.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, the Leader of the Majority Party! Order Members! Before I give Hon. Pukose the Floor to finish his contribution, we are on the Presidential Memorandum. I do not know what document the Member is referring to. We are only addressing the Presidential Memorandum.

Hon. Pukose, proceed and be brief.

Hon. (Dr.) Robert Pukose (Endebess, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to speak to the amendment that is contained in the Presidential Memorandum. Hon. Members from Coast region have raised their objections. They should be noted. It is important that, as we pass the Presidential amendment, their issues of concern are looked into. What is playing out here, from what I have gathered, are business issues. It is not even about the people of Coast region. It is about business positions in the shipping line. People want to defend their positions in as far as that business is concerned.

The President is right in protecting the interests of all Kenyans. The shipping line is not just a question of the people of Coast region. It is a matter of interest to this nation. If this is being done in the interest of this nation, the people of Coast region should be willing to sit down with everyone else from the rest of Kenya and discuss matters pertaining to the Port of Mombasa.

With those few remarks, I support the President's amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Wakhungu, you are next on the list. Proceed and then we will put the Question. Order, Members!

Hon. (Dr.) Chris Wamalwa (Kiminini, FORD-K): Thank you, Hon. Temporary Deputy Chairlady. Article 115 of the Constitution is clear on presidential assent and referral. In this context, we are looking at presidential assent and referral, and the reservation the President has pertaining this Bill. We know well that in this country, the majority of the unemployed people

are youth. If this partnership will add value, the majority of the people who will benefit are the people of Coast region. It will not be the other people who are far.

So, in this context, looking at the reservations, I am humbly requesting Members, because we know very well when you talk about Turkana oil, it is a national asset; when you talk about KWS, it is a national asset and when you talk about the ADC in Kitale, it is a national asset. So, in this context, I am humbly requesting our colleagues from the Coast; you are the ones who are going to benefit most, so that we support this in view of what the President has said. We are aware of public-private partnerships in this country. We passed this Bill. Where the Government cannot exploit an opportunity, it can partner with a private entity for the purpose of value addition. So, in this context, we want returns on this investment. I humbly request our colleagues to support this so that we can move on in line with the Presidential Reservations.

I thank you.

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Hon. Sankok, you have the Floor.

Hon. David ole Sankok (Nominated, JP): Thank you very much, Hon. Temporary Deputy Chairlady. These rumours are being peddled because of business rivalry and competition. If India did not accept to be competitive and to have too many hospitals, it would not have been a medical tourism destination. The President's intention is to expand our capacity in terms of being a business hub in the whole of Africa. These rumours should not curtail us. At the end of the day, the more we open up this country, the more we will be competitive in the whole of Africa. We will be the economic powerhouse in Africa. So, the President's intention is good for this country. It will benefit the people of the Coast and all Kenyans. We are one united nation.

Thank you very much, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Let us hear Hon. Ochieng'.

Hon. David Ochieng' (Ugenya, MDG): Hon. Temporary Deputy Chairlady, thank you very much. The reason you hear all these murmurs...

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Order Members! I said I will give opportunity to as many of you as possible. Do not stand on your feet. I will still notice your urge to contribute.

Hon. David Ochieng' (Ugenya, MDG): Thank you very much. I want Hon. Duale to listen. The reason you hear all that is happening now is that there is something called asymmetry of information. Members do not have information about this proposal by the President. Members have online presence; they have email addresses. Instead of allowing rumours to determine debate, the Government should, through your Office, Hon. Duale, give Members information. Every time the President wants to give a reservation, let us get the information beforehand; let us get the research; let us know the reason the Government is proposing this and give us the policy instruments so that we debate in the right manner. Otherwise, every time you do this, you are going to cause rumours. We may think the President is trying to make these laws to benefit his businesses. That is the problem we have.

Thank you very much.

The Temporary Deputy Chairlady (Hon. Soipan Tuya): The Leader of the Majority Party, you have the Floor.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, you know Hon. Ochieng' has been away for some time. When the President returns a memorandum, the first thing that happens in the House is the Speaker reading it from the Chair. Then it is referred to a committee for 21 days. If you did not read within the 21 days, the days are over. The last day for this to be dealt with is today. You sit down. When I am on my feet, you cannot stand. This is the problem. You know, he is a new Member. The Constitution gives the President seven days to assent to the Bill. This is a country of laws. If you never did your research 21 days ago, and you never raised objections, it is not the Leader of the Majority Party to become your teacher as a kindergarten kid. I am the Member for Garissa Township. It is your work to read. It is my work to bring and defend the President's Memorandum. Period!

(Loud consultations)

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Hon. Baya, you have the Floor.

Hon. Owen Baya (Kilifi North, ODM): Hon. Temporary Deputy Chairlady, I would like to say this. While we appreciate the President's reservations, Article 115 gives the President power to bring in his reservations. At this level, we have nothing else to say. Yes, we support. I personally support the reservations but there is a lot of mystery. This matter is shrouded in a lot of mystery. The transparency that is lacking in the Kenya National Shipping Line is what is causing all this acrimony. The people of Coast demand to be given answers about what is happening within the KNSL. Yes, jobs will be created and many other things, but once bitten twice shy. The people of Coast would like to get as much information as possible about this matter so that, at the end of the day, when decisions are made, people will feel fully involved, they have details, they know everything and everything is done transparently. As it stands now, the KNSL is shrouded in mystery and the people of Coast will continue to ask questions. I would like to state categorically that I support the Presidential Memorandum.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. Soipan Tuya): Order Members! Order Members! I want to address myself to an issue raised by the Member for Kisauni on the Report of the Committee. Out of Members' interest, we have had to look at the Committee Report and, indeed, it was signed by only nine Members. I can see nine signatures. We need to note that we are discussing the Presidential Memorandum, not the Committee's Report. Whether we had the Committee Report or not, we would still be on the Presidential Memorandum. Please, take that into account. On that note, I proceed to put the Question.

(Loud consultations)

Listen Members and listen carefully. I proceed to put the Question. Should you be disgruntled, you know what to do.

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

(Several Members stood up in their places claiming a Division)

The Temporary Deputy Chairlady (Hon. Soipan Tuyu): Order Members! I can see only three Members standing. That tells you that your standing is inconsequential.

*(Provisions relating to the Merchant
Shipping Act as amended agreed to)*

(Loud consultations)

Hon. T.J. Kajwang' (Ruaraka, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. Soipan Tuyu): Hon. Kajwang', you have been a Chair before and you know at this point your point of order is totally overtaken by events. I call on the Mover to move for reporting.

(Hon. T.J. Kajwang' spoke off record)

Hon. Kajwang', we have to move and conclude the business before us.
Proceed, Mover.

Hon. Aden Duale (Garissa Township, JP): Hon. Temporary Deputy Chairlady, I beg to move that the Committee doth report to the House its consideration of the Presidential Memorandum on the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us move on to the Next Order.

THE KENYA ACCREDITATION SERVICE BILL

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Since I do not have Clause 2 with me here, Hon. Kanini Kega, let us start with Clause 3. We will come to it later on.

Clause 3

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady. Clause 2 is also in the Order Paper but may be you will come back to it. However, I beg to move:

THAT, Clause 3 of the Bill be amended in paragraph (b) by inserting the words “in Kenya” immediately after the words “assessment bodies”.

The justification is to provide recognition of the Service as the sole national body responsible for accreditation and to make provisions for mutual recognition and upholding of cross-frontier accreditation principles.

I thank you.

As you have noted, the Bill is a bit technical. I am happy that we still have a number of Members who would like to make some minor contributions on the same.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kega, I hope you are done. Kindly take your seat.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. The import of the amendment is to reinforce the position that any jurisdiction can only have one accreditation assessment body and there should not be any other. That is the international practice, and that is why we are introducing specifically the term in Kenya. I urge Members to approve so that we give it the teeth it requires to make it relevant and discharge its mandate.

I thank you Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Sheikh Mohamed. I do not see any more interest, and so, I will put the Question.

*(Question, that the words to be inserted,
be inserted, put and agreed to)*

(Clause 3 as amended agreed to)

(Clause 4 agreed to)

Clause 5

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady.

I beg to move:

THAT, Clause 5 of the Bill be amended by deleting the word “Nairobi” and substituting therefor the words “Kenya, at a place designated by the Cabinet Secretary and published in the Gazette.”

The justification is to provide flexibility on the location of the headquarters. It may be in Nairobi and next time in Machakos or any other place without changing the Constitution.

I thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): There seems to be no interest.

Hon. Ochieng, you have the Floor.

Hon. David Ochieng (Ugenya, MDG): I thank you Hon. Temporary Deputy Chairlady. The Chair of this Committee is my friend. Let me convince him that the kind of institution we are establishing, and you have said it is a very technical institution; most of the time is going to be used not just by Kenyans, but by everybody across the world. If you look at all the laws we have made in this Parliament, most of the time we have indicated specifically the headquarters of the institution that has been established.

If you go to South Africa today, you will know that you will get this Service in Pretoria. In Ghana, you will know that once you land in Accra, you will get a particular institution. So, what is difficult for us to just indicate specifically and say that this is not just an institution going to be used by Kenyans, but by the rest of the world and it should be stationed in Nairobi? The flexibility you are talking about here may not be what we need. In this case, we need certainty over flexibility. I wish to appeal to the Hon. Chair of this Committee to drop this amendment so that we have certainty about the place where this will be situated.

I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes, Hon. Gichimu.

Hon. Gichimu Githinji (Gichugu, JP): The amendment does not leave any uncertainty. The amendment shows that the place has to be gazetted by the Cabinet Secretary (CS), and so it will be a definite place that will be gazetted.

So, a definite place will be gazetted. It is also in the spirit of decentralisation of services and decongesting of Nairobi City. Accreditation is a very unique service and probably Kenya will be the second in Africa. So, I believe an ideal place should be accessible to enable this important service to be offered. So, this will be a specific service, and anytime, a person can access it depending on where the CS gazettes.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Oundo did you speak to the first one? Hon. Mbui, I will come back to you because you are barely visible.

Hon. Oundo go ahead.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. I want to convince my neighbour to accept the Committee’s amendment. It has clearly

been informed by the nature and spirit of the Constitution which indicates that services should be brought closer to the people as much as possible.

While it is contemplated that Parliament can sit elsewhere other than Nairobi, the view we have is to give that provision. If there will be need to decongest the Capital City Nairobi anytime, then we would not have to go through extraneous complications to provide a different place.

As my colleagues have said, the place where it will be headquartered will be gazetted. Business sense indicates that once gazetted, built and commitments made, it is will be practically impossible to move it at the whims of any particular person. So, I ask my colleague and neighbour to accept the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us hear Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to support the position of the Chair of the Committee. Who actually requires accreditation? This is an elitist kind of service to be provided by this organisation. I, therefore, support the position of the Chair that it should be in Nairobi because this is where most accreditation services are required.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Majority Whip has his say. Hon. Mbui.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I think the Majority Whip has lost it because he has actually gone against what he had supported. The idea of substituting the word 'Nairobi' as an area or place designated by the CS is in good spirit. This is because many nations have moved their capitals. If the capital changes, it means we would have to sit here and move an amendment to the law. It is good to say a place designated as opposed to giving the capital city and naming it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Nyamai, I thought you wanted to speak to this or the Chair is coercing you to speak? Go on, Hon. Nyamai.

Hon. (Ms.) Rachel Nyamai (Kitui South, JP): He has not coerced me, but I am just listening to the argument that this is a service provider, and we should not over legislate by putting the capital centre. I am supporting the Chair and the position of the Committee that the CS should gazette where the headquarters should be.

*(Question, that the word to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 5 as amended agreed to)

Clause 6

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kanini, you have the Floor.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 6 and substituting therefor the following new clause—

- Functions of the Service
6. The functions of the Service shall be to—
- (a) assess and accredit conformity assessment bodies;
 - (b) promote accreditation in Kenya;
 - (c) promote mutual recognition of the competence of accredited bodies and equivalence of accreditation schemes;
 - (d) establish and nurture relations and cooperation with regional and international accreditation bodies, persons, associations and organisations that the Service may consider necessary for the furtherance of the objectives of this Act;
 - (e) participate in the formulation and monitoring of national, regional and international accreditation guidelines and standards;
 - (f) create public awareness on accreditation, collect and disseminate information on accreditation and conformity assessment matters through advocacy programmes, publication of reports, pamphlets, books, journals or any other publications;
 - (g) provide training, and other related services and promote research on accreditation and conformity assessment matters;
 - (h) initiate, negotiate, conclude and maintain international mutual recognition agreements relating to its accreditation schemes;
 - (i) support the Government in matters relating to mutual recognition agreements on accreditation;
 - (j) co-ordinate and liaise with regulators in respect of any matter relating to accreditation;
 - (k) obtain and maintain membership to national, regional or international organisations which the Service considers necessary for purposes of achieving its objectives;
 - (l) promote recognition and protect the use of the logo and symbols of the Service;
 - (m) promote and protect regional and international mutual recognition arrangements and symbols;
 - (n) establish, review, and maintain accreditation schemes for conformity assessment bodies that are consistent with international practices, facilitate trade and address needs of industry, consumers, regulators and other relevant entities;
 - (o) formulate and implement national guidelines and standards to facilitate the accreditation;

- (p) advise the Government on designation of conformity assessment bodies;
- (q) Ensure that accredited bodies implement appropriate actions related to their conformity assessment activities;
- (r) establish and maintain, in the prescribed manner, a register of the status of accredited bodies;
- (s) design and issue accreditation certificates and symbols to accredited bodies;
- (t) publish quarterly in the Gazette, and on its website a list of all accredited bodies in the prescribed manner; and
- (u) promote the use of accreditation symbols on certificates or reports issued by conformity assessment bodies.

