



**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**WEDNESDAY, NOVEMBER 06, 2019 AT 9.30 A.M.**

**ORDER OF BUSINESS**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
3. Messages
4. Petitions
5. Papers
6. Notices of Motion
7. Questions and Statements

**8\*. MOTION - POLICY MEASURES TO ENSURE 100 PERCENT  
TRANSITION FROM SECONDARY EDUCATION TO  
TERTIARY EDUCATION**

(The Hon. John Wambugu, M.P.)

**THAT**, aware that according to available data from the country's education sector, a huge percentage of the students who sit for the Kenya Certificate of Secondary Education do not transition to Universities to pursue degree courses; further aware that technical skills and knowledge are fundamental in every profession; concerned that despite the importance of technical and vocational training in teaching necessary skills and building adequate human capital to achieve and sustain the Country, its uptake in the Country remains low; cognizant that promotion of technical and vocational education and skills alongside academics provides a mix of professionals and skills that the economy requires so as to create balanced manpower requirements; recognizing that Article 55 of the Constitution requires the state to take measures to ensure that the youth access relevant education and training; appreciating the Government's policy of achieving 100 per cent transition of pupils from primary to secondary schools which has seen a huge increase in enrollment in secondary schools; this House resolves that the Government puts in place policy measures to ensure 100 percent transition from secondary to tertiary education.

*(Question to be put)*

9\*. **THE ANTI-CORRUPTION AND ECONOMIC CRIMES (AMENDMENT)(No.2) BILL (NATIONAL ASSEMBLY BILL NO. 72 OF 2019)**

(The Hon. Silas Tiren, M.P.)

First Reading

10\*. **THE BREASTFEEDING MOTHERS BILL (NATIONAL ASSEMBLY BILL NO. 74 OF 2019)**

(The Hon. Sabina W. Chege, M.P.)

First Reading

11\*. **MOTION - REGISTRATION OF FARMERS AND FORMATION OF AGRI-BUSINESS ENTITIES FOR IMPROVED BENEFITS AND SUSTAINABLE FOOD AND NUTRITIONAL SECURITY**

(The Hon. (Dr.) John Mutunga, M.P.)

**THAT**, aware that farmers in Kenya are least organized into Associations, following the collapse of the Agricultural Cooperatives; further aware that, the Crops Act, 2013 provides for registration of farmers so as to establish who they are and what they produce; noting that Government's efforts to establish farmers' organizations have ended up delivering short-lived and unsustainable initiative-based groups which fizzle out soon after their formation; further noting that the best way to organize farmers is through their organizations; appreciating that the best suited organization to undertake farmers' registration is the Kenya National Farmers' Federation which has both experience and capacity; further noting that through organized farmers, farming will be more beneficial in terms of volumes, lowered cost of production and improving organized raw material supply to industry; realizing that organizing farmers into Agri-business entities is a costly undertaking which calls for Government support, and acknowledging that through organized production systems, the country will achieve the Big 4 Agenda faster and also create more and better jobs in the Agricultural Value Chains; this **House urges** the Government to facilitate and support the Kenya National Farmers' Federation to mobilize and organize the registration of farmers into preferred entities and manage national farmers' database for use in engagements and sustainable management of the various Agricultural Product Value Chains.

*(Resumption of debate interrupted on Wednesday, October 30, 2019 – Morning Sitting)*

*(Balance of time – 1 hour 23 minutes)*

12\*. **MOTION - FORMULATION OF A COMPREHENSIVE POLICY TO HARNESS DIASPORA KENYANS FOR NATIONAL DEVELOPMENT**

(The Hon. Godfrey Osotsi, M.P.)

