



REPUBLIC OF KENYA

TWELFTH PARLIAMENT – THIRD SESSION

THE NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, JULY 3, 2019

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

The Speaker conveyed the following Communication –

Guidance Regarding Proposed Amendment by the Senate to Clause 2 of the Public Private Partnerships Bill, 2017

“Honourable Members, As you may be aware, the National Assembly is seized of several proposed amendments by the Senate to the Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017) as indicated in today’s Order Paper.

In particular, amongst other Clauses, the Senate proposes to amend Clause 2 of the said Bill with the intention of introducing new definitions to the term “accounting officer”. This proposed amendment raises several legal and procedural issues as follows-

- (i) First, section 3 of the Interpretation and General Provisions Act (Cap 2 Laws of Kenya) provides that, the term “*accounting officer*” has the meaning given by section 2(1) of the Public Finance Management Act, 2012. Cap 2 of the Laws of Kenya therefore assigns all definitions and interpretations of the term “accounting officer” to the principal law that deals with public finance, that is the Public Finance Management Act, 2012;

- (ii) Secondly, with respect to institution of Parliament, The National Assembly, on 13th June, 2019 legislated on the definition of the term “accounting officer” by amending the Public Finance Management Act 2012, through the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 21 of 2019). The legislation that was recently passed by the House provides that-

The Public Finance Management Act, 2012 (No. 18 of 2012)

s.2(1) in the definition of “accounting officer” –

Finance

Management

Act, 2012

(No. 18 of

2012)

“(d) in the case of the Parliamentary Service Commission –

- (i) the Clerk of the Senate, in respect of the Senate;
- (ii) the Clerk of the National Assembly, in respect of the National Assembly; and ,
- (iii) Such other officer in the parliamentary service in respect of any other office in the parliamentary service as the Cabinet Secretary shall, upon resolution by the Commission, designate, within fourteen days of the resolution”.

This amendment was passed with the objective of **actualizing the Resolution of the Parliamentary Service Commission** made at its 256th meeting held on 14th February 2019.

- (iii) Thirdly, Standing Order 49(1) of the National Assembly Standing Orders prohibits the House from revisiting its decision or resolutions, (including decisions related to motions and legislation) during the preceding six months in the same Session. In light of the fact that the legislation amending the Public Finance Management Act was passed on 13th June 2019, it follows that the specific provision may only be revisited after 13th December 2019; and,
- (iv) Fourthly, the other definitions that the Senate proposes to introduce with regard to definition of “accounting officer” already have their respective meaning assigned under the Public Finance Management Act 2012, namely section 2, section 67 (national government entities including Constitutional Commissions and Independent Offices) and Section 148 (county government entities).

In view of the above considerations, I wish to guide the House that the proposed amendments by the Senate with respect to the definition of ‘accounting officer’ under Clause 2 of the Public Private Partnerships (Amendment) Bill (National Assembly Bill No. 52 of 2017) clearly offend Standing Order 49(1) of the National Assembly Standing Orders. In this regard, the said amendments are inadmissible.

On the same note, no amendment will be allowed relating to the definition of the term “**accounting officer**” in respect of the Parliamentary Service Bill,

2018, which is coming up for consideration in the Committee of the Whole House this afternoon. I thank you!”

5. **PETITIONS**

The Speaker conveyed the following Petition-

Regarding Mental Health Issues and the Need for More Counsellors in Public Facilities

“**Honourable 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 Ms. Caroline Ajwang Oreng’, a counseling psychologist from Kisumu.

The Petitioner makes reference to the Mental Health Act which provides for the care, management and control of persons suffering from mental health illness. The petitioner is concerned about the increase in mental health issues that are manifested in society through murder, suicide, rape, drug abuse, and other delinquent misconduct.

Honourable Members, the petitioner claims these social misconducts originate in our schools and homes and proposes that mental health care should be introduced at the formative stage of an individual to ensure that the mental health of upcoming generations are taken care of. The petitioner further avers that there is a section of the general public facing mental health issues and lack the financial capability to visit a private institution to receive the appropriate medical attention.

Honourable Members, the petitioner prays that the National Assembly intervenes to ensure an increase in the number of counsellors in Government institutions to provide care to citizens who cannot afford to pay for the services offered by private institutions, employment of professional counselors in schools instead of having guidance and counseling teachers so that the counselors can fully concentrate on children’s mental health and introduce counseling for child offenders without necessarily subjecting them to jail terms.