The justification is to provide clarity of the functions as set out in the Bill and an express requirement of assessment of conformity by assessment bodies and mutual recognition of the competence of accredited bodies. It is also to provide a requirement for the service to establish, review and maintain accreditation schemes for conformity and assessment bodies which are consistent with international practice. Facilitate trade and address identified needs of manufacturers, consumers and regulators among other entities.

Further, to provide for the participation of the service in the formulation and monitoring of the relevant national, regional and international guidelines and provide symbols applicable to the accreditation sector.

Finally, to make provision for the service to undertake awareness, training and advocacy programmes on accreditation including collecting, dissemination of information on accreditation as well as related research and other services.

The Majority Whip said this is an elitist Bill and I do not agree with him. To me it is a bit technical. When we got this Bill, we benchmarked and the only area in Africa with a similar Bill is South Africa. We also had an opportunity to send a team to the United Kingdom (UK) to benchmark. So, the amendments and justification is after doing due diligence and the Committee making a study visit.

I beg to move.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in
place thereof be inserted, put and agreed to)*

(Clause 6 as amended agreed to)

Clause 7

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kanini you can move your amendment first because Hon. Washiali also has an amendment. If yours goes through, then Hon. Washiali's will flop. Hon. Millie also has an amendment.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended—

(a) in sub clause (1) by deleting paragraph (d), and substituting therefor the following new paragraph—

(d) five other members, appointed by the Cabinet Secretary being—

(i) two persons with professional qualifications in the fields of science and technology, law, trade, business or industry;

(ii) two persons, one with professional qualifications in finance, and another person with professional qualifications in law or human resource management; and,

(iii) one person with professional qualifications in consumer protection.

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

“(1A) The persons appointed under subsection (1) shall be subjected to a competitive recruitment process taking into account the recommendations of the relevant professional bodies, gender and regional balance.”

The justification here is to provide a criterion for the appointment of five members to the Board. It requires the appointing authority to consider recommendation of relevant professional bodies, gender and regional balance. I have also looked at the amendments proposed by my good colleagues and they are addressing more or less the same issue. The only divergent area is that they are recommending having more people in the Board. They are more specific and I think over legislating by specifically putting particular people in the Board.

Secondly, as per the Mwongozo principles that guide the various boards, we only have nine positions in the Board. From our recommendation, you will see that we have a total of nine. With the recommendation of my colleagues, they will be 10 board members. Since the issues have been addressed and we have said very clearly that the relevant professional bodies, gender and regional balance will be taken care of, I beseech my colleagues to agree with the Committee. This is because we have also done a lot of research on the same. We have consulted widely. I beseech them to support the Committee's position.

Thank you, Hon. Temporary Deputy Chairlady.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): It is your chance, Hon. Maanzo.

Hon. Daniel Maanzo (Makueni, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I support my Chairman of the Departmental Committee on Trade, Industry and Cooperatives. The main policy in the country is actually to reduce the number of boards as much as possible. The other policy of this country – and that is why the Mwongozo talks of nine – is to limit the number of people going into the Civil Service. If you go outside the Mwongozo, then it

becomes very complicated in terms of managing all the boards. Every other statute is proposing a board every day. Now that we have formed a new board and we want to align ourselves with the rest of the world which is trading from South Africa to the UK, it will be fair that we keep within the Mwongozo, which is a presidential order and which is developed in conjunction with the regional countries so that we can keep boards at a manageable limit.

I thank you, Hon. Temporary Deputy Chairlady. I support.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Mbui, you have the Floor.

Hon. Robert Mbui (Kathiani, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. When I look at this accreditation, I see that there is a requirement in the first Part d(i) for two persons with professional qualifications in the fields of science and technology, law, trade, business or industry. I have noticed in this House that there is an area that seems to be left out. That is the area of arts. Architects, actors and designers have qualifications that can also be considered. I propose that in future, we just be fair. I know lawyers are constantly considered. I think it is better to expand this so that we can pick from a bigger group. Now, it means that those people that I have talked about can never find their way into some of these organisations.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us now hear the Member for Luanda.

Hon. Christopher Omulele (Luanda, ODM): Hon. Temporary Deputy Chairlady, I support the position of the Committee. We must remember that the body that we are enacting into law is a body that will be the custodian of the standard-keepers in this country. It is not a body that is going to carry out standardisation. It is a body that will be the keeper of the standard keepers. So, this is a superior body, and we should not bring in all manner of people, but for purposes of policy only. So, I think the Committee has got it and I support their positions.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): On the right, let us have Hon. Njomo.

Hon. Jude Njomo (Kiambu, JP): Thank you, Hon. Temporary Deputy Chairlady. I rise to support the amendment as proposed by the Chair of the Committee. I do this noting that this body is being selected from a wide selection of our country. It is not targeting any area of professionalism or geographical area. It is a well-represented area. That is why when we were discussing the bill on shipping, the Coast people felt that shipping is only about them while it is something affecting every part of the county. That is why I say in this area, the Board is well represented. The selection is from a wide geographical area and a wide selection of professionals. That is why I support it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I can see Hon. Millie and Hon. Washiali wanting to speak. I do not know if you have been convinced to support the Chair. However, let me give the Floor to Hon. Makali Mulu and then we will hear the two of you.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. Even as I support this amendment, I want to make the following observations. I wish the Chair could listen to me. The first one if you look at d(i) and d(ii) in terms of who is supposed to be in this body, under (i) you say professional qualifications in the fields of science and technology, law and trade.

Under (ii), we have the same thing of professional qualifications in law and human resources. We really plead with the Chair to change one of the two so that we do not have “law” in both and we allow other Kenyans to participate in this important board.

The other observation is that the requirement is that you can have a minimum of three Board members and a maximum of nine. I have seen a trend in this country where people always go for the highest. We need to bear in mind that these things are very expensive. I would wish that we could just go for three. These are boards for policy and strategic direction. They are not operational boards.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I am tempted to hear what Hon. Millie and Hon. Washiali have to say. Just a minute, Hon. Millie! Let us have Hon. Ochieng. Hon. Members, please be brief. Do not debate.

Hon. David Ochieng (Ugenya, MDG): The reason I support this amendment is that there is a new inclusion, which I would like Members to look at even as we debate this. This is the new Clause 6(1)(a) that talks about the fact that these are not handpicked by the CS. They are recruited competitively. So, I also wish to propose something for the future. The penchant in naming where people are going to come from is too outdated. Once we say we are going to use a competitive process, allow the people who are going to do the interviews to determine who qualifies in this case based on who appears before them because we are recruiting competitively.

I request Hon. Washiali and Hon. Millie that that clause that allows this body to be recruited competitively then makes sense and takes into account some of the sentiments I have seen in your amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Your point is made. Hon. Oundo, be brief.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I just want to make two comments briefly relating to the so-called repetition in d(i) and d(2) about law. My colleague, Hon. Omulele, has made it very clear. This body is a custodian of accreditation and standards in this country. Naturally, you will need somebody with a legal background. In the event we do not get somebody under category one, then under category two, we will get a lawyer so that we are able to cover that skill that is required to protect the interest of this country.

Secondly, the country and the world have changed. The issue of being too restrictive in particular aspects is an outdated practice. I would rather call accreditation a moving target. Issues to be accredited will be important today and tomorrow, and they will be completely different issues. So, if we tie ourselves to such a restrictive area, we will get to a point that we are unable to move because we do not have some skills in the Board. In any case, the actual process of accreditation will be conducted by the accreditation advisory committee which has the option to co-opt members. So, in the event an application has come and they do not have adequate skills in the Board or the Service, they will be able to co-opt all the various professional bodies which Hon. Washiali and Hon. Millie Odhiambo purport to cure by their amendments.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us hear Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Chairlady. Let me start by saying that the process under Committee of the whole House in amending this law may need to be relooked into so that all proposals amending a particular clause are moved and then looked at the same time. Just by the aspect of the Chair moving first, many Members are already committing themselves to support the Chair while they have not heard the reasons why we are moving our amendments.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You might convince them otherwise.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, first of all, Hon. Millie Odhiambo and I had proposed to change the Board membership to seven. The reason was that we need to inject professionalism. This is a very important body. Quacks should not sit on this Board. My proposal was that we could amend Clause 1(d)(iv) to...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Are you prosecuting your amendment, Hon. Washiali? We are still on the Chair's amendment.

Hon. Benjamin Washiali (Mumias East, JP): That it the unfairness I was talking about.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): If you are sure that your amendment is solid, you might convince people otherwise. Just hold your horses. Let us have Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. My amendment was proposing the inclusion of a lawyer with expertise in intellectual property law. What the Chair of the Committee is doing in the two subsections includes the law profession... The reason why I was talking about intellectual property law is because this is a field where lawyers with expertise in intellectual property law would be of use.

Even though the law profession is mentioned twice in the Chair's amendment, it is weaker than my proposed amendment. It is weaker in the sense that my amendment made it mandatory that there would be a lawyer but in his amendment, there may or may not be a lawyer.

I do not know which Member was complaining about the law profession appearing twice. The proposed subsection (d)(i) mentions two persons with professional qualifications in the fields of science and technology, law, trade, business or industry. This means that they can pick any two in the list given. It could be business and industry and not law. The proposed subsection (d)(ii) mentions two persons, one with professional qualifications in finance and another one with professional qualifications in law or human resource management. Putting the word "or" immediately after the word "law" means that it is not mandatory. The likelihood is that you could miss the lawyers in either provision. I would have urged the Chair, if possible, to re-do that amendment, but it is not a hard and fast rule for me. If it is included, I hope that the appointing authority will have the wisdom to include a lawyer.

What I also love about the Committee's proposal is the inclusion of gender and regional balance. Nonetheless, I also support Hon. Washiali so I do not know how you will marry that. I am willing to drop my amendment even though his proposal is weaker than mine in terms of law. I am willing to drop my amendment.

*(Proposed amendment by Hon. (Ms.)
Odhiambo-Mabona withdrawn)*

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, can you convince Hon. Millie to drop hers?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I have already said that I have dropped my amendment.

Hon. Kanini Kega (Kieni, JP): She is already convinced. I will convince her even further when we get to Clause 8. We were alive to the same idea and we said that we will provide co-option of people with relevant knowledge and expertise. It is well-covered in the next Clause which I do not want to pre-empt.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Millie. Chair, you might be losing her further while trying to convince her.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, he is actually losing me with his comments. I am proposing a further amendment to drop the word “co-option”. Co-option is bringing in members in a manner other than what is provided in the law. If you say that the Board members will be brought in competitively or be appointed then you co-opt somebody, it means that that person will not go through the process. Nonetheless, I hope that the persons who will undertake this task will look at the legislative history and have the wisdom to know that it is important to have a lawyer with expertise in intellectual property.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, looking at the Chair’s amendment, I do not see anything like co-option. Maybe it was just a slip of the tongue on the Chair’s part. We still have Millie on board.

Hon. Washiali, should we finish with the Chair’s amendment and then come back to you? Do you not feel confident enough after the Chair’s is prosecuted? Let us have Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, as it is, after looking at the proposals of the Chair, they have recommended people who have expertise in general backgrounds yet as Hon. Millie said, this is a very important Board into which we will need to inject professionalism. Just as Millie insisted that we need to have a lawyer who is properly qualified, I equally felt that we need to add the Registrar of the Kenya Medical Laboratory, Technicians and Technologists Board or a designated representative. This is also for the purpose of injecting some aspect of discipline. It is about testing. We cannot just generalise as the Chair has proposed.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali, I think we will bypass you for now as we finish the Chair’s amendment and then come back to hear yours.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

Hon. Millie’s amendment is dead. Hon. Washiali, it is your chance.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended in sub-clause (1) in paragraph (d) by—

(v) deleting the word “six” appearing in the opening statement and substituting therefor the word “seven”;

(w) deleting the words “expert in laboratory practice” appearing in subparagraph (iv) and substituting therefor the words “medical laboratory expert registered by the Kenya Medical Laboratory Technicians and Technologists Board.”

(x) inserting the following new paragraph immediately after paragraph (vi)—

“(vii) the Registrar of the Kenya Medical Laboratory Technicians and Technologists Board or a designated representative.”

I seek the support of Members for them to understand where I am coming from. The aspect of testing is very critical to this Board. This would be enhanced if we have a representative from the Kenya Medical Laboratory, Technicians and Technologists Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is it, Hon. Kanini?

Hon. Kanini Kega (Kieni, JP): My good friend, the Majority Whip, is somehow misleading us. This entity would not be testing. It is the one accrediting testing bodies. It has to be very clear. It is not this agency that will be doing the testing. It will be accrediting the testing bodies. They are many. There are over 20 testing bodies. If we put each and everybody on the Board, we will definitely have a bloated board.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will take that as a point of informing Hon. Washiali. Let him finish and then we will have time to contribute.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, I appreciate what the Chair is saying that this will be the body that will be supervising the testing bodies. How would you supervise if you do not have the expertise? What he is saying, Madam Chair...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali, do not respond to him. Just prosecute your amendment and then we move on.