**THAT** aware that the existing Kenya Diaspora Policy provides for the mainstreaming of the Kenyan Diaspora into national development process in line with the aspirations and goals of the Kenya Vision 2030; noting that formal remittance from Kenya Diaspora account for over 3% of the country's GDP channeled by an estimated three million Kenyans; noting that, contribution by the Kenyan diaspora to the country's development goes much beyond personal remittances to include increased trade links, better access to foreign capital markets, skills and technology transfer, diaspora investments funds, knowledge exchange among other enormous potential benefits; acknowledging that, the diaspora community continues to contribute immensely to national growth and the economy through increased household investments in education, entrepreneurship, health, finance and housing; concerned that, Kenya ought to formulate practical and incentive-driven policy to harness existing and future diaspora resources for social-economic development; cognizant that Kenya has an obligation to counter the challenges hindering diaspora contribution to national development; **this House resolves** that the Government reviews and formulates a comprehensive policy and structure to harness the ever increasing diaspora resources for national development and that the said policy be presented to National Assembly within one year for consideration.

13\*. **MOTION- REVIEW OF THE MANDATORY RETIREMENT AGE IN THE PUBLIC SERVICE**

(The Hon. Charles Njagua, M.P.)

**THAT**, aware that seventy-five percent of Kenya's population is under the age of thirty-five years and that, the overall unemployment among the youth is at fifty-five percent; further aware that over 800,000 graduates from Universities, Colleges, Technical Institutes, Vocational Centres and other tertiary institutions join the job market annually with only approximately 70,000 being absorbed into the formal labour force market; concerned that the high rate of unemployment in Kenya, particularly among the youth remains a major challenge; recognizing that Article 55 of the Constitution requires the state to take measures to ensure that the youth gain access to relevant education, training and employment; noting that the mandatory retirement age for public servants is set at sixty (60) years; this House **urges** the Government to review the mandatory retirement age in the public service from the current sixty to fifty years to among other things, create opportunities for the employment of the youth.

**14\*. MOTION - ESTABLISHMENT OF DATABASE CENTRES FOR ISSUANCE OF BIRTH CERTIFICATES TO CHILDREN**

(The Hon. Mary Wamaua, M.P.)

**THAT**, aware that the Constitution and the Kenya Citizenship and Immigration Act, 2011 provide that every citizen is entitled to any document of registration or identification issued by the State to citizens including a birth certificate; further aware that, Article 53(2) of the Constitution of Kenya provides that a child's best interests are of paramount importance in every matter concerning the child; cognizant of the fact that, issuance of birth certificates during civil registration associated with children is a challenge across the country due to among other issues, missing information for the parents and children as a result missing and improper documentations, damaged manual documents, and lack of registration of children born outside hospital environments; deeply concerned over the delays and long queues at civil registration centres and the challenges affecting registration of children by the Ministry of Education using the National Education Management Information System (NEMIS) in the Country; **this House urges** the Government to establish database centres in all Civil Registration Centres for purposes of storing all the necessary information required for issuance of birth certificates to all children and puts in place administrative mechanisms to ensure that every child is automatically issued with a birth certificate before the child attains the age of three years.

**15\*. MOTION - INFORMATION IN POLICE CLEARANCE CERTIFICATES**

(The Hon. Gladwell J. Cheruiyot, M.P.)

**THAT**, aware that disclosure of information about previous criminal convictions through a Police Clearance Certificate has long been considered an important safeguard for employers and various organizations seeking individuals to serve in positions of trust; concerned that the Police Clearance Form includes cases that are pending before court, thus going against the principle of Article 50(2) of the Constitution which provides for the presumption of innocence until proven guilty; further concerned that, the bureaucratic manual procedure of acquiring criminal data and laxity in updating the records results in erroneous information on the Police Clearance Certificate and consequently denies applicants employment opportunities; cognizant of the fact that in Kenya, based on an administrative directive from 1990, criminal records are waived after a term of 20 years except for serious offences such as murder, robbery, manslaughter, rape, defilement, treason or drug possession which remain as permanent records; noting that research has shown a clear nexus between crime and poverty and that a criminal record remains a permanent barrier for young people looking for employment as this will be shown in the Police Clearance Form which will perpetuate the cycle of poverty; **this House urges** the Directorate of Criminal Investigation to leverage on the use of Information Communication Technology (ICT) to ensure criminal data availed in Police Clearance Forms is accurate and up-to-date.