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

6. **PAPERS LAID**

The following Papers were laid on the Table -

- (i) List of Nominees to fill Vacancies in National Government Constituency Development Fund Committees in the following constituencies: -
- a) Jomvu;
 - b) Ndhiwa
 - c) Nyando
 - d) Mandera East; and
 - e) Embakasi Central
- (ii) 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) Veterinary Medicines Directorate;
 - b) Veterinary Services Development Fund;
 - c) Lands Limited;
 - d) Kenya Plant Inspectorate Service (KEPHIS)
 - e) Prisons Industries Revolving;
 - f) Regional Centre on Groundwater Resources Education Training and Research in Eastern Africa;
 - g) Kenya Tsetse Trypanosomiasis Eradication Council;
 - h) Kenya Deposit Insurance Corporation;
 - i) Nacada Alcoholic Drinks Control Fund;
 - j) Independent Policing Oversight Authority;
 - k) Non- Government Organizations Coordination Board;
 - l) Egerton University Investment Company Limited;
 - m) Petroleum Training Levy Fund.
- (iii) The Report of the Auditor-General and the Financial Statements of the Small Enterprise Finance Company Limited for the year ended 31st December, 2018 and the certificates therein.
(The Leader of the Majority Party)
- (iv) Report of the Departmental Committee on Justice and Legal Affairs on its consideration of:
- a) The Anti- Corruption and Economic Crimes (Amendment) Bill (National Assembly Bill No. 6 of 2019); and
 - b) The Independent Electoral and Boundaries Commission (Amendment) (No.3) (National Assembly Bill No.35 of 2019).
- (Chairperson, Departmental Committee on Justice and Legal Affairs)*
- (v) Report of the Departmental Committee on Labour and Social Welfare on its consideration of: -
- a) The Industrial Training (Amendment) Bill (National Assembly Bill No. 4 of 2019);
 - b) The Employment (Amendment) Bill (National Assembly Bill No. 15 of 2019); and

- c) Public petition regarding the Dismissal of Ex- Corporal Benjamin Chelanga by the Kenya Defence Forces.

(Chairperson, Departmental Committee on Labour and Social Welfare)

- (vi) Report of the Departmental Committee on Energy on its consideration of the Public Petition regarding Coal Mining Activities in Mui, Mwingi East Sub-County, Kitui County

(Vice Chairperson, Departmental Committee on Energy)

7. **NOTICES OF MOTION**

The following Notices of Motion were given –

- (a) **Approval of Nominees to Jomvu, Ndhiwa, Nyando, Mandera East, Embakasi Central and Ugenya Constituencies Committee of the National Government Constituency Development Fund**

THAT, pursuant to the provisions of Section 43(4) of the National Government Constituency Development Fund Act, 2015 and paragraph 5(10) of the National Government Constituency Development Fund Regulations, 2016, this House approves the list of nominees for appointment to the Jomvu Constituency, Ndhiwa Constituency, Nyando Constituency, Mandera East Constituency, Embakasi Central Constituency and Ugenya Constituency Committees of the National Government Constituency Development Fund, *laid on the Table of the House today, Wednesday, July 3, 2019* as follows: –

- | | | | |
|--|---|--------|----------------------|
| (i) <u>Jomvu Constituency</u> Rehema Bahaj Saleh Representative | - | Female | Adult |
| (ii) <u>Ndhiwa Constituency</u> William Odeny Ogono | - | Male | Adult Representative |
| (iii) <u>Nyando Constituency</u> Kenneth Onyango Ogallo Representative | - | Male | Adult |
| (iv) <u>Mandera East Constituency</u> Abdisalam Bikir Aftin Representative | - | Male | Adult |
| (v) <u>Embakasi Central Constituency</u> Bernard Mwaura Kariuki Representative | - | Male | Adult |
| (vi) <u>Ugenya Constituency</u> | | | |
| (a) Jackson Odhiambo Oduor | - | Male | Youth Representative |
| (b) Owino Nicholas Ochanda | - | Male | Adult Representative |

| | | | |
|--|---|--|--------|
| (c) Caroline Akinyi Owino Representative | - | Female | Youth |
| (d) Josinte R. Adhiambo Omondi Representative | - | Female | Adult |
| (e) Josphine Adhiambo Juma Living | - | Representative of Persons with Disability | |
| (f) William Edmunds Ohande Constituency office (Male) | - | Nominee | of the |
| (g) Grace Adhiambo Wasamba Constituency | - | Nominee | of the |
| | | Office (Female) | |

*(Member, Select Committee on National Government Constituencies
Development Fund)*

(b) **Motion – Alteration of the Calendar**

THAT, pursuant to the provisions of Standing Order 28(4), this House resolves to alter its Calendar for the Third Session of the Assembly (2019) as adopted on February 13, 2019 by proceeding for the short recess on **Friday, July 4, 2019** and resuming its regular sittings on **Tuesday, July 23, 2019**, at **2.30pm**.