Hon. Benjamin Washiali (Mumias East, JP): That is correct, Hon. Temporary Deputy Chairlady. The Chair should also be patient enough to listen to us. When he is contributing we sit back and listen to him. This is more or less a supervisory body which will, among others, look at the testing for accreditation purposes and conformity. How will you supervise if you do not have the expertise to do so? You cannot do it.

(Loud consultations)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Do not respond to them, Hon. Washiali. Prosecute your points.

Order Members. Let Hon. Washiali have his say.

Hon. Benjamin Washiali (Mumias East, JP): Correct. Hon. Temporary Deputy Chairlady, with a lot of respect to the Chair and the entire Committee, I appreciate that they have these proposals. However, this will be a more superior board than the testing committees. This is what the Chair is telling us. If you do not have the expertise in place, how will you supervise the testing bodies? That is why I strongly feel and hope that Members are listening to me. We really need to have the supervisory expertise in place so that we can supervise the testing bodies effectively.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Ochieng’.

Hon. David Ochieng’ (Ugenya, MDG): Thank you very much, Hon. Temporary Deputy Chairlady. I sympathise with my colleague, Hon. Washiali. He has a very valid point, but the Board we are establishing has a secretariat. It has a Chief Executive Officer and will have institutions inside the bodies.

Hon. Christopher Omulele (Luanda, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Omulele, what is out of order?

Hon. Christopher Omulele (Luanda, ODM): Hon. Temporary Deputy Chairlady, I do not know whether we have already proposed the Question so that the Hon. Chair can contribute.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You are right, Hon. Omulele. Thank you. That was an oversight. We have engaged in so much debate that we have bypassed the proposing of the Question. Hon. Ochieng', kindly hold on.

(Question of the amendment proposed)

Hon. Ochieng', continue.

Hon. David Ochieng' (Ugenya, MDG): Hon. Temporary Deputy Chairlady, my point is that the things that will be accredited are a range of the whole world. There is specialisation of the whole world. There is law, science, arts and agriculture. So, we cannot have all the professions that will be accredited in the Board. Secondly, the Board will have a secretariat. If there is need for specialised expertise, it will be found at the level of secretariat technical work. I want to convince Hon. Washiali that we then hope and believe that when recruiting the secretariat, which will comprise of a CEO and staff of the Board, expertise will be included.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Chairlady. I stand to ask my senior colleague, Hon. Washiali, to basically let it go on two reasons. As I said earlier, accreditation is a fairly moving subject. It is never fixed in any particular line.

Secondly, by insisting that we should include Kenya Medical Laboratory Technicians and Technologists Board or somebody accredited by that particular board, he is assuming that it is the only body that will require accreditation – which is not the case. It is a valid area of issues that we really need to look at differently.

Thirdly, this is a policy organ. Many a times even the Cabinet Secretaries (CSs) preside over critical national policy issues but they might not be experts in those particular lines. As long as a range of expertise is there and then we have a secretariat, the accreditation process will be done. As much as he wants to make amendments to Clause 7, he needs to also look at what has been provided for in Clauses 8 and 9 about committees of the Board and accreditation advisory committees. All those areas will be covered in virtue of the provisions of those two amendments that we, as a Committee, have made on Clause 8 and Clause 9.

Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Chair, Departmental Committee on Energy, Hon. Gikaria.

Hon. David Gikaria (Nakuru Town East, JP): Thank you, Hon. Temporary Deputy Chairlady. I am sorry for being a little bit late. I am trying to catch up. When you proposed the Committee's amendments, were they carried? I am a little bit lost.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We did not conclude.

Hon. David Gikaria (Nakuru Town East, JP): I want to disagree with what Hon. Washiali said. I agree with what the Chair said. Clause 7(d)(i), (ii) and (iii) of the Bill shows some expertise. Maybe it is what he wants that is not there. At the same time, I also want to

agree with what Hon. Ochieng has just said. He said that we can have the same professionals that Hon. Washiali wants in the secretariat, which will give an added value to the Board. I totally agree with what Hon. Ochieng and my brother, Hon. Oundo, said – that, with a secretariat that will have these kinds of professionals, the aspect of Hon. Washiali will be addressed.

I disagree with my senior colleague and oppose the amendment.

(Laughter)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, JP): Hon. Temporary Deputy Chairlady, I disagree with Hon. Washiali's proposal for amendment. As it has already been indicated, the accreditation service is a custodian of all the international standards through the assessment conformity bodies. It is not possible to cover each and every area under the sun in the Board. So, we just have to have the critical areas like law, industry and health so that other things can be sorted out at the advisory level, which the Board has powers to appoint.

Thank you, Temporary Deputy Chairlady.

(Question, that the words to be left out be left out, put and negatived)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, you have further amendments.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I withdrew them.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Did you withdraw all of them?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): No, Hon. Temporary Deputy Chairlady, I have to know which one I withdrew.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): This is on deletion and substitution of words in sub-clause 3.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Is it in Clause 7?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Yes.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I have further amendments.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 7 of the Bill be amended—

(a) in sub-clause (1) by deleting paragraph (d) and substituting therefor the following new paragraph—

(d) seven other members appointed by the Cabinet Secretary being—

(i) one representative of consumer organisations;

(ii) one expert in health and safety;

(iii) one registered engineer;

(iv) one expert in laboratory practice;

(v) one expert in environmental science;

(vi) one who shall be an expert in trade or manufacturing; and,

(vii) one person who is to be an expert in intellectual property law;

(b) in sub-clause (3) by deleting the words “the members present shall appoint one from their number to preside at the meeting” and substituting therefor the words “the Vice chairperson shall preside”;

(c) by inserting the following new sub-clauses immediately after sub-clause (3)—

(3A) The vice-chairperson shall be elected by the members at the first sitting of the Board.

(3B) The Board shall ensure that the chairperson and vice-chairperson are of the opposite gender.

The Bill as it is currently crafted provides that there shall be a chairperson who shall be appointed by the President on the recommendation of the CS but the vice-chairperson shall be appointed at every meeting. I have never seen a place where the vice-chair is appointed in every meeting. There is always a permanent vice-chair who is usually elected by the members. My proposed amendment is to give the members the opportunity to elect a permanent vice-chairperson and they can provide a procedure for his removal. You cannot have a new vice-chairperson in every meeting. It does not provide consistency and permanency.

Secondly, it only provides that they shall then elect him or her at their first sitting and ensure that they adopt a zebra approach where you have either a man or woman vice-chair or chair.

Thank you, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So, you have moved the two amendments.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Hon. Temporary Deputy Chairlady. They are two.

Thank you.

(Question of the further amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Makali.

Hon. Makali Mulu (Kitui Central, WDM-K): Thank you, Hon. Temporary Deputy Chairlady. I agree with Hon. Millie on the election of the vice-chair. The best practice is that when you meet for the first meeting, you elect a vice-chair who remains for the term of the Board or part of the term of the Board, but not electing a vice-chair in every meeting. So, I support the amendment that the vice-chair is elected either in the first or in the second meeting but in a specific time other than it being done in every meeting. That will be tedious and not a good practice.

On the issue of gender, that is if the chair is a man or woman, it is also good. Where the chairperson is a woman, a man becomes a vice-chair. That is good for the country as we move forward.

Thank you and I support the amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kanini.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady. That is a debate we also had. We looked at the Mwongozo which gives the guidelines. In Mwongozo, there are no vice-chairs provided for. We were of the opinion that most parastatals have a chair, a remunerated office, but there is no position of a vice-chair. So, we went as per the Mwongozo

guidelines. I respectfully submit and beseech my good friend Hon. Millie Odhiambo to withdraw her amendment.

On the issue of gender, which she is passionate about, I believe the team that will constitute this Board will definitely take that into consideration. So, it will be taken care of.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Will it be taken care of without an amendment?

Hon. Kanini Kega (Kieni, JP): Yes. It will be taken care of. It is something we deliberated on.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Rachael Nyamai.

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Temporary Deputy Chairlady, before I had listened to Hon. Kanini Kega, I wanted to rise to support what Hon. Millie Odhiambo had said. When I look at Clause 7, I realise that it was a mistake in the first place even to start prescribing how the vice-chair will be identified. So, for that matter, I would like to support Hon. Kanini Kega that we stick to the Chair's proposal. Most of the boards that exist have no vice-chairs. In the event that the chair is not available, then they just choose any other member to chair a sitting.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I just thought that we needed clarity. What is on the table is my proposed amendment which introduces a vice-chair for consistency and coherence and what obtains in the Bill is electing a vice-chair in every sitting and not what Hon. Rachael has said that it is left blank. There is no blank. The Bill says that the board will be electing a vice-chair every time they meet.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Rachael, could you clarify your comment?

Hon. (Ms.) Rachael Nyamai (Kitui South, JP): Hon. Temporary Deputy Chairlady, I do not want to be misunderstood. I am saying that any board that exists has a chair. But the Bill prescribes how, in the absence of a chair, the members should elect another member to chair. I support the Chair that we just go up to the level of having a chairperson. Regarding how a meeting is handled in the absence of a chair, it should be left blank. If we do that, we will be over-legislating and prescribing how meetings will be held.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let me give a chance to Hon. Serem, the Vice Chair of Departmental Committee on Trade, Industry and Cooperatives. He has not spoken.

Hon. Cornelly Serem (Aldai, JP): Thank you, Hon. Temporary Deputy Chairlady. I want to support what the Chair has just said and disagree with Hon. Nyamai that, if we delete the section that talks about how to pick the vice-chair, then she has to bring an amendment on the same. We do not have that at the moment. So, unless she proposes an amendment on that, what she has in mind is irrelevant.

The picking of chairs in any parastatal in Kenya is a procedure. It is not something new that we have to discuss how it should be done. We know how much to pay the chairs and how much we pay board members. For this case, if we bring in the vice-chair, we must say how they should be paid. There is a standard procedure in Government on how they are paid. As discussed by the Chair, we were guided by the Mwongozo guidelines.

In this case, I urge the Hon. Member to withdraw her amendment. Hon. Millie has agreed that it falls...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Serem, you can only speak for yourself.

Hon. Cornelly Serem (Aldai, JP): She does not have to agree with me.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You have made your point. Let us not make it lengthy. I want you Members to make a decision.

Hon. David Ochieng' (Ugenya, MDG): On a point of information, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Who are you informing?

Hon. David Ochieng' (Ugenya, MDG): I want to inform Hon. Millie, Hon. Serem and Hon. Rachael.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Briefly, Hon. Ochieng'.

Hon. David Ochieng' (Ugenya, MDG): This is important because Clause 3 talks about presiding and not about a vice-chair. It is about presiding. So, we are not electing a vice-chair in every meeting. We are only choosing a presiding officer. That is what Clause 3 says. The chairperson shall preside at every meeting and in his or her absence; the members shall appoint one from among themselves to preside. It is not about vice-chairmanship. That is what I want noted. It is about presiding over a meeting where the chair is not there. It is not about vice-chairmanship.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, we have had enough.

(Hon. (Ms.) Odhiambo-Mabona spoke off record)

Order, Hon. Millie! Who are you talking to? Order, Hon. Millie! Let us have Hon. Rozaah Buyu, and then we will make a decision.

Hon. (Ms.) Rozaah Buyu (Kisumu CWR, ODM): Thank you, Hon. Temporary Deputy Chairlady. I was going to support Hon. Millie in her amendment, but given the clarification that has just been given by Hon. David Ochieng', I stand by what he has said that we do not need to amend because we are not talking about a chairperson.

Thank you.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): What is it, Hon. Millie?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I have two amendments. On one, Hon. Ochieng' has explained that we are talking about a presiding officer which in his sense is *de facto* vice-chair. When a presiding officer is appointed, it then means that in every sitting where the chair is not there, they will appoint a new person. So, in effect, it is *de facto* and not *de jure*.

Secondly, I am asking that in the event where the chair is not there...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, we want you to demystify your legal terminologies.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Let me demystify. *De facto* basically means that in practice that person will be acting as a vice-chair because he takes over the position of chair in the absence of the chair. *De jure* means that if we provided for it in law as a vice-chair, then it would be by law. But, *de facto* even if you say presiding, he will be a vice-chair.

My point of order was that can we move them one by one. The one on the zebra, then the other one. I am not withdrawing my amendment, even if I am the only one supporting it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, we can separate the two amendments so that it is clear for Members that the amendments are two.

(Hon. (Ms.) Odhiambo-Mabona consulted loudly)

Hon. Millie, I am trying to help you, but you are acting rowdy. Hon. Omulele.

Hon. Christopher Omulele (Luanda, ODM): Hon. Temporary Deputy Chairlady, with tremendous respect to my senior, Hon. Millie, on the nomenclature that is used here about the chair and vice-chair, her take is wrong. It is posted that when the Board sits, it will appoint one of the members to act in the position of chair whenever the substantive chair is not present. That person will be acting as chair. He will be the acting chair and not the vice-chair.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): You have made your point.

Let us deal with sub-clause (3).

*(Question, that the words to be left out
be left out, put and negated)*

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, you have prosecuted the two of them. I go on to put the Question.

*(Question, that the words to be inserted
be inserted, put and negated)*

(Clause 7 as amended agreed to)

Clause 8

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady. As I had earlier said, the Bill is technical. Every other time, we are getting new information which is also good. We appreciate the contribution by the Members.

Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 8 of the Bill be amended—

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

“(1) The Board may, from time to time, establish such committees as it may consider appropriate for the better carrying out of its functions.”

(b) in sub-clause (2) by inserting the words “whose knowledge and skills are necessary for performance of the functions of the Service” immediately after the words “established by the Board.”

(c) by inserting the following new sub-clause immediately after sub-clause (3)—

“(4) A person co-opted under sub section (2) shall have no right to vote at a meeting of the Committee.”

This is to provide that the Board may establish committees to deal with specific matters of the Service and provide that the Board may co-opt other persons whose knowledge and skills are necessary for the performance of the functions of the Service.

It also provides that persons co-opted by the Board shall not have a right to vote at a meeting of the Board. This is to take into consideration that there are many experts who might not be absorbed into the Board, but we are giving them an opportunity...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Some clarification, Chair. You will notice that Hon. Millie has an amendment that proposes to delete and substitute sub-clause (2). Kindly deal with sub-clause (1) and then we will give Hon. Millie an opportunity to prosecute her amendment. Depending on how it goes, yours will be affected.

Hon. Kanini Kega (Kieni, JP): I stand guided. Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 8 of the Bill be amended—

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

“(1) The Board may, from time to time, establish such committees as it may consider appropriate for the better carrying out of its functions.”

(Question of the amendment proposed)

(Question, that the words to be left

out be left out, put and agreed)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 8(1) as amended agreed to)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, I beg to move:

THAT, clause 8 of the Bill be amended by deleting sub-clause (2) and substituting therefor the following new sub-clause —

(2) The Board may hire experts or consultants to assist in its work.

What the Bill is proposing is that the Board may co-opt persons to any of the committees established by the Board. The practice has been that you do not co-opt but you hire consultants or experts. If you co-opt, it means you are bringing members through the backdoor unless of course this infamous Mwongozo has brought new standards. It now looks like the Mwongozo is the Constitution of Kenya! That would be improper. You cannot have board members that are brought in a very specific manner and then you co-opt others through the backdoor. It does not matter even if they do not have voting rights because they would still be participating and influencing the board in those decisions. When you want expertise, then you hire experts or consultants that will do independent technical work that they present and leave but do not form part of debates in the board. That is my proposed amendment.

(Question of the amendment proposed)

Hon. David Gikaria (Nakuru Town East, JP): Hon. Temporary Deputy Chairlady, I intend to agree with my dear sister. On this co-option thing, there are those who are brought in through a process. There are those who make decisions. What she is saying is right. The best thing to do is to hire a consultant who will give the Board an expert opinion and it will see whether to consider it or not. Otherwise, if you bring this co-option thing, then it is like you are bringing people through the backdoor. Even if that co-opted member does not vote, they might have influence upon the decisions of the Board. I totally agree with the amendment by my sister, Hon. Millie.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Member for Luanda.

Hon. Christopher Omulele (Luanda, ODM): If you are going to co-opt these members, it means that they become members of that Board at that instance. The mischief that is intended to be cured here was for this Board to be able to receive advice from experts, which they can either accept or reject. This co-option will not do.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Vice-Chair, Departmental Committee on Trade, Industry and Cooperatives, Hon. Serem.

Hon. Cornelly Serem (Aldai, JP): I disagree with Hon. Millie because what we are talking about here is not the Board; it is the committee. The Members have said earlier that in the event that the Board is gazetted, it might not meet all the requirements in terms of expertise. You can co-opt in an event that you require an expert to assist the committee. This is a committee of the board. I disagree with Hon. Millie on this one. I do not have to agree with you, Hon. Millie. I am just expressing my opinion which is different from yours.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us give Hon. Savula a chance. I do not think he has spoken this afternoon.

Hon. Ayub Angatia (Lugari, ANC): Thank you, Hon. Temporary Deputy Chairlady. I want to agree with my senior colleague, Hon. Millie. All over the world, the practice is that the board makes policy. The management offers expertise. The experts are supposed to sit at the management level, generate an idea and take it to the board for approval. You cannot bring experts at the board level.

My idea is that the issue of co-opting board members should not arise anywhere. Co-option should be done at the management level where expertise is required.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Members, we also need to be factual. We are talking about a committee, not board members. I think those are two different organs.

Hon. Millie, I am just giving you time to clarify your point as the Mover.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): I want the Committee to clarify. I sit in the Committee of the whole House and maybe they do not come too frequently. There is no rule that the Committee must disagree with any Member who proposes amendments. I think that is their mentality. If they notice, there are some I agree with and some I do not. This thing is not personal property. If I bring something that makes sense, support it; if I bring something which does not make sense, do not support it. Ideally, what you should have done if you are a good Committee, you should have met me out and we agree. That is actually how you move. You do not come here and oppose for the sake of opposing. I want to tell them, if they do not know me, I will sit here and push my amendments one by one, whether they pass or fail because I believe in them.

Having said that, what I want the Chairman to clarify for me is based on his own amendment. In his amendment, it provides that the Board may from time to time establish such committees as it may consider appropriate for the better carrying out of its functions. What I want to know is whether he means that these are committees which are not sub-committees of the board. If you got my amendment was based on this which is talking of committees of the board. If they are other committees which are not boards, can he bring a further amendment to clarify that they are not committees of the board? If they are not committees of the board, I am willing to drop my amendments but, if they are committees of the board, only board members should sit in the sub-committees of the board. You cannot have strangers sitting in the sub-committees of boards.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That is true. Well said, Hon. Millie. I think Hon. Millie has made a very important point. The fact that a Member brings an amendment to a section of a Bill or Report does not mean that the Member is fighting with the Committee. It does not need to be adversarial. It is actually intended to enrich the Report, Bill or the Committee's position. I think that is an important point from Hon. Millie so that we do not seem like we are fighting over these amendments.

Hon. Chair, you are away from your seat and Hon. Millie wants a clarification from you.

(Hon. Kanini Kega consulted other Members)

I see you are consulting with Members of your Committee. In the meantime, let us have Hon. Ochieng.

Hon. David Ochieng (Ugenya, MDG): I just wanted to make sure that, as the Chair clarifies....

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Sorry, Hon. Ochieng. I think it helps to have the kind of consultation Hon. Millie is talking about so that we do not spend a lot of time on issues that can easily be agreed on between Committee and Members.

Hon. David Ochieng (Ugenya, MDG): Indeed. We are not here to oppose or support anything, for that matter. We are here to enrich legislation. So, if anybody comes with a fixed mind, we miss out.

Just to add on what Hon. Millie has said, if the Committee is talking about the general committee of the Board, they are illegal from the word go. The Board can never have any power to establish such committees as they have been talking about outside themselves. I just needed to mention that to the Chair – this Board you are talking about is established as such within this law. This Board can never have the capacity to establish other sub-committees or committees that do not belong to it. They do not have that authority. That needs to be clarified so that we move forward on this.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us give the Chair or Hon. Oundo an opportunity, first.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): The Chair has nominated me to act in his place.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Oh, he has delegated his powers?

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Yes, for this particular aspect.

I need Members to understand the envisaged structure of KENAS so that we do well as we debate. We have nothing against *Mheshimiwa* Millie Odhiambo's proposed amendments but, let us, first of all understand the envisaged structure of the Service. The Service consists of the Board. We were informed at the public participation level, that ordinarily a committee or a board can establish such other committees as is necessary to undertake its functions. We were given, for example, you can have an audit committee and a human resource committee. For example, the human resource capital committee can actually incorporate as a member or technical person the HR manager. The audit committee can incorporate a finance manager. That was the envisaged plan; that is what is envisaged in this amendment.

Secondly, we have statutory or mandatory committees, as it is an international practice all over the world. There is the advisory committee and the tribunal. So, here, we need to understand from that point of view as much as we debate to either carry or fail to carry her amendments that we are talking about the sub-committees of the Board. We are talking about statutory or mandatory committees. In that event, if we are talking about sub-committees then purporting to hire experts is actually infringing on the work of the secretariat. You are infringing on the work of the mandatory committees. That is why we said we are co-opting such that if there is any point of clarification or any point of information, the co-opted members can give their expert

knowledge. Surely, it is just a matter of semantics over which I beg this House to help us refine if we find there is a bit of misunderstanding or lack of clarity on this aspect.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, are you clearer or confused? Is it clearer? They were clarifying something for you.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, he has clarified. Based on his clarification, I think my amendment stays. From his amendment, he is saying that this is actually committees of the board. I want to tell Hon. Oundo that it is actually fortunate that many of us come here with international experience. I was a CEO of several organisations before I came here. So, I also know the international standards he is talking about. Based on the international standards he is talking about, you create sub-committees; there are standing sub-committees and there are technical sub-committees that you will form, of the board. They will be board members. If you want to enrich, you do not co-opt. Even if you look at other laws, we do not co-opt. If you co-opt, it means you are bringing other members through the back door. What you do is hire expertise because it comes and goes, it does not encroach; they do their work from outside. If you want to use the members who are in, you consult. That is the wording. He is saying it is a matter of semantics. Law is about semantics. When you say “consult”, it has a different meaning. When you say “co-opt”, it has a different meaning. When you say “hire expertise”, it has different meaning in semantics in law.

That is why I want to agree with him that based on what he has said; I think my proposed amendment makes sense. Let us hire expertise.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Members, I think we can finish it. Let me have one from this side. Hon. Gikaria, do you want to say a thing? You already spoke to it. Do not sneak back, you spoke to it already.

Let me have the Member for Gichugu.

Hon. Gichimu Githinji (Gichugu, JP): My understating of this clause is that since the area of accreditation is very wide, the Board can get other committees advising on various aspects. It may not necessarily be adding another member to the Board. That is following the amendment that has already been done on Clause 8(1) that the Board can establish other committees or, take into consideration “The board may, from time to time, establish such committees as it may consider appropriate for the better carrying out of its functions.”

That is followed by the next amendment, whose knowledge and skills are necessary for the performance of the functions of the Service. So, in my construction, this is a member to a committee that has already been established under sub-clause (1) but not a member to the Board. We have agreed that the area of application is so wide that we may not be able to cover everyone in the Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Finally, let us have Hon. Ochieng’.

Hon. David Ochieng’ (Ugenya, MDG): Hon. Temporary Deputy Chairlady, we are in this to enrich the Bill. The marginal note on this clause says “Committee of the Board.” That is what it says on the side. If that is the case, and based on what Hon. Millie and Hon. Savula have said, this Board has under Clause 6 that we have just considered, paragraphs (a)-(u) in terms of functions that it is going to carry out. What is difficult in agreeing with what Hon. Millie is proposing? If I may plead with the Chairperson, please agree with it and adopt it. It works best. The sub-committees will be enriched by hired consultants. If you have been appointed you have

no power to appoint other members; you cannot co-opt. Chairperson, just accept that you will allow the Board to hire so that they can do their work well. It will not cost you anything.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Chairperson, by his body language, seems to have accepted. Let us hear him.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady. Our Committee is magnanimous. As we said, this is a Bill we are making from the scratch. We are open to any positive contribution. We have no issue with that proposal.

Hon. Christopher Omulele (Luanda, ODM): On a point of information, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Omulele, who do you want to inform? Hon. Kanini, do you want to be informed by Hon. Omulele?

Hon. Kanini Kega (Kieni, JP): He is my good friend. I cannot decline his information.

Hon. Christopher Omulele (Luanda, ODM): Hon. Temporary Deputy Chairlady, if you look at the marginal note to that clause you will see that it is clearly written “Committees of the Board.” They are not committees of anything else. If they were committees of the management, that would be different. But these are committees of the Board. If you co-opt me here, as a Member of Parliament (MP), I will come in as an equal member. It is the same way we have nominated MPs. They come in and enjoy full rights of an MP. So, they become MPs. If you want to seek advice, you can do so by hiring expertise. You can then take it or refuse it. So, you cannot co-opt members. You will be expanding the Board.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Well said, Hon. Omulele. Chairperson, have you accepted that proposal?

Hon. Kanini Kega (Kieni, JP): Yes, I am in agreement, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us move on then.

*(Question, that the words to be left
Out be left out, put and agreed to)*

*(Question, that the words to be inserted in place
thereof be inserted, put and agreed to)*

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kanini Kega. Insertion of New Sub-clause (4) immediately after Sub-clause (3). Did you drop it?

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I do not know how to proceed with the agreements that I have with Hon. Millie. It was a give and take. I, therefore, drop the proposed amendment.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I hear you. Actually, that particular proposed amendment has been rendered redundant after Hon. Millie’s amendment to sub-clause (2) was carried.

(Proposed amendment by Hon. Kanini Kega dropped)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali, you have three proposed amendments. One and two are spent. So, you will confine yourself to sub-clause (1) (a).

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, since the amendment by Hon. Millie has been carried, I wish to drop my amendment on injection of professionalism in the committee alongside the other amendments that I had proposed.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali, you said that you are dropping your amendment?

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, I may go back. The reason why my other amendments were dropped was so that they are able to appoint professionals. However, now they are co-opting instead of appointing. It appears that this Committee is allergic to professionalism.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali, you cannot take us back. If you are withdrawing...

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, if the position I was proposing has been co-opted, then there is no point of me pursuing the other amendments which you were...

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali, then drop your proposal without conditions.