**16\*. MOTION - INTRODUCTION OF AGE-APPROPRIATE SEX EDUCATION IN SCHOOLS**

(The Hon. Elsie Muhanda, M.P.)

**THAT**, aware that in Kenya about 11 percent of teenagers are engaging in sex before their 15<sup>th</sup> birthday with an estimated 47% of teens already sexually active before the age of 18 years which is the legal age of consent; further aware that Kenya’s adolescent birth rate is 96 per 1000 women, with 15% of all adolescent women having already given birth and 3% being pregnant with their first child; concerned that the sexual activity is encouraged by the proliferation of the internet and mobile phones, poverty and the conservative attitudes combined with the traditional values which tend to have parents shying away from discussing sex with their young ones while other traditional African cultures encourage early marriages; acknowledging that young persons in the country do not get sex education to make sexual choices; recognizing the need for a comprehensive and age appropriate sex education from the age of six (6) years, this **House urges** the National Government through the Ministry of Education and Research in collaboration with other relevant actors to introduce, institutionalize and entrench sex education in both primary and secondary school curriculum and ensure that it is beyond policy and legal framework and encourage the development and building of more boarding school especially for girls.

**17\*. THE EQUALISATION FUND BILL (NATIONAL ASSEMBLY BILL NO. 43 OF 2019)**

(The Hon. Kassait Kamket, M.P.)

Second Reading

**18\*. THE NATIONAL GOVERNMENT CONSTITUENCIES DEVELOPMENT FUND (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 16 OF 2019)**

(The Hon. (Dr.) Makali Mulu, M.P.)

Second Reading

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**\* Denotes Orders of the Day**

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**NOTICES**

The House resolved on Wednesday, February 13, 2019 as follows:-

- I. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills NOT sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of three hours and thirty minutes, with not more than thirty (30) minutes for the Mover, in moving and ten (10) minutes in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each; and that priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.
  
- II. **THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on any **Motion**, including a Special motion shall be limited in the following manner:- A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and that ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and that priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.



...../Notice Paper

# **NOTICE PAPER**

## **Tentative business for** **Wednesday (Afternoon), November 06, 2019**

*(Published pursuant to Standing Order 38(1))*

It is notified that the House Business Committee, at their last meeting, approved the following *tentative* business to appear in the Order Paper for Wednesday (Afternoon), November 06, 2019:-

- A. **THE WAQF BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2019)**  
(The Leader of the Majority Party)

First Reading

- B. **COMMITTEE OF THE WHOLE HOUSE**

The Data Protection Bill (National Assembly Bill No. 44 of 2019)  
(The Leader of the Majority Party)

- C. **MOTION - RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ON DEFENCE CO-OPERATION**

(The Chairperson, Departmental Committee on Defence and Foreign Relations)

*(Resumption of debate interrupted on Tuesday, November 5, 2019)*

- D. **MOTION - ANNULMENT OF THE RETIREMENT BENEFITS (OCCUPATIONAL RETIREMENT BENEFITS SCHEMES)(AMENDMENT) REGULATIONS, 2019 AND THE INSURANCE (MOTOR VEHICLES THIRD PARTY RISKS) (CERTIFICATE OF INSURANCE) (AMENDMENT) RULES, 2019**

(The Chairperson, Committee on Delegated Legislation)

- E. **THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2019)**

(The Leader of the Minority Party)

Second Reading

- F. **THE PARLIAMENTARY PENSIONS (AMENDMENT) (No.3) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2019)**

(The Chairperson, Parliamentary Pensions Management Committee)

Second Reading

**G. THE COMPETITION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2019)**

(The Leader of the Majority Party)

Second Reading

**H. THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2019)**

(The Leader of the Majority Party)

Second Reading

**I. THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2018)**

(The Leader of the Majority Party)

Second Reading

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# **APPENDIX**

## **ORDER NO.7 - QUESTIONS**

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Pursuant to the provisions of Standing Order 42A (5) the following Members will ask **questions** for reply before the specified Departmental Committees:-