(The Leader of the Majority Party)

8. **QUESTIONS**

The following Questions were asked –

ORDINARY QUESTIONS

- (i) Question No.312/2019 by the Member for Tigania East (Hon. Josphat Gichunge) regarding categorization of Khat (miraa) as a scheduled crop as required by the Crops Act 2013 and the Crops (Food and Crops) Regulations 2015; Measures the Ministry is putting in place to secure local and international market for the crop;

(To be answered by the Cabinet Secretary for Agriculture, Livestock, Fisheries and Irrigation before the Departmental Committee on Agriculture and Livestock)

- (ii) Question No.314/2019 by the Member for Bomachoge Chache (Hon. Alfah Miruka) regarding implementation of the Kenya Gazette Notice of 21st June, 2017 on the establishment of the following areas namely- *Rianchogu, Eburi, Getare Township, Itare, Kemboa, Mwobo, Nyagesa, Nyagenke, Nyataro and Nyamiobo Sub-Locations* and *Nyansara, Kineni, Mang'ere, Keragia, Misesi* and *Bunyonge* Locations, as administrative and service delivery coordination units in Gucha Sub-County, *Machoge Chache* Division of Bomachoge Chache Constituency;

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

- (iii) Question No.315/2019 by the Member for Garsen (Hon. Ali Wario) regarding Galana Watering Point Corridor in Garsen Constituency for access to water by livestock and wildlife; that the continued closure of the Corridor is a source of Perennial conflicts between pastoralists and the Kenya Wildlife Services (KWS); action the Ministry has taken to ensure the Corridor is reopened in order to resolve the escalating conflicts between the pastoralists and KWS, in light of the fact that the Agricultural Development Corporation(ADC), Galana has opened its side of the Corridor;

(To be answered by the Cabinet Secretary for Tourism and Wildlife before the Departmental Committee on Environment and Natural Resources)

- (iv) Question No.316/2019 by the Member for Saku (Hon. Dido Rasso) regarding rampant and continued human-wildlife conflict in areas of Saku Constituency close to Marsabit Game park and Game Reserve without adequate intervention from the Ministry; short and long term measures being pursued by the Ministry to address the rising conflict;

(To be answered by the Cabinet Secretary for Tourism and Wildlife before the Departmental Committee on Environment and Natural Resources)

- (v) Question No.317/2019 by the Member for Meru County (Hon. Kawira Mwangaza) regarding non-compensation to residents of Meru for land acquired for the construction of Isiolo International Airport;

(To be answered by the Cabinet Secretary for Lands and Physical Planning before the Departmental Committee on Lands)

9. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE PRESIDENT’S RESERVATIONS TO THE STATUTE LAW (MISCELLANEOUS AMENDMENTS) BILL (NATIONAL ASSEMBLY BILL NO. 21 OF 2019)**

Motion made and Question proposed -

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the President’s reservations to the Statute Law (Miscellaneous Amendments) Bill (National Assembly Bill No. 21 of 2019).

(The Leader of the Majority Party)

Question put and agreed to.

10. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE KENYA ACCREDITATION SERVICE BILL (NATIONAL ASSEMBLY BILL NO. 17 OF 2018)**

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the whole House on its consideration of the Kenya Accreditation Service Bill (National Assembly Bill No. 17 of 2018).

(The Leader of the Majority Party)

Question put and agreed to.

Bill to be reported without amendments;

Motion made and Question proposed –

THAT, this House do agree with the Committee in the said report

(The Leader of the Majority Party)

Question put and agreed to;

Motion made and Question proposed –

THAT, the Kenya Accreditation Service Bill (National Assembly Bill No.17 of 2018) be now read a Third Time

Question put and agreed to;

Bill read a Third Time and **passed**.

11. **MOTION – APPROVAL OF THE MEDIATED VERSION OF THE IRRIGATION BILL, 2017**

Motion made and Question proposed -

THAT, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Irrigation Bill (National Assembly Bill No. 46 of 2017) *laid on the Table of the House on Tuesday, July 02, 2019*, and **approves** the Mediated Version of the Irrigation Bill (National Assembly Bill No. 46 of 2017).

(Chairperson, Mediation Committee on the Irrigation Bill (National Assembly Bill No. 46 of 2017))

There being no Debate arising;

Question put and agreed to.