Hon. Benjamin Washiali (Mumias East, JP): That is why I am dropping it. It is important to tell the House why I am dropping it.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Once you drop your proposal, there is no room for provisos or any additions.

(Proposed amendment by Hon. Benjamin Washiali dropped)

Let us proceed.

(Clause 8 as amended agreed to)

Clause 9

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, the Bill be amended by deleting clause 9 and substituting therefor the following new clause—

- | | |
|--|--|
| Accreditation
on
Advisory
Committees. | 9. (1) The Service may, subject to the directions of the Board, constitute Accreditation Advisory Committees to— <ol style="list-style-type: none"> (a) advise the Board on technical and scientific matters relating to the operation of accreditation schemes; (b) guide on interpretation of technical requirements of international standards and regulatory requirements of specific accreditation schemes; (c) formulate or review the technical criteria or other sector specific application requirements related to accreditation schemes; (d) develop or review technical criteria adopted by the Service for specific accreditation activities; |
|--|--|

- (e) advise on the competence criteria for accreditation assessors and technical experts including identifying relevant proficiency testing programmes applicable to specific accreditation schemes; and
- (f) offer advisory support activities including accreditation assessment reviews, research and other matters as may be required by Service from time to time.

(2) An Accreditation Advisory Committee shall consist of not less than three members, and not more than nine members.

(3) The members of an Accreditation Advisory Committee shall possess academic, scientific or technical expertise and relevant experience in the specific areas of interest required by Service.

(4) A member of an Accreditation Advisory Committee shall be appointed in writing on such terms and conditions as the Board may determine.

(5) The Accreditation Advisory Committee shall be objective, independent and impartial in the performance of its functions.

(6) The conduct of the business and affairs of an Accreditation Advisory Committee shall be as set out in the Second Schedule to this Act.

The justification is to provide for the establishment of accreditation advisory committee following the deletion of the provision establishing the accrediting committee. It is that simple.

Thank you.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 9 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali, you realise that your proposed amendment is spent.

Let us move on.

Clause 10

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kanini.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady. I beg to move:

THAT, the Bill be amended by deleting Clause 10 and substituting therefor the following new clause—

Accreditation
Schemes.

10. (1) The Service may establish and maintain such accreditation schemes consistent with international and regional practices taking into account the needs of manufacturers, consumers, regulators and any other relevant stakeholders.
- (2) The Service shall maintain on its website, information relevant to each accreditation scheme including applicable requirements or conditions of accreditation.
- (3) The Service may make regulations specifying standards and other guidelines necessary for the proper administration of this Act, including the —
- (a) requirements of an accreditation scheme;
 - (b) fees applicable to each accreditation scheme;
 - (c) fees applicable to accreditation related training, and any other activities undertaken by the Service;
 - (d) conditions on the use of the logo and accreditation symbols of the Service, including symbols of regional or international accreditation bodies; and
 - (e) any other matter which the Service may consider necessary.

The justification is to provide for the establishment of accreditation schemes consistent with international practices as required under the international standards for the operation of accreditation bodies ISO/IEC 17011 Edition 2017 under Clause 406. It addresses the needs of manufacturers, consumers, regulators and other relevant entities.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): On a point of order.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. I would wish to seek your guidance. I see the Chair of the Committee is proposing new clauses. If you look at the first paragraph of his proposal, he says: “The Bill be

amended by inserting the following new clauses immediately after Clause 10.” So, the clauses are coming after Clause 10, meaning that the existing Clause 10 is not being touched. If that is the case, I just wanted to know procedurally whether you would deal with my amendment before we go to the new clauses, because I have a proposed amendment to the existing Clause 10. Chair, I hope you understand what I am saying. The Chair is proposing new clauses.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): The Chair is proposing deletion and substitution.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Maybe my version is wrong. It says that: “The Bill be amended...”

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Are you reading the Order Paper or what are you reading?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, the e-Order Paper. It says: ‘The Bill be amended by inserting the following new clauses immediately after Clause 10.’

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, I think you are on Clause 10A and we are on Clause 10. So, you are reading the wrong one.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Sorry, Chair. I realise that. Thank you. I stand guided.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Thank you, Chair. Perhaps I may not have got exactly what the Chair said, but if I look at the Bill, the existing Clause 10 is about the functions of the accreditation committee. It is not about the schemes. We just created an Accreditation Advisory Committee, which requires its functions to be defined. I actually expected the Chair to be now amending Clause 10 to read “Accreditation Advisory Committee’s Functions”. By deleting the functions of the committee and then bringing in a scheme, it means we have created an Accreditation Advisory Committee, but have deleted its functions. The functions are in Clause 10, but we are deleting the clause. I would want the Chair to clarify whether that is exactly the situation we are in.

Clause 9 establishes the Accreditation Advisory Committee. Clause 10 currently covers the functions of the accreditation committee. By deleting that clause, it means we have a committee that does not have its functions defined in law. If we are deleting that clause, then we are basically creating a committee and not giving it functions in law. We are deleting and substituting by creating another body. If that is the case, then perhaps, we need to revisit this area. Chair, could you confirm?

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I will give an opportunity to the Chair and the Members of the Committee. Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Chair, probably just a matter of clarification, the Accreditation Advisory Committee and its broad functions are basically set out

in the amended Clause 9. It clearly states the functions from paragraph (a) all the way to paragraph (f). When we come to Clause 10, and if he has got a chance to look at the published Bill, it provides functions or the process of the Accreditation Advisory Committee. Actually, it was called accreditation committee, but we changed to Accreditation Advisory Committee. It literally states the functions.

Based on international practices and from the benchmark visits that we made, the normal practice is talking about an accreditation scheme that literally is a rundown of the entire process from the point you receive all the way to the point you process and conclude application for accreditation. So, I want to ask Hon. Kimunya to look at it from that point of view, so that we align this Bill to international practices to avoid a situation where our legislation and regulatory framework seems weak comparable to other jurisdictions, such that our accreditation mark does not meet international practices. It was basically that. If there is any lacuna in terms of drafting that can be dealt with, but we are no longer talking about the functions. We are talking about the scheme to state clearly the process from the beginning to the end.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, do you want to add something?

Hon. Kanini Kega (Kieni, JP): In our Committee's recommendation, there are recommendations on Clause 9, which we have not touched. I think it is the one that addresses the issues Hon. Kimunya has alluded to. Of course, it draws so much on the Accreditation Advisory Committee and it stipulates the issues as my colleague has clearly put it. In our amendment, we had also proposed amendments to Clause 9. It is actually deletion and substitution of Clause 9 as per the Order Paper.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Is it Clause 9 or 10, Hon. Chair?

Hon. Kanini Kega (Kieni, JP): I also have Clause 9, which we have not dispensed with.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Chair, we are done with Clause 9. We are on Clause 10.

Hon. Kanini Kega (Kieni, JP): I think my friend, Hon. Kimunya, came late and he is taking us back.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kimunya, are you satisfied with what Hon. Oundo has tried to explain?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, I hear what the Committee is saying. It is a classic case of poor drafting. We are mixing the establishment and the functions. There is a reason why the two are separated in law. You combine them and in so doing, we lost, for example, the subject matter in sub-clause (3), where the accreditation committee may withdraw an accreditation. We have now lost it because it is not covered in the new Clause 9. I am just looking at what is here unless it is covered elsewhere. If you are legislating and then pushing some little legislation, you end up with a situation where on some of these very critical things like accreditation, we end up with a legislation which may be declared null and void and you cannot do anything on accreditation for ever. So, let us be very clear at this

point on what can be tidied up in the Bill. If you can tell us where Clause 10(3) is covered within Clause 9 or a subsequent one, then I will be okay.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Ochieng’.

Hon. David Ochieng’ (Ugenya, MDG): As I get it, and probably the Chair will clarify this, the total effect of the amendments is that the current Clause 10 has been done away with totally. It is not there. It is non-existent anymore. Therefore, reference to it does not help.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): That is what the Chair is proposing.

Hon. David Ochieng’ (Ugenya, MDG): That is the point. We have not passed it already. We have agreed on Clause 9, which clearly indicates that the body is established and the functions are therein entrenched. With the new amendment that we are discussing, we are doing away with Clause 10 totally. It is going to be non-existent from the time we pass Clause 10. That is how I get this.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us give Hon. Millie a chance, so that the Committee does not dominate.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairlady. What Hon. Kimunya is saying is true. I do not know how we would cure the challenge unless we cure it through a re-committal or further amendments in future because it will be a bit of a challenge. We mixed the concept of the constitution of the committee and its functions and thereby we lost some of the critical functions. If you look at my proposed amendments in Clause 10, which we are now proposing to delete, it was to refine the functions which we have in the amendments that we have passed in Clause 9, which are fairly general.

Although we have already passed, had we seen that before, we would have asked the Chair to do further amendments in Clause 9. However, because it is passed, the only opportunity we have is either a re-committal or wait for six months and bring a further amendment. If this one passes, it is going to affect my proposed amendments. In doing so, I know my amendments in Clause 10 will collapse. They already collapsed in Clause 9. The way the margin note is worded was about functions. So, that is something that the Chair needs to look at for legislative coherence and elegance.

I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Let us have Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): I would not want us to go back to Clause 9. However, the marginal notes could have an error, which can be cured at an appropriate time. However, I beg my colleagues concerning Clause 10 and New Clause 10, which is a fairly elaborate provision relating to the accreditation process and service scheme. It will be practically impossible or it can still be possible, but it will be a bit untidy for us to start introducing amendments upon amendments. What we have provided here has literally been covered to provide the entire accreditation scheme as practised in other comparative jurisdictions. I want to request, specifically Hon. Millie Odhiambo, to drop her amendment as far as Clause 10 is concerned. I thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. (Dr.) Oundo, I suppose you and the Chair are taking notes of the issues raised by Hon. Kimunya, Hon. Millie and other Hon. Members. Essentially, Hon. Millie has agreed with the Chair and her amendment stands dropped. So, we can conclude by putting the Question.

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 10 as amended agreed to)

Clause 11

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady. We appreciate the contribution of the Members. As I continuously say, this Bill is a new one and a bit technical. So, we are open to all positive contributions.

I beg to move:

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

Accreditation Appeals

Tribunal.

11. (1) There is established a tribunal to be known as the Accreditation Appeals Tribunal, which shall hear and determine appeals emanating from the decisions of the Service.

(2) The Accreditation Appeals Tribunal shall consist of five members being—

(a) a Chairperson appointed competitively by the Cabinet Secretary from amongst persons qualified to be judges of the High Court; and

(b) four other persons who possess expertise and knowledge in matters relating to accreditation, conformity assessment, standardisation or regulatory activities.

(3) The members under subsection (2) (b) shall be appointed competitively by the Cabinet Secretary from amongst persons who—

(a) hold a university degree in law or science and technology; and

(b) possess at least seven years relevant experience in their areas of expertise.

(4) Except as provided in the Third Schedule, the Accreditation Appeals Tribunal shall regulate its own procedure.

The justification is to provide for the establishment of Accreditation Appeals Tribunal, which shall be appointed by the Cabinet Secretary in consultation with the Judicial Service Commission (JSC). This will ensure impartiality of decision and independence of the service. This is also to further provide for the conduct of business and affairs of Accreditation Appeals Tribunal as set out in the Third Schedule. We are removing the word “committee” and submitting it with the “Appeals Tribunal.” Thank you, Hon. Kimunya.

I submit.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order Chair, you are supposed to address the Chair and not Hon. Kimunya.

(Question of the amendment proposed)

Hon. David Ochieng' (Ugenya, MDG): *(Inaudible)*

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Order, Hon. Ochieng'. You do not just shout at the Chair. I do not see any interests in contributing. Hon. Omulele.

Hon. Christopher Omulele (Luanda, ODM): Hon. Temporary Deputy Chairlady, this is a good amendment. The practice now is that we have tribunals. I have seen the proposed membership is on point. The person who is going to sit in this tribunal as chair will have the qualifications of a High Court Judge. These tribunals are properly equal to High Courts and this is good. I support.

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 11 as amended agreed to)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Washiali's proposed amendment, therefore, is dropped.

(Proposed amendment by Hon. Washiali dropped)

Clause 12

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 12 of the Bill be amended —

- (a) in sub clause (1) by deleting the words “an Appeals Committee” and substituting therefore the words “the Accreditation Appeals Tribunal”; and
- (b) in sub clause (2) by deleting the words “an Appeals Committee” and substituting therefore the words “the Accreditation Appeals Tribunal”.

The justification is to delete reference to the Accreditation Committee and make provision for reference to the Accreditation Appeals Tribunal.

I thank you.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kimunya, you seemed to have agreed with the Chair.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chair, in Clause 11, which we just passed under 4, except as provided in the other Schedule, the Accreditation Appeals Tribunal shall regulate its own business and procedure.

We then come in to create a similar thing in Clause 12, where all we are doing is change the name from the “Appeals Committee” to “Accreditation Appeals Tribunal”. In Clause 12(2), after we change that, it will be a replica of what we have already provided in Clause 11.

Could the Chair consider dropping the amendment to Clause 12(2) because it is already covered in Clause 11 (4)?