### **Question No.                      QUESTION BY PRIVATE NOTICE**

**044/2019                      The Member for Kilifi South (Hon. Richard Ken Chonga, MP) to ask the Cabinet Secretary for Interior and Coordination of National Government: -**

- (i) What is the status of investigations into the disappearance of *Mr. Suma Nyondo Saidi* of ID No. 31884430 and *Mr. Samuel Riyango*, who were allegedly last seen when being arrested by Police Officers within the precincts of *Shanzu* Law Courts after attending a mention of a case regarding land as reported at *Bamburi* Police Station vide Occurrence Book No. 14/17/7/2019?
- (ii) What steps is the Ministry taking to ensure that the said missing persons are located and reunited with their families?

*(To be replied before the Departmental Committee on Administration and National Security)*

### **ORDINARY QUESTIONS**

**470/2019                      The Member for Kitui Central (Hon. (Dr.) Makali Mulu, MP) to ask the Cabinet Secretary for the National Treasury and Planning: -**

- (i) Could the Cabinet Secretary provide the status of formulation of the Monitoring and Evaluation policy noting that the Government has adopted Results - Based Management as a key driver of development programmes in the country?
- (ii) What measures has the Ministry put in place to ensure that there is an existing policy framework to guide feedback on the effectiveness of the implementation of development programmes set out in the Third Medium Term Plan of Vision 2030 and “*the Big Four*” programmes, namely; *manufacturing, food security and nutrition, universal health coverage and affordable housing* as unveiled by the President in 2017?
- (iii) What challenges have caused delays in publishing the Monitoring and Evaluation policy?

*(To be replied before the Departmental Committee on Finance and National Planning)*

471/2019

**The Member for Kinango (Hon. Benjamin Dalu Stephen Tayari, MP) to ask the Cabinet Secretary for Transport, Infrastructure, Housing & Urban Development –**

- (i) Could the Cabinet Secretary explain why quarries and other excavations dug during the construction of the Standard Gauge Railway have not been filled up or rehabilitated since the completion of the project, especially those along the railway in Kinango Constituency?
- (ii) Could the Cabinet Secretary further explain why schools built as compensation have not been furnished with necessary facilities since completion of the railway?
- (iii) Could the Cabinet Secretary provide details on when the construction of the following schools *namely, Mpira Primary, Mariakani Roman Primary, Julani Primary, Mwembeni Primary, Mgalani Primary, Santuri Secondary and Ndohiyo Special School*; will be completed under the compensation programme of the SGR?

*(To be replied before the Departmental Committee on Transport, Housing and Public Works)*

472/2019

**The Member for Bomet Central (Hon. Ronald Kiprotich Tonui, MP) to ask the Cabinet Secretary for Transport, Infrastructure, Housing & Urban Development -**

- (i) Could the Cabinet Secretary name the contractor(s) awarded the construction of *Silibwet - Kiptagich* and *Aisaiik -Teganda Roads* in Bomet Central Constituency, and state how much has been paid out so far on the said contracts and confirm whether the works meet the set quality and standards?
- (ii) What steps is the Ministry taking to ensure that the construction of the *Silibwet - Kiptagich Road*, which is currently in deplorable state, is rehabilitated while also ensuring that *Aisaiik-Teganda* road has culverts installed and state by when this will be done?
- (iii) Could the Cabinet Secretary consider extending construction of the road to *Nyongores Tea Buying Centre* and *Ndaraweta Market* as agreed in the tender documents?