12. **MOTION – APPROVAL OF THE MEDIATED VERSION OF THE LAND VALUE INDEX LAWS (AMENDMENT) BILL, 2018**

Motion made and Question proposed –

THAT, pursuant to the provisions of Article 113 (2) of the Constitution and Standing Order 150, this House adopts the Report of the Mediation Committee on the Land Value Index Laws (Amendment) Bill (National Assembly Bill No. 3 of 2018) *laid on the Table of the House on Tuesday, July 02, 2019*, and **approves** the Mediated Version of the Land Value Index Laws (Amendment) Bill (National Assembly Bill No. 3 of 2018).

(Chairperson, Mediation Committee on the Land Value Index Laws (Amendment) Bill (National Assembly Bill No.3 of 2018))

There being no Debate arising;

Question put and agreed to.

13. **COMMITTEE OF THE WHOLE HOUSE**

Order for Committee read;

IN THE COMMITTEE

The Second Chairperson in the Chair

The Parliamentary Service Bill (National Assembly Bill No. 6 of 2018)

Clause 3 - agreed to

Clause 4 - amendment proposed –

THAT, Clause 4 of the Bill be amended in sub-clause (1) by deleting the words “shall be” and substituting therefor the words “is established”.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 4 - as amended agreed to

Clauses 5, 6, 7, 8 & 9 - agreed to

Clause 10 - amendment proposed –

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

Removal
from
office.

10. (1) A Member of Parliament, supported by at least one-quarter of all the members of the respective House, may propose a motion for the removal of a member of the Commission only for—

serious violation of the Constitution or of any other law including a contravention of Chapter Six;

gross misconduct, whether in the performance of the member’s functions or otherwise;
 physical or mental incapacity to perform the functions of office;
 incompetence; or
 bankruptcy.

(2) If a motion presented under sub-section (1) is supported by at least one-third of the Members of the respective House—

the respective House shall appoint a select committee comprising of eleven of its Members to investigate the matter;
 the select committee shall within ten days report to the respective House whether it finds the allegations against the member of the Commission to be substantiated.

(3) Where the select committee finds that—
 the allegations against the member of the Commission have not been substantiated, there shall be no further proceedings on the matter;
 the allegations against the Member of the Commission have been substantiated and the motion is supported by a majority of all the members of the respective House—

the Speaker of that House shall inform the Speaker of the other House of the resolution within seven days; and
 the member of the Commission shall continue to perform the functions of the office pending the outcome of the proceedings under this section.

(4) The procedure prescribed in sub-sections (1), (2) and (3) shall apply with the necessary modifications to the consideration of the Motion for removal of a member of the Commission by the other House.

(5) If both Houses pass the motion in the same form, the member of the Commission shall stand removed.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 10 - as amended agreed to

Clause 11 - amendment proposed –

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

Oversight
and
public
participation
programmes.

11A. (1) Pursuant to Article 118(1)(b) of the Constitution, each Member of Parliament shall facilitate public participation in the legislative and other business of Parliament and its committees through public awareness campaigns in the Member’s area of representation.

(2) For the purposes of subsection (1), each Member shall—

(a) establish public participation and oversight programmes for his or her area of representation;

- (b) hold public hearings on matters of public interest within the area of representation;
 - (c) facilitate access to information held by the legislature;
 - (d) facilitate the participation of the communities in the engagement with government departments on financial matters;
- (3) Each House of Parliament shall prescribe, in the Standing Orders, the manner of undertaking public participation under this section.
- (4) The Commission shall provide services and facilities necessary to actualize the objects of this section.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 11 - as amended agreed to

Clause 12 - agreed to

Clause 13 - amendment proposed –

THAT, clause 13 of the Bill be amended by—

- (a) deleting sub-clause (2); and
- (b) deleting sub-clause (3);

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and negatived

Clause 13 - agreed to

Clauses 14 & 15 - agreed to

Clause 16 - amendment proposed –

THAT, clause 16 of the Bill be amended in paragraph (c) by deleting the words “pursuant to Articles 128(2) and any law made under Article 226(1) (b) of the Constitution or such other offices as the Commission may designate pursuant to Articles 127(6) (b) or any law made under Article 226(1)(b) of the Constitution” appearing immediately after the word “Clerks”.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 16 - as amended agreed to

Clause 17 - amendment proposed –

THAT, Clause 17 of the Bill be amended in paragraph (c) by deleting the word “service” and substituting therefor the word “affairs”.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 17 - as amended agreed to