We have already provided for the provision of how they will regulate their own procedure. So, we are repeating this in Clause 12. Chair, for purposes of neatness in drafting, you should drop your amendment to Clause 12(2) so as to avoid duplication.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Chair or Members of the Committee. Hon. Oundo, I think this is a collective responsibility for the whole Committee.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Yes, since all of us have been involved in this Bill for almost six months, it has become part and parcel of our blood system. I want to agree with Hon. Kimunya's comments that this is a duplication or repetition of what has already been legislated. So, we need guidance on the process to drop amendments in Clause 12(b). On behalf of the Committee, I propose to drop the amendments in Clause 12(b). We retain Clause 12(a) and drop 12(b) because it is already covered and is duplication.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Members, Clause 12(b) is dropped by the Committee. Chair, for the record of the House, let us have it clearly.

Hon. Kanini Kega (Kieni, JP): For the comfort of my good friend, Hon. Millie, and for the record, we drop the entire Clause 12(b)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Hon. Chair, are you dropping Clause 12(b)? Is that correct?

Hon. Kanini Kega (Kieni, JP): Yes, that is correct.

(Proposed amendment to Clause 12(2) dropped)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 12 as amended agreed to)

Clause 13

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): Both Hon. Washiali and Hon. Millie have amendments. Let us start with Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairlady, I beg to move:

THAT, Clause 13 of the Bill be amended in sub clause (2) by inserting the following new paragraph immediately after paragraph (b)—

“(b) is registered by the relevant regulatory body”.

I had dropped amendments to Clause 13(a) because they were in conflict with the Constitution. As I had mentioned earlier, Clause 13(b) would have been relevant only if the earlier amendment of inclusion of professionalism was accepted. Now that it was not considered, there is no point of us referring this to the registered relevant regulatory body. So, I wish to drop.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuyu): It, therefore, stands dropped. Let us have Hon. Millie

(Proposed amendment by Hon. Benjamin Washiali dropped)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady. I beg to move:

THAT, Clause 13 of the Bill be amended—

- (a) in sub-clause (2) (a) by inserting the following new sub-paragraph immediately after sub-paragraph (iii)—
“(iv) law”.
- (b) in sub-clause (5) by deleting the words “and for reasonable cause” and substituting therefor the words “and on the grounds stipulated under subsection (5A)”;
- (c) by inserting the following new sub-clause immediately after sub-clause (5)—
“(5A) The appointment of the Chief Executive Officer may be revoked on the grounds of—
 - (a) gross misconduct;
 - (b) insubordination;
 - (c) violation of any of the terms of the contract of employment;
 - (d) breach of Chapter 6 of the Constitution;
 - (e) failure to comply with the provisions of this Act; or
 - (f) conviction of an offence under any of the Laws of Kenya.”

I have few proposed amendments to Clause 13.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, they are three amendments and not two.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, in Clause 13(2), I propose we add the word “law”, so that the Chief Executive Officer (CEO) can be a person who is either qualified in science, information technology, business administration or law. I do not know whether I should move all of them at once or I go one by one because they are very different.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Please, go on and deal with all of them.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): In Clause 13(5), I am proposing we remove the words “reasonable cause” and put the words “on any of the grounds stipulated under subsection (5A), which proposes the grounds under which a person can be removed. Most laws provide grounds under which a person can be removed. So, if you leave the words “reasonable ground” it is often subject to abuse. If I do not like you, I can just decide there are reasonable grounds. My proposal then is that we have a new Clause 13(5A) which provides the grounds under which the appointment of the CEO may be revoked.

We should not leave it as “reasonable” because it is very subjective. What is reasonable to you is not necessarily reasonable to me. But when you provide it in law, then, you are forced to use the standard as stipulated by the law. Those are my three proposed amendments.

(Question of the amendment proposed)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I speak not necessarily as the Committee, but to probably just give some background information. I have no problem with all the amendments under 13(b) and (c), but with amendment to Clause 13(a), where the Member is saying that we add the word “law”. I am not an expert in legal drafting, but I have this view that the implication is the appointing authority could as well appoint an advocate or lawyer to head the Kenya Accreditation Service (KENAS) as a CEO. Truly speaking, and I want the Member to consider, the bulk of the work that is going to be done by KENAS is going to be of technical nature, scientific business processes and others. If by any chance the appointing authority exceeds or does not see that point of view and appoints an advocate, I am not in any way meaning they do not have capacity to understand science and other issues, we could have a body that is generally incapacitated in terms of decision-making and undertaking their functions. That is my view. Yes, it is okay, but that is the reality and implication unless the amendment comes with a rider that, that person must have some technical knowledge in science and business processes. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Is it a point of order or you want to contribute? Then you just be forthright. Yes, Hon. Omboko.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, I have just been following and that is partly why I went to speak to Hon. Oundo. I think there would be no need to really bring a lawyer. Now that she is convinced, let me just conclude by saying that they can always hire a lawyer if need be and then use that particular expertise when it is required. Thank you.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, you can clean up your amendment for us to know where we are. Drop what you are dropping and we know what you are holding onto.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I have said that when I am convinced, I do not insist. What Hon. Oundo is saying actually makes sense. Because they have now established the tribunal which has a person of the level of a Judge of the High of Kenya, it is okay. I really do not insist on Part (a), but the other parts really do make sense. I urge the Members to support the others so that we do not have arbitrary measures to dismiss the CEO. I am willing to drop the first part.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So, you are dropping Clause 13(a) of your amendment?

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Yes, Hon. Temporary Deputy Chairlady. That is the one that has to do with adding a lawyer.

(Proposed amendment to Clause 13(2)(a) by Hon. (Ms.) Odhiambo-Mabona dropped)

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Kimunya, do you still want to speak to it?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairlady, procedurally - and I think Hon. Millie raised this herself - what this clause is doing is introducing new clauses that have not been subjected to Second Reading. They are coming in as new sub-clauses. They could as well be introduced as new clauses. So, we need to figure out exactly that we are not legislating outside the established framework where we are now introducing new clauses. You will see deleting some words and then introducing a new sub-clause. We need to look at that. If it

is okay, fine, but we should be aware that there is a clause that has been added which is substantial, but it has not been subjected to Second Reading.

Hon. Millie.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I agree with Hon. Kimunya except that I thought we had changed because we have been going on without subjecting all the new clauses to Second Reading. There are new clauses that we actually passed even in... Which were the others? The ones that we have just done.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): We do not have any new clauses.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Not on this one.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): I do not think we have any new sub-clauses.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, I am not talking of Clause 13. I am talking of the ones before. Even in Clause 11, we had new clauses, which we did not read a Second Time, but I am okay because I know procedurally, when you have a new clause, they should be read a Second Time. So, I really do not mind. Ordinarily, what would happen is that all the new clauses are read at the end, but because we have been going this way, sometimes you know procedures change. That is why I was not insisting. I stand guided by you on how you would want us to go but I am ready to have my second part read a Second Time because the first one is an amendment and not a new clause.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Hon. Millie, we will get to that later. You already dropped (a) and you prosecuted (b) and (c).

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, let me just explain. I dropped Clause 13(2)(a), where I was proposing the inclusion of law. Then I was proposing an amendment to Clause 13(5) and proposing a New Clause 13(5A). What I am requesting is subject to your direction. Sorry, Hon. Temporary Deputy Chairlady.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): Do you need the help of Hon. Kimunya, but you would not know what she wants to say.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): No, Hon. Kimunya is very good at this process. So, he can help.

The Temporary Deputy Chairlady (Hon. (Ms.) Soipan Tuya): So, do we give him the chance to pre-empt your thoughts.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairlady, the first proposed amendment I am talking about, which I dropped, was Clause 13 because I was proposing additional 13(2)(a). So, I dropped my amendment to Clause 13(2)(a). Then I have a proposed amendment to Clause 13(5) which says: "the Cabinet Secretary, on the written recommendation of the board and for reasonable cause..." So, I am proposing that we delete the words "and for reasonable cause" and replace with the words: "and on the grounds stipulated under subsection (5A)", which is a new clause.

[The Temporary Deputy Chairlady

(Hon. (Ms.) Soipan Tuya) left the Chair]

[The Temporary Deputy Chairman

(Hon. Christopher Omulele) took the Chair]

I can see the Chair has also changed.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, proceed, it is well.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, it would only make sense if that sub-clause passes for me to move this amendment. So, you will advise on how we can go about it. I will be proposing a new sub-clause 13(5)(j) that gives the grounds for dismissal of a CEO. If that passes, then we need an amendment to Clause 13(5).

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, what I can advise is that we treat this as a new clause and then when we get to the time for moving new clauses, you can have an opportunity to have a go at it.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): So, I will do both of them?

The Temporary Deputy Chairman (Hon. Christopher Omulele): Yes.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, that means Clause 13 has no amendments.

(Clause 13 agreed to)

Clause 14

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Chairman, you have an amendment to this.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 14 of the Bill be amended by inserting the following new sub clause immediately after sub clause (2)—

“(3) The Service shall ensure that the appointment of its staff reflects the ethnic, gender and regional diversity of the people of Kenya.”

The justification is simple. It is to provide that the Service shall consider the ethnic, gender and regional diversity of the people of Kenya while making appointments.

(Question of the amendment proposed)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let us have Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, my issue is procedural. If it is being introduced as a new sub-clause, should it not come in when we are dealing with new clauses and sub-clauses so that we are not legislating outside the framework that we have created for ourselves? We are not deleting or replacing. We are introducing something new to the Bill that has not been discussed before.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya, you are on point. Hon. Chair, I direct that you move your New Clause when we are prosecuting the new clauses. That, therefore, means that Clause 14 has no amendment. I will propose the Question as if there are no amendments to Clause 14. Are we together on this?

(Clause 14 agreed to)

(Clauses 15 and 16 agreed to)

Clause 17

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 17 of the Bill be amended —

- (a) in sub-clause (1) by deleting the words “Chief Executive Officer” and substituting therefor the words “Corporation Secretary”; and
- (b) in sub-clause (2) by inserting the words “or any other person authorised in that behalf by a resolution of the Board”.

The justification is to provide that the common seal of the Service shall be kept in the custody of the Corporation Secretary.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

(Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Question that the words to be inserted be inserted, put and agreed to)

(Clause 17 as amended agreed to)

Clause 18

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting Clause 18.

The justification is to expunge reference to the Accreditation Committee, which was deleted by the Committee.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, before I propose the Question to this, Hon. Millie and Hon. Washiali have proposed amendments to this. The Chair is proposing to delete the entire clause. If his carries the day, that will mean that you will have nothing to amend and your proposed amendments will fall by the way. We will deal with the Chair’s amendment, but just be warned that in the event that he succeeds, you will have nothing to amend.

(Question of the amendment proposed)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. I support the proposed amendment. Even before they removed the

Accreditation Committee, the way the amendment was crafted was very confusing. I am still okay even if it is deleted. I am happy with that.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Very well. Thank you, Hon. Millie. Let us have Hon. Washiali.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Chairman, my proposed amendment would only have been relevant if we would have carried my proposed amendment to Clause 7. Therefore, even if you deleted it, I would not have any problem.

(Proposed amendment by Hon. Benjamin Washiali withdrawn)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 18 deleted)

Clause 19

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 19.

The justification is that the provision of accrediting certificates is provided for under Section 10(c). So, it is already covered under that section.

The Temporary Deputy Chairman (Hon. Christopher Omulele): The same situation applies as with the previous clause. Hon. Millie, you have a proposed amendment. The Chair is proposing to delete. If he succeeds, you will have nothing to amend. Hon. Millie, I will give you an opportunity.

(Question of the amendment proposed)

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Thank you, Hon. Temporary Deputy Chairman. My proposed amendment to Clause 19(3) was to do away with arbitrary powers. A deletion is okay for me.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

(Question, that the words to be left out be left out, put and agreed to)

(Clause 19 deleted)

Clause 20

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 20.

The justification is that the provision on maintenance of accreditation was amended and reintroduced as Clause 10(d). So, it is covered under that section, which is a new clause.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 20 deleted)

Clause 21

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 21.

The justification is that the provision on suspension or withdrawal of accreditation certificates was amended and reintroduced as Clause 10(e), which is a new clause.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

(Clause 21 deleted)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, you had an amendment, but I see you are at peace. Let us make progress.

(Proposed amendment by Hon. (Ms.) Odhiambo-Mabona withdrawn)

Clause 22

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 22 and substituting therefor the following new clause—

Remuneration of
members of the
Board, Committees,
and the Accreditation
Appeals Tribunal.

22. The Service shall pay such remuneration and allowances to the members of the board, committees, and the members of the Accreditation Appeals Tribunal as approved by the Cabinet Secretary upon the recommendation of the Salaries and Remuneration Commission.

The amendment is for clarity. Before Hon. Kimunya says that I am out of order, the amendment provides remuneration of the members of the board, committees and the Accreditation Appeals Tribunal.

Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 22 as amended agreed to)

Clause 23

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 23.

This amendment seeks to delete reference to Appeals Committee, which was deleted by the Committee. Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 23 deleted)

Clause 24

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 24.

The amendment seeks to delete reference to the Appeals Committee, which was deleted by the Committee. Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 24 deleted)

Clause 25

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 25.

The justification is to delete reference to the Appeals Committee, which was deleted by the Committee. Thank you, Hon. Temporary Deputy Chairman.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

(Clause 25 deleted)

(Clauses 26, 27 and 28 agreed to)

Clause 29

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 29 and substituting therefor the following new clause—

Accounts and audit. 29. (1) The Board of the Service shall cause to be kept all
proper books and records of account of the income, expenditure,
No. 18 of 2012. assets and liabilities of the Service in accordance with the Public
Finance Management Act.