*(To be replied before the Departmental Committee on Transport, Public Works and Housing)*

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**REPUBLIC OF KENYA**

**TWELFTH PARLIAMENT – (THIRD SESSION)**

**THE NATIONAL ASSEMBLY**

**ORDERS OF THE DAY**

**WEDNESDAY, NOVEMBER 06, 2019 AT 2.30 P.M.**

**ORDER OF BUSINESS**

**PRAYERS**

1. Administration of Oath
2. Communication from the Chair
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7. Questions and Statements

**8\*. THE WAQF BILL (NATIONAL ASSEMBLY BILL NO. 73 OF 2019)**

(The Leader of the Majority Party)

First Reading

**9\*. MOTION - ALTERATION OF THE CALENDAR OF THE HOUSE AND RESOLUTION TO HOLD SPECIFIED MORNING SITTINGS**

(The Leader of the Majority Party)

**THAT**, pursuant to the provisions of Standing Order 28(4) (*Calendar of the Assembly*) and Standing Order 30(3) (*Hours of meeting*), this House resolves-

- (i) to alter its Calendar, so as not to hold afternoon sittings on Tuesday, November 12, 2019 and Wednesday, November 13, 2019; and,
- (ii) to hold morning sittings on Tuesday, November 12, 2019 and Thursday, November 14, 2019.

**10\*. COMMITTEE OF THE WHOLE HOUSE**

**The Data Protection Bill (National Assembly Bill No. 44 of 2019)**

(The Leader of the Majority Party)

**11\*. MOTION - RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ON DEFENCE CO-OPERATION**

(The Chairperson, Departmental Committee on Defence and Foreign Relations)

**THAT**, this House **adopts** the Report of the Departmental Committee on Defence and Foreign Relations on its consideration of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of South Africa on Defence Co-operation, *laid on the Table of the House on Wednesday, October 16, 2019*, and pursuant to section 8 of the Treaty Making and Ratification Act, 2012 **approves** the Ratification of the Agreement between the Government of the Republic of Kenya and the Government of the Republic of South Africa.

*(Resumption of debate interrupted on Tuesday, November 5, 2019)*

**12\*. MOTION - ANNULMENT OF THE RETIREMENT BENEFITS (OCCUPATIONAL RETIREMENT BENEFITS SCHEMES)(AMENDMENT) REGULATIONS, 2019 AND THE INSURANCE (MOTOR VEHICLES THIRD PARTY RISKS) (CERTIFICATE OF INSURANCE) (AMENDMENT) RULES, 2019**

(The Chairperson, Committee on Delegated Legislation)

**THAT**, this House **adopts** the Report of the Committee on Delegated Legislation on its consideration of the Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations, 2019 (*Legal Notice No. 88 of 2019*) and the Insurance (Motor Vehicles Third Party Risks) (Certificate of Insurance) (Amendment) Rules, 2019 (*Legal Notice No. 92 of 2019*), *laid on the Table of the House on Wednesday, October 2, 2019*, and pursuant to the provisions of Section 18 of the Statutory Instruments Act, 2013 and Standing Order 210 (4)(b) **annuls in entirety-**

- (i) the Retirement Benefits (Occupational Retirement Benefits Schemes) (Amendment) Regulations, 2019 (*Legal Notice No. 88 of 2019*); and,
- (ii) the Insurance (Motor Vehicles Third Party Risks) (Certificate of Insurance) (Amendment) Rules, 2019 (*Legal Notice No. 92 of 2019*).

**13\*. THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2019)**

(The Leader of the Minority Party)

Second Reading

14\*. THE PARLIAMENTARY PENSIONS (AMENDMENT) (No.3) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2019)  
(The Chairperson, Parliamentary Pensions Management Committee)

Second Reading

15\*. THE COMPETITION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2019)  
(The Leader of the Majority Party)

Second Reading

16\*. THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2019)  
(The Leader of the Majority Party)

Second Reading

17\*. THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2018)  
(The Leader of the Majority Party)

Second Reading

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**\* Denotes Orders of the Day**

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...../Notices

# **NOTICES**

## **I. THE DATA PROTECTION BILL (NATIONAL ASSEMBLY BILL NO. 44 OF 2019)**

- 1) Notice is given that the Chairperson of the Departmental Committee on Communication, Information and Innovation intends to move the following amendments to the Data Protection Bill, 2019 at the Committee Stage—

### **CLAUSE 2**

**THAT**, clause 2 of the Bill be amended by—

- (a) inserting the following new definitions in their proper alphabetical sequence—  
“data” means information which—

- (a) is processed by means of equipment operating automatically in response to instructions given for that purpose;
- (b) is recorded with intention that it should be processed by means of such equipment;
- (c) is recorded as part of a relevant filing system;
- (d) where it does not fall under paragraphs (a) (b) or (c), forms part of an accessible record; or
- (e) is recorded information which is held by a public entity and does not fall within any of paragraphs (a) to (d);

“person” has the meaning assigned to it under Article 260 of the Constitution.