Clause 18 - agreed to

Clause 19 - amendment proposed –

THAT, the Bill be amended by deleting Clause 19 and substituting therefor the following new clause 19—

19. The Clerks shall, in each of their respective Houses, be responsible for—

- strative functions of the Clerks.
- (a) the day-to-day management and functioning of the respective Houses;
 - (b) the execution of the Commission’s decisions relating to the respective Houses;
 - (c) the management of the staff under their respective control pursuant to Article 128(2) of the Constitution;
 - (d) advising the Commission and implementing Commission resolutions on all matters relating to —
 - (i) the appointment, promotion and discipline of the members of staff of the respective Clerks;
 - (ii) the assignment of duties, supervision and training of the staff of the respective Clerks;
 - (iii) the deployment of staff of the respective Clerks to serve in any other area in the parliamentary service.
 - (e) the preparation and submission of the programmes necessary for the achievement of the mandate of the respective Houses for approval by the Commission;
 - (f) the performance of such other duties as the Commission might determine or as may be provided for in any other

written law.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;
Debate arising;

Amendment withdrawn

Clause 19 - agreed to

Clause 20 - agreed to

Clause 21 - amendment proposed –

THAT, Clause 21 of the Bill be amended by deleting the expression “the Senior Deputy Clerk” wherever it appears and substituting therefor the expression “a Deputy Clerk”.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 21 - as amended agreed to

Clause 22 - amendment proposed –

THAT, Clause 22 of the Bill be amended —

(a) in sub-clause (1) by deleting the word “and” appearing in paragraph (e) and substituting therefor the word “or”;

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

(2) Before a Clerk is removed under subsection (1), the Clerk shall be informed of the case against him or her in writing and shall be given reasonable time to defend himself or herself against any of the grounds cited for the intended removal.

(c) by deleting sub-clause (3) and substituting therefor the following new sub-clause (3) —

(3) The Commission shall, within seven days of a decision to remove a Clerk, submit that decision to the relevant House of Parliament for approval in accordance with the Standing Orders of that House.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Amendments (b) & (c) withdrawn

Question put and agreed to

Clause 22 - as amended agreed to

Clause 23 - amendment proposed –

THAT, Clause 23 of the Bill be amended—

- (a) deleting sub-clause (2);
- (b) deleting sub-clause (3);
- (c) deleting sub-clause (4); and
- (d) deleting sub-clause (5) and substituting therefor the following—
“(5) The Commission shall, in establishing the offices set out under subsection (1), have regard to strengthening all leadership offices in both Houses of Parliament.”

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Amendment withdrawn

Further amendment proposed-

THAT, Clause 23 be amended by—

- (a) deleting sub-clause (5) and substituting therefor the following new sub-clause—
“(5) The Commission shall, in establishing the offices set out under section (1), have regard to strengthening—
 - (a) the leadership offices in the National Assembly established under Article 108(1) of the Constitution; and
 - (b) other leadership offices that may be established in the Houses of Parliament.
- (b) inserting the following new sub-clause immediately after sub-clause (5)—
“(6) The facilitation and strengthening of offices pursuant to subsection (5) shall take into account the order of precedence set out in Article 108(4) of the Constitution.”

(Leader of the Majority Party)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Further amendment proposed

THAT, Clause 23 of the bill be amended by inserting the following paragraph immediately after subsection (5) –
(6)The Commission shall as far as possible recruit staff in a fair and equitable manner and from all the Constituencies.

(Hon. Ronald Tonui)

Question of the amendment proposed;

Amendment dropped

Clause 23 - as amended agreed to

Clause 24 - amendment proposed –

THAT, Clause 24 of the Bill be amended—

(a) in sub-clause (2) by deleting the words “such services jointly shared” and substituting therefor the words “shared services”;

(b) in sub-clause (3) by inserting the word “by” immediately after the words “shall be headed” and by inserting the words “of service” immediately after the words “terms and conditions”;

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 24 - as amended agreed to

Clause 25 - amendment proposed –

THAT, Clause 25 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)-

(4) The provisions of sections 19, 26(2) and 27(4) shall, with the necessary modifications, apply to the officer appointed to head the centre for parliamentary studies and training.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 25 - as amended agreed to

Clause 26 - amendment proposed –

THAT, the Bill be amended by deleting Clause 26 and substituting therefor the following new clause—

Parliamentary
schemes of
service.

26. (1) The Commission shall formulate the Parliamentary Service schemes of service setting out the terms and conditions for the employment of the officers and other staff of the Service.