No. 34 of 2015. (2) The accounts of the Service shall be audited and reported on in
accordance with the provisions of Article 226 and 229 of the Constitution and the Public Audit
Act.

The justification is to provide for proper book keeping, auditing of the services and correct a cross referencing error. It is for information because it is a new clause.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Clause 29 as amended agreed to)

(Clause 30 agreed to)

Clause 31

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:
THAT, the Bill be amended by deleting Clause 31 and substituting therefor the following new clause—

Offence and general
penalty.

31. (1) A conformity assessment body not being

accredited by the Service which makes any claim or uses any accreditation symbol in relation to any goods, processes, services, or facilities which may imply that the conformity assessment body is accredited when not being so accredited, commits an offence under this Act and shall be liable, upon conviction, to a fine not exceeding five hundred thousand shillings.

(2) A person who is convicted of an offence under this Act for which no other penalty is prescribed shall be liable, upon conviction, to imprisonment for a term not exceeding six months or a fine not exceeding five hundred thousand shillings or both.

The amendment seeks to re-arrange the clause. It provides for general offences and penalties.

(Question of the amendment proposed)

(Question, that the words to be left out be left out, put and agreed to)

Question, that the words to be inserted in place thereof be inserted, put and agreed to)

(Clause 31 as amended agreed to)

Hon. Omboko Milemba (Emuhaya, ANC): On a point of order, Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Milemba Omboko, what is out of order?

Hon. Omboko Milemba (Emuhaya, ANC): Thank you, Hon. Temporary Deputy Chairman. Precedents and record are good. When Hon. Kimunya came in the House, he raised a question of the new amendments and the procedure seems to have been established. So, I thought we should completely follow that so that in future, we stick to that. I need your guidance, please.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Milemba Omboko, you are quite in order that we should follow procedure. However, this is a substitution and not a new clause. So, the Chair is in order. He can move it. Hon. Members, let us make progress.

(Clause 32 agreed to)

Clause 33

The Temporary Deputy Chairman (Hon. Christopher Omulele): Chair, you have an amendment to this clause. The system seems to have got tired of you. Use the microphone in front of you.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 33 of the Bill be amended in sub clause (1) by—

(a) inserting the words “who qualify under this Act” immediately after the

expression “former Service”; and,

(b) deleting the words “under this Act” appearing immediately after the words “members of the Board”.

The justification is to provide for transition mechanism for the current members of the board.

(Question of the amendment proposed)

*Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted be inserted,
put and agreed to)*

(Clause 33 as amended agreed to)

(Clause 34 agreed to)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, we are now moving on to the new clauses. Hon. Millie, take note that we referred one of your clauses to this. Hon. Millie, we propose to start with your new clause. Let it be called out.

New Clause 13(5A)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, you know the procedure of moving the new clauses. Move the Second Reading of the clause.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): Hon. Temporary Deputy Chairman, is it new Clause 13(5)(i) or (j)? My eyesight is failing me.

The Temporary Deputy Chairman (Hon. Christopher Omulele): It is new clause 13(5A).

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM): It is not New Clause 13(5A). It is either New Clause 13(5)(i) or (j).

Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 13 of the Bill be amended –

(c) by inserting the following new sub-clause immediately after sub-clause (5) -
“(5A) The appointment of the Chief Executive Officer may be revoked on the grounds of—

- (a) gross misconduct;
- (b) insubordination;
- (c) violation of any of the terms of the contract of employment;
- (d) breach of Chapter 6 of the Constitution;
- (e) failure to comply with the provisions of this Act; or
- (f) conviction of an offence under any of the Laws of Kenya.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, what I have on my Order Paper is Clause 13(5A). I do not see (j) there.

Hon. (Ms.) Odhiambo-Mabona (Suba North, ODM) Thank you. There is a (5A) and there is new one.

Hon. Temporary Deputy Chairman, you may have to guide me because if I read (5A) a Second Time, it means that (5) will remain as it is. What I am doing is to amend Clause 13(5), but my amendment on Clause 13(5) is dependent on the passage of a new Clause 13(5)(i).

The amendment seeks to provide for very clear standards for the removal of a CEO. The old provision of “reasonable standard” is deleted and replaced by a provision of standards for removing a CEO, which would be Clause 13(5)(i). The appointment of the CEO may be revoked on the grounds of gross misconduct, insubordination, violation of the terms of the contract of employment, breach of Chapter Six of the Constitution, failure to comply with the provisions of this Act and conviction of an offence under any of the laws of Kenya.

I ask Hon. Kimunya to second.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Millie, I have to propose the Question first.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

Hon. Kimunya.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, I beg to support the amendment by Hon. Millie. It brings some clarity on how a person can be removed from office rather than leaving it ambiguous. We now have it in the right sequence. Once we have (5A), the subsequent amendment that refers to (5A) has some place to anchor on.

I support.

Hon. Omboko Milemba (Emuhaya, ANC): Hon. Temporary Deputy Chairlady, I beg to support. I thank Hon. Millie and Hon. Kimunya because this is fair for any work in the country. A proper procedure for removal of persons should be put in place other than using a global word “reasonable” which can depend on the person in office and the particular time the person is in office.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Hon. Temporary Deputy Chairman, as I had indicated much earlier, as a Committee, we totally agree with the amendment proposed by Hon. Millie Odhiambo. It brings clarity and certainty so that no mischievous person acting beyond their powers wakes up and fires a CEO. Even though I am told that it could as well be included in the contract, it is good to include it in the Act.

I support.

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clause 14(3)

Hon. Amos Kimunya (Kipipiri, JP): On a point of order, Hon. Hon. Temporary Deputy Chairman.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya, what is out of order?

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Chairman, as you will notice, there are new sub-clauses in 10, 11 and 13 by the Chair of the Committee. So, before we move to New Clause 14, we could perhaps exhaust 13 and the rest.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Kimunya, I am advised that those are sub-clauses. We will reach them.

Hon. Amos Kimunya (Kipipiri, JP): There is a New Clause 13A. It is an additional clause that brings in the issue of a corporation secretary. We also have new sub-clauses (a), (b), and (c) under Clause 10 and Clause 11, which have not been prosecuted.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let us make progress. Let us have the Chair move Clause 14(3).

Hon. Kanini Kega (Kieni, JP): Hon. Hon. Temporary Deputy Chairman, I beg to move: THAT, Clause 14 of the Bill be amended by inserting the following new sub-clause immediately after sub clause (2)—

“(3) The Service shall ensure that the appointment of its staff reflects the ethnic, gender and regional diversity of the people of Kenya.”

It is straight forward. The Service shall ensure that the appointment of its staff reflects the ethnic, gender and regional diversity of the people of Kenya. It is well entrenched in the Constitution. But we said that it is important, for clarity, for it to be taken into consideration. We have seen other agencies, though it is clearly stated in the Constitution, not considering these factors sometimes. So, we said that it should be clearly stipulated.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be

read a Second Time, proposed)

*(Question, that the new clause be read
a Second Time, put and agreed to)*

(The new clause was read a Second Time)

*(Question, that the new clause be added
to the Bill, put and agreed to)*

New Clauses 10A, 10B, 10C, 10D and 10E

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Chairman. I seek for your guidance whether I have to move all of them at the same time.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Let me just help you so that we can all make progress together. I direct that you move from 10A to 10E.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after Clause 10—

Application for
accreditation

10A. (1) A conformity assessment body that seeks to be accredited shall apply to the Service for accreditation in the prescribed manner.

(2) The Service shall process an application submitted under subsection (1) within sixty days from the date of receipt of the application.

(3) Where the Service approves the application for accreditation, the Service shall inform the applicant in writing, and undertake an accreditation assessment in accordance with the requirements of the relevant accreditation scheme.

(4) Where the Service declines an application submitted under subsection (1), the Service shall notify the applicant in writing upon conclusion of the evaluation exercise setting out the reasons for the decision.

10B. (1) The Service may, subject to the directions of the Board, set rules and guidelines for granting, renewing, maintaining, reducing, extending, suspending or withdrawing accreditation.

(2) Where the Service is satisfied with the outcome of an accreditation assessment, and upon payment of the prescribed fees, the Service may grant, renew, maintain, reduce or extend accreditation to a conformity assessment body.

(3) Where the Service grants, renews, maintains, reduces or extends the accreditation of a conformity assessment body, the Service shall notify the conformity assessment body and issue an accreditation certificate within fourteen days.

Accreditation decisions
of the service

- (4) A certificate issued under subsection (3) shall be accompanied by—
- (a) a schedule specifying the scope of accreditation;
 - (b) an outline of prescribed conditions on the use of accreditation symbols and related claims; and
 - (c) any other terms as may be determined by the Service.
- (5) Where the Service declines, suspends or withdraws accreditation to a conformity assessment body, the Service shall, within fourteen days, notify the conformity assessment body in writing setting out the reasons for its decisions.
- (6) The Service may withdraw an accreditation from a conformity assessment body without having first suspended the accreditation, where the—
- (a) accreditation was obtained by fraud;
 - (b) conformity assessment body—
 - (i) becomes insolvent;
 - (ii) goes into liquidation; or
 - (iii) is ordered to be wound up by a court of competent jurisdiction;
 - (c) management systems of the conformity assessment body have failed.
- (7) The Service may suspend or withdraw the accreditation of a conformity assessment body where there is a breach of the administrative procedures or guidelines issued by the Service.

- 10C. (1) The accreditation status of a conformity assessment body, or claims made or representational statements made, shall be confirmed only through the—
- (a) accreditation certificate and the accompanying schedule issued by the Service;
 - (b) register of accredited bodies published in the Gazette and maintained on the website of the Service; and
 - (c) accreditation symbol issued by the Service and displayed on certificates or reports issued by an accredited body.
- (2) An accreditation certificate issued under this Act shall be valid only for the period prescribed in the certificate.
- (3) The seal of the Service shall be affixed on an accreditation certificate and shall be authenticated by the signature of the Chief Executive Officer or a person authorised in that behalf by a resolution of the Board.
- (4) The accreditation certificate and rights to use an accreditation symbol shall be the property of the Service and shall be surrendered to the Service whenever it is required to do so

Accreditation Status,
certificates, symbols and
claims

(5) The Service may impose such conditions, as it considers necessary, on the use of an accreditation certificate, accreditation symbol, and a claim of accreditation status by an accredited body.

(6) The accredited body may use the accreditation symbol in relation to the scope of accreditation specified in the relevant schedule, provided that the accreditation granted under this Act shall be in force.

(7) An accredited body commits an offence under this Act, where the accredited body—

- (a) misuses its accreditation status;
- (b) misrepresents its accreditation entry date or expiry date;
- (c) makes a claim that is outside the scope for which the body is accredited;
- (d) gives false information on the location of the accredited facility;

or

(e) makes other misrepresentation relating to its status of accreditation.

Maintenance of accreditation

10D. (1) An accredited body shall comply with the provisions of this Act, and any other conditions prescribed by the Service from time to time.

(2) An accredited body shall inform the Service promptly of any changes that may affect its accreditation status or the operations of the accredited body.

Suspension of withdrawal of accreditation

10E. (1) The Service may suspend an accredited body from offering accreditation services for the period specified in the notice of suspension or until such earlier time as the Service may determine.

Provided that a suspension shall not last for a period exceeding six months.

(2) The Service may suspend an accreditation body where the accredited body—

- (a) contravenes the conditions imposed by the Service;
- (b) provides false or misleading information to the Service;
- (c) is no longer fit to hold an accreditation;
- (d) fails to comply with the directions of the Service;
- (e) contravenes any provisions of this Act; or
- (f) fails to pay any fees prescribed under this Act.

(3) Where an accreditation is suspended on account of non-payment of the prescribed fees, the suspension shall be lifted where the fee is paid within thirty days from the date of the notice of suspension.

(4) The Service may withdraw the accreditation of a conformity assessment body where the accredited body is suspended for non-payment of the prescribed fee and it fails to pay the fees within the period specified under sub-section (3).

(5) The Service may suspend or withdraw an accreditation upon the request of an accredited body.

(6) Where the Service has suspended or withdrawn an accreditation, it shall, within fourteen days of the suspension or withdrawal publish the fact of the changed accreditation status on its website.

(Question of the new clauses proposed)

(New clauses read the First Time)

(Question, that the new clauses be read a Second Time, proposed)

(Question, that the new clauses be read a Second Time, put and agreed to)

(The new clauses were read a Second Time)

(Question, that the new clauses be added to the Bill, put and agreed to)

New Clauses 11A, 11B and 11C

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clauses immediately after clause 11—

Appeals to the
Accreditation Appeals
Tribunal

11A. (1) An accredited body that is aggrieved by a decision of the Service may, by notice in writing to the Chief Executive Officer and upon payment of the prescribe fees, appeal against the decision within twenty-one days of being notified of the decision.

(2) A notice of appeal under this section shall set out the grounds of the appeal.

(3) The Chief Executive Officer shall, within seven days of receipt of the notice under sub clause (2), forward the notice to the Accreditation Appeals Tribunal.

Awards of the
Accreditation Appeals
Tribunal

11B. (1) The Accreditation Appeals Tribunal shall consider the notice of appeal and the response of the Service before making an award.