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

“consent” means any manifestation of express, unequivocal, free, specific and informed indication of the data subject’s wishes by a statement or by a clear affirmative action, signifying agreement to the processing of personal data relating to the data subject”.

### **CLAUSE 4**

**THAT**, clause 4 of the Bill be amended in paragraph (b) by inserting the word “located” immediately after the words “data subjects” appearing in subparagraph (ii).

## **CLAUSE 5**

**THAT**, clause 5 of the Bill be amended by deleting subclause (5) and substituting therefor the following new subclause—

(5) The Data Commissioner shall in consultation with the Cabinet Secretary, establish such directorates as may be necessary for the better carrying out of the functions of the office.

## **CLAUSE 6**

**THAT**, clause 6 of the Bill be amended—

- (a) in sub-clause (3) by deleting the words “Cabinet Secretary” and substituting therefor the word “President”;
- (b) by deleting subclause (4) and substituting therefor the following new subclause—

“(4) The President shall nominate and, with the approval of the National Assembly, appoint the Data Commissioner”.

## **CLAUSE 7**

**THAT**, clause 7 of the Bill be amended by inserting the following new paragraph immediately after paragraph (c)—

“(ca) holds a master’s degree.

## **CLAUSE 13**

**THAT**, the Bill be amended by deleting clause 13 and substituting therefor the following new clause—

Staff of the Office.

13. The Data Commissioner shall in consultation with the Public Service Commission, appoint such number of staff as may be necessary for the proper and efficient discharge of the functions under this Act or any other relevant law.

## **CLAUSE 15**

**THAT**, clause 15 of the Bill be amended by deleting the word “the” appearing immediately after the words “First Schedule on” in sub-clause (5).

## **CLAUSE 19**

**THAT**, clause 19 of the Bill be amended by—

- (a) deleting subclause (4) and substituting therefor the following new subclause —  
“(4) The Data Commissioner shall issue a certificate of registration where a data controller or data processor meets the requirements for registration;
- (b) inserting the word “this” immediately after the words “the provisions of” appearing in sub-clause (7).

## **CLAUSE 25**

**THAT**, clause 25 of the Bill be amended by inserting the following new paragraph immediately after paragraph (d)—

“(e) collected only where a valid explanation is provided whenever information relating to family or private affairs is required;”

## **CLAUSE 29**

**THAT**, clause 29 of the Bill be amended by—

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

“(d) the third parties whose personal data has been or will be transferred to, including details of safeguards adopted;

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

“(f) a description of the technical and organization security measures taken to ensure the integrity and confidentiality of the data”.

## **CLAUSE 31**

**THAT**, clause 31 of the Bill be amended by inserting the following new subclauses immediately after sub-clause (4) —

“(5) The data impact assessment reports shall be submitted sixty days prior to the processing of data; and

“(6) The Data Commissioner shall set out guidelines for carrying out an impact assessment under this section.

## **CLAUSE 35**

**THAT**, clause 35 of the Bill be amended in subclause (3) by deleting the word “before” appearing in paragraph (b) and substituting therefor the word “after”.

## **CLAUSE 37**

**THAT**, Bill be amended by deleting clause 37 and substituting therefor the following new clause—



Commercial use of  
data.

37. (1) A person shall not use, for commercial purposes, personal data obtained pursuant to the provisions of this Act unless the person-

(a) has sought and obtained express consent from a data subject; or

(b) is authorised to do so under any written law and the data subject has been informed of such use when collecting the data from the data subject.