(2) Each Clerk shall be responsible to the Commission for the administration of the schemes of service for the staff deployed to their respective Houses as contemplated in Article 128(2) of the Constitution.

(3) Each Clerk shall be the authorized officer of the Commission responsible for the discipline of the staff deployed to their respective Houses.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 26 - as amended agreed to

Clause 27 - amendment proposed –

THAT, Clause 27 of the Bill be deleted.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 27 - deleted

Clause 28 - agreed to

Clause 29 - amendment proposed –

THAT, Clause 29 of the Bill be amended by deleting sub-clause (c) and substituting therefor the following new sub-clauses—

(a) may establish or adopt a contributory optional superannuation, provident or medical fund or other scheme for its employees; and

(b) may grant pensions, gratuities, retiring allowances or sickness or injury benefits to any employee.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 29 - as amended agreed to

Clause 30 - amendment proposed –

THAT, Clause 30 be amended-

- (a) in sub-clause (1) by deleting the word “service” appearing after the words “specialised police” and substituting therefor the word “unit”;
- (b) in sub-clause (2) by deleting the words “Assistant Commissioner” and substituting therefor the words “Assistant Inspector General”;
- (c) by deleting sub-clause (4); and
- (d) by deleting sub-clause (5).

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 30 - as amended agreed to

Clauses 31, 32, 33, 34, & 35 - agreed to

Clause 36 - amendment proposed –

THAT, Clause 36 of the Bill be amended by inserting the following new sub-section immediately after sub-section (2) —

- (3) The Commission shall hold bi-annual sessions with each House of Parliament on the status of implementation of Article 127(6) of the Constitution.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 36 - as amended agreed to

Clause 37 - agreed to

Clause 38 - amendment proposed –

THAT, Clause 38 of the Bill be amended by deleting sub-clause (4) and substituting therefor the following new sub-clauses—

(4) Every oath or affirmation taken by the chairperson shall be administered by the secretary and every oath or affirmation taken by any other member, the secretary and the Clerks shall be administered by the chairperson.

(5) Every oath or affirmation taken by any other officer shall be administered by the secretary.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Amendment withdrawn

Clause 38 - agreed to

Clauses 39, 40, 41, 42 & 43 - agreed to

Clause 44 - amendment proposed –

THAT, clause 44 of the Bill be amended in sub-clause (1) by deleting the words “commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding one year, or to both” appearing at the end of the sub-clause and substituting therefor the words “commits an offence and shall be liable on conviction to a fine not exceeding two million shillings, or to imprisonment for a term not exceeding three years, or to both.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 44 - as amended agreed to

Clause 45 - agreed to

Clause 46 - amendment proposed –

THAT, the Bill be amended by deleting clause 46.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Clause 46 - deleted

Clauses 47, 48 & 49 - agreed to

NEW PART IIIA - amendment proposed -

THAT, the Bill be amended by inserting the following new Part immediately after clause 16—

PART IIIA- SERVICES AND FACILITIES FOR PARLIAMENT

Services and facilities for Parliament

16A (1) The Commission shall, to the extent of its constitutional mandate, be responsible for fulfillment of the provisions under Article 127(6)(a) and (d) of the Constitution and in particular shall formulate policies, regulations, strategies and put in place mechanisms for the provision of such services and facilities as are necessary for the effective functioning of Parliament and the well-being of Members and the staff of the Commission.

(2) The Commission shall adopt comprehensive strategic plans that ensure the realization of Article 127(6)(b) and (d) of the Constitution.

Outsourcing of services and facilities

16B. (1) The Commission shall ensure availability, accessibility, adaptability and acceptability of services and facilities for use by Members and staff of Parliament.

(2) The Commission shall put in place adequate infrastructure that would be necessary for provision of services for the well-being of Members and staff of Parliament.

(3) The Commission may provide or designate exclusive use of certain facilities for Members.

(3) The Commission may outsource certain services and facilities for the welfare of Members.

(4) Despite subsection (1), the Commission may take measures to facilitate the use of facilities not available within the precincts of Parliament by Members and staff of Parliament.

Facilitation of activities held outside the precincts of Parliament.

16C. (1) The Commission shall prescribe the minimum standards for travel and accommodation for Members and staff of Parliament to facilitate performance of official duties outside the precincts of Parliament.

(2) The Commission shall regularly review the domestic and international travel allowances applicable for Members and staff of Parliament.

Discharge of mandate of Members.

16D. The Commission shall take measures to facilitate Members to discharge their mandate as provided for in Articles 94, 95 and 96 of the Constitution including—

(a) equipping and allocating offices to Members;

(b) facilitating Members to conduct public participation in the performance of

- their duties;
 (c) take any other measure as may be necessary.