(2) An award of the Accreditation Appeals Tribunal may—

(a) confirm the decision of the Service;

(b) vary the decision of the Service;

(c) direct the Service to carry out a fresh evaluation of the application or undertake a fresh assessment of the body; or

(d) issue other orders it may consider necessary including an order as to costs.

(3) Where an appeal has been filed against a decision of the Service, the decision of the Service shall stand suspended until the appeal has been heard and determined by the Accreditation Appeals Tribunal

(4) The Accreditation Appeals Tribunal may direct the taxing of costs as may be prescribed under this Act.

Appeals against the awards of the Accreditation Appeals Tribunal

11C. (1) A party who is aggrieved by an award of the Accreditation Appeals Tribunal may appeal against the award to the High Court.

(2) An award of the Accreditation Appeals Tribunal shall stand suspended where an appeal against the award has been made to the High Court.

(3) After hearing an appeal under this section, the High Court may—

(a) confirm the award of the Accreditation Appeals Tribunal;

(b) review the award of the Accreditation Appeals Tribunal;

(c) remit the proceedings of the appeal to the Accreditation Appeals Tribunal and direct the Tribunal to review the award; or

(d) make any other order as it may consider necessary, including an order as to costs.

(Question of the new clauses proposed)

(The new clauses read the First Time)

(Question, that the new clauses be read a Second Time, proposed)

(Question, that the new clauses be read a Second Time, put and agreed to)

(New clauses were read a second Time)

(Question, that the new clauses be added to the Bill, put and agreed to)

New Clause 13A

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by inserting the following new clause immediately after Clause 13—

The Corporation

Secretary 13A. (1) There shall be a Corporation Secretary who shall be appointed by the Board on such terms and conditions as the Board may determine.

(2) A person shall be qualified for appointment as a Corporation Secretary, if the person holds a degree in law from a university recognised in Kenya and is a registered Certified Public Secretary with at least seven years relevant experience.

(3) The Corporation Secretary shall—

(a) be the Secretary to the Board;

(b) record and keep minutes and other records of the Board;

(c) have custody of the seal of the Board; and

d) carry out such other functions as may be assigned by the Board or the Chief Executive Officer, from time to time.

(4) The Corporation Secretary shall be responsible to the Chief Executive Officer.

This is to provide for the appointment and functions of the Corporation Secretary.

(Question of the new clause proposed)

(New clause read the First Time)

(Question, that the new clause be read a Second Time, proposed)

(Question, that the new clause be read a Second Time, put and agreed to)

(The new clause was read a second time)

(Question, that the new clauses be added to the Bill, put and agreed to)

(First Schedule agreed to)

Second Schedule

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting the Second Schedule and substituting therefor the following new schedule—

SECOND SCHEDULE

PROCEEDINGS BEFORE THE ACCREDITATION ADVISORY COMMITTEE

[S.9(6)]

1. The Accreditation Advisory Committee shall meet at least four times in every year.
 2. The Service shall, at the commencement of each year, publish a calendar of events setting out the dates and times of the meetings and related activities of the Accreditation Advisory Committee.
 - a. Provided that the Secretary shall give all members a five days' notice incorporating the agenda of the Accreditation Advisory Committee meeting.
 3. A special meeting of the Accreditation Advisory Committee may be held on a date and at a time determined by the Accreditation Advisory Committee or as the Secretary in consultation with the members of the Accreditation Advisory Committee may determine.
 4. The Members of the Accreditation Advisory Committee shall at their first meeting elect a Chairperson and Vice-Chairperson from amongst their number.
 5. A decision on any matter before the Accreditation Advisory Committee shall be by consensus.
 - a. Provided that where there is no consensus, the members present shall decide the matter by a majority vote, in the case of a tie, the chairperson shall have a casting vote.
 6. Each Accreditation Advisory Committee shall maintain written minutes of its meetings and the minutes shall be kept in the custody of the Secretary.
 7. The Secretary of the Accreditation Advisory Committee may, through written consultation with the members of the Accreditation Committee, take action on any urgent matter, which cannot wait to be considered at a meeting of the Accreditation Committee and report at the next meeting of the Accreditation Advisory Committee.
- The justification is to expunge reference to accreditation committee which was deleted by the Committee.

(Question of the amendment proposed)

*(Question, that the words to be left out be left out,
put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Second Schedule as amended agreed to)

Third Schedule

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, the Bill be amended by deleting the Third Schedule and substituting therefor the following new schedule—

THIRD SCHEDULE

PROCEEDINGS BEFORE THE ACCREDITATION APPEALS TRIBUNAL

[S.11 (4)]

1. The Accreditation Appeals Tribunal may, to avoid delay or unnecessary expense or for any other justifiable reason, receive evidence by affidavit and may specify the period within which it may hear evidence in person from witnesses.

2. The Accreditation Appeals Tribunal may when making an award under this Act, consider any evidence that it considers relevant to the matter before it:

Provided that the evidence shall not be inadmissible under the Evidence Act, Cap. 80.

3. A party to an appeal before the Accreditation Appeals Tribunal may be represented by an Advocate or any other person as may be prescribed by the Tribunal.

4. All summonses, notices or other documents issued under the hand of the chairperson of the Accreditation Appeals Tribunal shall be considered to have been issued by the Tribunal.

5. The Accreditation Appeals Tribunal shall appoint the place and time for its sitting.

6. The proceedings of the Accreditation Appeals Tribunal shall be open to the public except where the Tribunal, with reasonable cause, directs otherwise.

7. The quorum of an Accreditation Appeals Tribunal shall be the chairperson and two other members.

8. (1) Where a member has a direct or indirect interest in any appeal or other matter before the Accreditation Appeals Tribunal, and is present at a meeting of the Tribunal at which the appeal shall be determined, the member shall, as soon as is practicable after the meeting has commenced, but before any deliberations have occurred, disclose that fact and shall be excluded from that meeting.

(2) A disclosure of interest under this section shall be recorded in the minutes of the meeting at which the disclosure is made.

9. Where the Accreditation Appeals Tribunal has made an award, it shall, within seven days notify the parties of the making of the award.

The justification is to delete reference to the Accrediting Committee.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

(Third Schedule as amended agreed to)

Clause 2

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move:

THAT, Clause 2 of the Bill be amended by—

(a) inserting the following new definitions in their proper alphabetical sequence—

“Accreditation Advisory Committee” means an Accreditation Advisory Committee established under section 9;

“accreditation scheme” means the rules, processes or any other requirements established by the Service relating to specific conformity assessment activities to which a similar accreditation standard applies;

“accreditation symbol” means the symbol issued by the Service for use by a conformity assessment body to demonstrate its status of accreditation;

(b) deleting the definition of “accreditation committee”;

(c) deleting the definition of “conformity assessment body” and substituting therefor the following new definition—

“conformity assessment body” means a body that carries out compliance assessment services including testing, calibration, inspection, verification, certification of management systems, certification of persons, certification of products, processes or services, proficiency testing and production of reference materials;

(d) Inserting the following definition in proper alphabetical sequence—

“Tribunal” means the Accreditation Appeals Tribunal established under Section 11;

The justification is to provide clarity of the terms used in the Bill. The terms are unique to the accreditation sector and will ensure consistency with international best practices in the accreditation sector.

The Temporary Deputy Chairman (Hon. Christopher Omulele): Before I propose the Question, I would like Hon. Washiali to take note that he has a proposed amendment to this too. In the event the one by the Chair is carried, his will stand dropped.

(Question of the amendment proposed)

*(Question, that the words to be left out
be left out, put and agreed to)*

*(Question, that the words to be inserted in place thereof
be inserted, put and agreed to)*

*(Question, that the words to be inserted be
inserted, put and agreed to)*

(Clause 2 as amended agreed to)

(Title agreed to)

(Clause 1 agreed to)

The Temporary Deputy Chairman (Hon. Christopher Omulele): Hon. Members, thank you very much. We have completed this stage. I will, therefore, give the Mover an opportunity to move reporting.

Hon. Kanini Kega (Kieni, JP): Hon. Temporary Deputy Chairman, I beg to move that the Committee do report to the House its consideration of the Kenya Accreditation Service Bill (National Assembly Bill No.17 of 2018) and its approval thereof with amendments.

(Question proposed)

(Question put and agreed to)

(The House resumed)

*[The Temporary Deputy Speaker
(Hon. (Ms.) Soipan Tuya) in the Chair]*

REPORTS

CONSIDERATION OF THE PRESIDENT'S RESERVATIONS ON THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Chair, you can go on.

Hon. Christopher Omulele (Luanda, ODM): Thank you, Hon. Temporary Deputy Speaker. I beg to report that the Committee of the whole House has considered the President's Memorandum on the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No.21 of 2019) and approved the same without amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): The Mover.

Hon. Benjamin Washiali (Mumias East, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the Committee do report to the House its...

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Washiali, you move for agreement with the report.

Hon. Benjamin Washiali (Mumias East, JP): Hon. Temporary Deputy Speaker, I beg to move that the House do agree with the Committee in the said report. I request Hon. Kanini Kega to second.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kanini.

Hon. Kanini Kega (Kieni, JP): I second.

(Question proposed)

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): We are going to defer putting the Question on this one until the next time when we have it on the Order Paper.

Chair, you may go to the next one.

(Putting of the Question deferred)

THE KENYA ACCREDITATION SERVICE BILL

Hon. Christopher Omulele (Luanda, ODM): Thank you, Hon. Temporary Deputy Speaker. I beg to report that the Committee of the whole House has considered the Kenya Accreditation Service Bill (National Assembly Bill No.17 of 2018) and approved the same with amendments.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Mover, Hon. Kanini.

Hon. Kanini Kega (Kieni, JP): Thank you, Hon. Temporary Deputy Speaker. I beg to move that the House do agree with the Committee in the said report. It is one year since the Bill was read here for the First Time. I would want, first of all, to thank the Committee for the tremendous work they did, including getting more information from other countries and going for benchmarking in the UK.

This is a new area. In Africa, it is only South Africa that has this kind of a Bill. So, the Committee went out of its way. I thank the Members, especially Hon. Oundo and Hon. Gichimu, who were tasked by the Committee to do the extra work.

I also thank the Members who contributed heavily on this, Hon. Millie, Hon. Washiali, Hon. Kimunya and the rest of the Members for the tremendous and insightful inputs they have given to us. With that, I ask Hon. Oundo to second

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Let us have Hon. (Dr.) Oundo.

Hon. (Dr.) Wilberforce Oundo (Funyula, ODM): Thank you, Hon. Temporary Deputy Speaker. I also take this opportunity to sincerely thank our Committee, led by the Chair, Hon. Kanini Kega and our Vice-Chair, Hon. Cornelly Serem. I thank the Kenya National Accreditation Service (KNAS) as it is constituted for the invaluable information and additional data that they provided to enable us panel beat and come up with a legislation that truly reflects the current practices.

I sincerely thank Hon. Omulele, whom I consulted widely and seriously on this particular Bill. His input, even though it might not have been official, found its way somehow into the Bill. I trust that we got the country a Bill that will allow us to be members of the international trade and have confidence in the final products that hit our markets, be they medical or food, so that we can be safe and play in the international league in the international market.

Thank you. I second.

Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Yes, you are seconding.

(Question proposed)

Once again, we shall defer the putting of the Question until the next time it comes for business.

Hon. Amos Kimunya (Kipipiri, JP): On a point of order.

Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Hon. Kimunya, I have not put the Question. So, you can say something in a minute.

Hon. Amos Kimunya (Kipipiri, JP): Hon. Temporary Deputy Speaker, I want to put on record my appreciation for the work done by the Committee and this House on this very important Bill coming at a time when the quality of goods that get into this country has been in doubt. At least, now we can start some process of an international scale in terms of doing it. The Committee has done its job.

However, my disappointment is that the House is empty when we are discussing such a major issue. People then go out there and complain about quality control when they are not here on such issues, at least, to follow it up and tell the people out there. Next we will be agitating and saying that our people are being targeted because standards have been introduced and yet we are not in the House to legislate and help our people to conform with the new requirements.

I also acknowledge our ever watchful, Hon. Millie Odhiambo. We have come a long way in terms of going through the nitty-gritties within the Bills. I urge her to continue looking through these things because she helps us in terms of getting legislations into shape.

I beg to support.

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Very well. I agree with Hon. Kimunya. This is where the tyre meets the road in legislation. Your words are well taken.

I will give a discretionary two minutes to Hon. Junet.

Hon. Junet Nuh (Suna East, ODM): Thank you, Hon. Temporary Deputy Speaker, for giving me a chance to contribute. I want to thank the Committee for the good work they have done. This is a very important and timely Bill. It has come at a time when the country is seriously grappling with issues of standards. I also want to thank you for putting a lot of time in terms of chairing the Committee of the whole House. I also thank Hon. Millie Odhiambo, who has represented us very well as the minority side in making sure that all aspects in this Bill are looked at.

As you said, this is where the rubber meets the road. Legislation is core for Parliament. I want to thank all the Members who participated in making sure that this Bill goes through. This is one of the Bills that are going to make things better for this country.

With those few remarks, I support.

ADJOURNMENT

The Temporary Deputy Speaker (Hon. (Ms.) Soipan Tuya): Order Members. The time being 7.01 p.m., this House stands adjourned until tomorrow Wednesday, 3rd July 2019, at 9.30 a.m.

The House rose at 7.01 p.m.