(2) A data controller or data processor that uses personal data for commercial purposes shall, where possible, anonymise the data in such a manner as to ensure that the data subject is no longer identifiable.

(3) The Cabinet Secretary in consultation with the Data Commissioner may prescribe practice guidelines for commercial use of personal data in accordance with this Act.

#### **CLAUSE 41**

**THAT**, clause 41 of the Bill be amended in subclause (3) by inserting the following new paragraph immediately after paragraph (d)—

(e) the cost of processing data and the technologies and tools used.

#### **CLAUSE 48**

**THAT**, clause 48 of the Bill be amended by—

(a) deleting the item “(1)” appearing immediately before the words “a data controller”;

(b) deleting paragraph (b) and substituting therefor the following new paragraph—

“(b) the data controller or data processor has given proof to the Data Commissioner of the appropriate safeguards with respect to the security and protection of personal data, and the appropriate safeguards including jurisdictions with commensurate data protection laws;”

#### **CLAUSE 51**

**THAT**, clause 51 of the Bill be amended in sub-clause (2) by deleting the word “order” appearing in paragraph (b) and substituting therefor the word “interest”.

### **CLAUSE 56**

**THAT**, Bill be amended by deleting clause 56 and substituting therefor the following new clause—

Complaints to the  
Data Commissioner

**56.** (1) A data subject who is aggrieved by a decision of any person under this Act may lodge a complaint with the Data Commissioner in accordance with this Act.

(2) A person who intends to lodge a complaint under this Act shall do so orally or in writing.

(3) Where a complaint made under subclause (1) is made orally, the Data Commissioner shall cause the complaint to be recorded in writing and the complaint shall be dealt with in accordance with such procedures as the Data Commissioner may prescribe.

(4) A complaint lodged under subclause (1) shall contain such particulars as the Data Commissioner may prescribe.

(5) A complaint made to the data commissioner shall be investigated and concluded within ninety days.

### **CLAUSE 73**

**THAT**, clause 73 of the Bill be amended in subclause (1) by deleting the word “two” appearing immediately before the word “years” and substituting therefor the word “ten”.

**2) Notice is given that the Leader of the Majority Party intends to move the following amendments to the Data Protection Bill, 2019 at the Committee Stage—**

### **CLAUSE 2**

**THAT**, clause 2 of the Bill be amended by inserting the following new definition in its proper alphabetical sequence—

“national security organs” has the meaning assigned to it under Article 239 of the Constitution.

### **CLAUSE 8**

**THAT**, clause 8 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (1)—

(1A) The office of the Data Commissioner may, in the performance of its functions collaborate with the national security organs.

## **CLAUSE 20**

**THAT**, the Bill be amended by deleting clause 20 and substituting therefore the following new clause—

Duration of the registration certificate. 20. A registration certificate issued under section 19 shall be valid for a period determined at the time of the application after taking into account the need for the certificate, and the holder may apply for a renewal of the certificate after expiry of the certificate.

## **CLAUSE 52**

**THAT**, clause 52 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (2)—

(3) The Data Commissioner shall prepare a code of practice containing practical guidance in relation to the processing of personal data for purposes of Journalism, Literature and Art.

## **CLAUSE 53**

**THAT**, clause 53 of the Bill be amended by inserting the following new sub-clause immediately after sub-clause (3)—

(4) The Data Commissioner shall prepare a code of practice containing practical guidance in relation to the processing of personal data for purposes of Research, History and Statistics.

## **CLAUSE 63**

**THAT**, clause 63 of the Bill be amended by-

- (a) deleting the word “two” and substituting therefor the word “one”; and,
- (b) deleting the word “higher” and substituting therefor the word “lower”.

## **CLAUSE 74**

**THAT**, clause 74 of the Bill be amended in sub-clause (1), by inserting the words “in consultation with relevant stakeholders” immediately after the word “guidelines” appearing in paragraph (d).