Enhancing
 legislative
 skills.

16E. The Commission shall facilitate the enhancement of legislative skills of Members and staff of Parliament through the provision of structured and continuous trainings locally or in foreign countries.

Use of
 technology in
 Parliament.

16F. The Commission shall foster and promote the use of technology in all administrative processes, communication, preparation, dissemination and storage of information and in the relevant day to day functions of Parliament.

Facilities for
 Parliamentary
 Parties.

16G. (1) The Commission may provide facilities to a parliamentary political party or caucus to promote the ideals of the political party or parliamentary caucus.

(2) For the purposes of sub-section (1), the facilities provided shall be for exclusive use by sitting Members.

Promotion of
 the
 ideals of
 parliamentary
 democracy

16H. (1) The Commission may initiate and undertake programmes that promote the ideals of parliamentary democracy.

(2) The Commission may undertake the programmes under section (1) either singly or jointly with domestic and international legislative organs, the Members and staff of such legislative organs and other relevant organisations.

(3) The Commission may, pursuant to international law and treaties, undertake collaborative works with similar institutions that provide parliamentary services in the Commonwealth and other jurisdictions.

(4) For the purposes of attaining the objectives of the programmes under this section, the Commission may enter into memoranda of understanding, contracts or such other agreements as may be authorised from time to time with persons, organisations or other relevant institutions.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Motion made and Question proposed –

THAT, the New Part IIIA be read a Second Time

Question put and agreed to

Motion made and Question proposed –

THAT, the New Part IIIA be part of the Bill

Question put and agreed to

New Part IIIA - agreed to

NEW CLAUSE 17A - amendment proposed

THAT, the Bill be amended by inserting the following new clause immediately after clause 17-

Clerks' term of office

17A. (1) A Clerk of a House of Parliament shall be appointed by the Commission for a term of five years and is eligible for re-appointment for one further term of five years.

(2) Despite sub-section (1), if the person appointed as Clerk of a House of Parliament is an employee of the Commission serving on permanent and pensionable terms, the person shall continue serving on permanent and pensionable terms for the duration of the term provided for in sub-section (1) or retire from the parliamentary service upon attaining the age of sixty years, whichever is the earlier.

(3) An employee of the Commission serving on permanent and pensionable terms who has served as a Clerk of a House of Parliament and has completed his or her term of office as set out in sub-section (1) before attaining the age of sixty years shall be compulsorily retired and is eligible for payment of pension in accordance with the applicable laws.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Motion made and Question proposed –

THAT, the New Clause 17A be read a Second Time

Question put and agreed to

Motion made and Question proposed –

THAT, the New Clause 17A be part of the Bill

Question put and agreed to

New Clause 17A – agreed to

NEW PART VA - amendment proposed

THAT, the Bill be amended by inserting the following new Part immediately after clause 32—

PART VA- PROVISIONS ON DELEGATED POWERS

Regulations on Services and facilities for Members.

32A. (1) The Commission may make Regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Commission may prescribe regulations on—

- (a) the priority of allocation of resources available for use by Members;
- (b) the criteria for allocation of offices to Members on the basis of ranking, leadership position, persons with disability or other suitable factors;
- (c) minimum standards on quality of goods and services provided for use by Members;
- (d) minimum standards on equipping of offices of Members;
- (e) the conduct of the business of the Commission;
- (f) the administrative and management structure for the services

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2013.
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- and facilities of the Commission in accordance with the principles set out in this Act;
- (g) the terms and conditions of service, pension and other retirement benefits of employees;
 - (h) the procedures for the discipline of the staff of Parliament;
 - (i) the financial procedures of the Commission;
 - (j) the orientation and training of Members and staff of Parliament;
 - (k) the security of Members;
 - (l) the handling of the assets and other resources of the Commission;
 - (m) the delegation of the Commission's functions or powers;
 - (n) public participation and outreach programmes; and
 - (o) any other matter required under the Constitution, this Act and other written law.
- (4) For the purposes of Article 94 (6) of the Constitution—
- (a) the purpose and objective of the delegation under this section is to enable the Commission to make regulations for better carrying into effect the provisions of this Act;
 - (b) the authority of the Commission to make regulations under this Act is limited to bringing into effect the provisions of this Act and fulfillment of the objectives specified under this section.
- (5) The principles and standards applicable to the delegated power referred to under this Act are those found in—
- (i) the Statutory Instruments Act, 2013;
 - (ii) the Interpretation and General Provisions Act,
 - (iii) the general rules of international law as specified under Article 2(5) of the Constitution; and
 - (iv) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Motion made and Question proposed –

THAT, the New Part VA be read a Second Time

Question put and agreed to

Motion made and Question proposed –

THAT, the New Part VA be part of the Bill

Question put and agreed to

New Part VA - agreed to

SCHEDULES

First Schedule - agreed to

Second Schedule - agreed to

Third Schedule - amendment proposed

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

THIRD SCHEDULE (s. 38(1), 38(2))

OATH OF MEMBER OF THE COMMISSION OR A CLERK

I,....., having been appointed as Chairperson/Vice Chairperson/ Member of the Parliamentary Service Commission / Secretary to the Parliamentary Service Commission/ Clerk of the National Assembly/ Senate do swear in the name of the Almighty God that I will without fear or favour, affection or ill-will discharge the functions of the office of Chairperson/Vice-Chairperson/Member of the Parliamentary Service Commission/ Secretary to the Parliamentary Service Commission/Clerk of the National Assembly/ Senate, and that I will not, directly or indirectly, reveal any matter relating to such function to unauthorised persons or otherwise than in the course of my duty.

SO HELP ME GOD.

Sworn/Declared by the said

before me this day of

Chairperson/Secretary
Parliamentary Service Commission

AFFIRMATION OF MEMBER OF THE COMMISSION OR A CLERK

I , having been appointed Chairperson/Vice Chairperson/ Member of the Parliamentary Service Commission / Secretary to the Parliamentary Service Commission/ Clerk of the National Assembly/ Senate do solemnly and sincerely declare and affirm that I will without fear or favour, affection or ill-will discharge the functions of the office of Chairperson/Vice Chairperson/ Member of the Parliamentary Service Commission / Secretary to the Parliamentary Service Commission/ Clerk of the National Assembly/ Senate and that I will not, directly or indirectly, reveal any matter relating to such function to unauthorised persons or otherwise than in the course of my duty.

Declared by the said

before me this day of

Chairperson/Secretary
Parliamentary Service Commission

OATH OF OFFICER OF THE COMMISSION

I,....., being called upon to exercise the functions of [officer/other] of the Parliamentary Service Commission, do swear in the name of the Almighty God that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Commission.

So help me God.

Sworn/Declared by the said

before me this day of

Secretary
Parliamentary Service Commission

AFFIRMATION OF OFFICER OF THE COMMISSION

I,....., being called upon to exercise the functions of [officer/other] of the Parliamentary Service Commission do solemnly and sincerely declare and affirm that I will not, directly or indirectly, reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Commission.

Sworn/Declared by the said
before me this day of

Secretary
Parliamentary Service Commission

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Question put and agreed to

Third Schedule - as amended agreed to

Clause 2 - amendment proposed –

THAT, Clause 2 of the Bill be amended-

(a) in the definition of the term “Secretary” by inserting the following words at the end of the definition—
“or in the absence of the Secretary, any other person exercising the functions of the Secretary”.

(b) by inserting the following new definition in proper alphabetical sequence-

“Member” means a Member of Parliament.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

Question of the amendment proposed;

Debate arising;

Proposed amendment (a) withdrawn;

Question put and agreed to

Clause 2 - as amended agreed to

Title - agreed to

Clause 1 - agreed to

Bill to be reported with amendments;

14. **HOUSE RESUMED** – The 4th Chairperson on the Chair

The Parliamentary Service Bill (National Assembly Bill No. 6 of 2018)

Bill reported with amendments;

Motion made and Question proposed-

THAT, the House do agree with the Committee in the said report subject to recommittal of Clause 38.

(Leader of the Majority Party)

Putting of the Question deferred

15. **MOTION – REPORT ON THE INQUIRY INTO THE PROPOSED KENYA AIRWAYS’ PRIVATELY INITIATED INVESTMENT PROPOSAL TO KENYA AIRPORTS AUTHORITY**

Motion made and Question proposed –

THAT, this House **adopts** the Report of the Departmental Committee on Transport, Public Works and Housing on the Inquiry into the proposed Kenya Airways' Privately Initiated Investment Proposal to Kenya Airports Authority, *laid on the Table of House on Tuesday, June 18, 2019.*

(The Chairperson, Committee on Transport, Public Works & Housing)

Debate arising;

And the time being Seven O'clock, the Fourth Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

HOUSE ROSE - at Seven O'clock

MEMORANDUM

The Speaker will take the Chair on
Thursday, July 4, 2019 at 2.30 p.m.

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