**3) Notice is given that the Nominated Member (Hon. Jennifer Shamalla) intends to move the following amendments to the Data Protection Bill, 2019 at the Committee Stage—**

**CLAUSE 2**

**THAT**, clause 2 of the Bill be amended—

(a) by inserting the following new definition in its proper alphabetical sequence—

“Agency” means the Data Protection Agency established under section 5.

(b) by deleting the definition of “consent” and substituting therefor the following new definition—

“consent” means any voluntary, valid, specific, unambiguous and informed expression of the will of a data subject to process personal data and is capable of being withdrawn.

(c) by deleting the definition of “Office”.

**CLAUSE 3**

**THAT**, clause 3 of the Bill be amended by deleting the words “ handling of personal data of a data subject is guided by the principles of lawful processing, minimization of collection, restriction to further processing, data quality and security safeguards” appearing in paragraph (b) and substituting therefor the words—

“that the processing of personal data of a data subject is guided by the principles set out under section 25;”

**CLAUSE 4**

**THAT**, clause 4 of the Bill be amended—

(a) by renumbering the existing provision as sub-clause (1);

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

“(2) In this section, “data subjects in Kenya” includes all persons who are physically present in Kenya, irrespective of their nationality or legal status at the time the data controller or data processor processes the personal data of a data subject”. ”

**PART II**

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

“PART II — ESTABLISHMENT OF THE DATA PROTECTION AGENCY”

**CLAUSE 5**

**THAT**, clause 5 of the Bill be amended —

(a) in sub-clause (1)

(i) by deleting the words “the office of the Data Protection Commissioner” and substituting therefor the words “an agency known as the Data Protection Agency”.

(ii) by deleting the word “office” appearing in paragraph (d) and substituting therefor the word “Agency”.

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

“(2) The Agency shall be a semi-autonomous government agency under the Ministry responsible for matters relating to data protection.”

(c) by deleting sub-clause (3) and inserting the following new sub-clauses—

“(3) The Agency shall consist of—

(a) a chairperson appointed by the President;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to data protection or a representative;

(c) the Principal Secretary in the Ministry for the time being responsible for matters relating to internal security or a representative;

(d) the Principal Secretary, national treasury or a representative;

(e) a representative from the Commission on Administrative Justice;

(f) a representative from the Law Society of Kenya;

(g) the Data Commissioner who shall be the secretary to the Agency.”

(3A) The Data Commissioner shall be the head and accounting officer of the Agency and shall appoint other staff of the Agency.”

(d) in sub-clause (4) by deleting the word “Office” and substituting therefor the word “Agency”.

(e) in sub-clause (5) by deleting the word “Office” and substituting therefor the word “Agency”.

## **CLAUSE 6**

**THAT**, the Bill be amended by deleting clause 6 and inserting the following new clause—

“6. (1) The President shall, within fourteen days of the commencement of this Act convene a selection panel for the purpose of selecting suitable candidates for appointment as the Data Commissioner.

(2) The selection panel convened under subsection (1) shall consist of one person from each of the following bodies representatively—

- (b) Ministry responsible for internal security;
- (c) Public Service Commission;
- (d) Kenya National Human Rights Commission;
- (e) the Association of Professional Societies in East Africa; and
- (e) the National Council for Persons with Disabilities.

(3) The selection panel shall, subject to this section, determine its own procedure and the Ministry responsible for Public Service shall provide it with such facilities and other support as it may require for the discharge of its functions.

(4) The selection panel shall, within seven days of its convening, invite applications from qualified persons and publish the names and qualifications of all applicants in the Gazette and two daily newspapers of national circulation.

(5) The selection panel shall, within seven days of receipt of applications under subsection (4), consider the applications, interview and shortlist at least three persons qualified for appointment as the Data Commissioner, and shall forward the names of the selected candidates to the President for nomination.

(6) The President shall, within seven days of receipt of the names forwarded under subsection (5), nominate one person for appointment as Data Commissioner, and shall forward the name of the person nominated to the National Assembly.

(7) The National Assembly shall, within twenty-one days of the day it next sits after receipt of the name of the nominee under subsection (6), consider the nomination received and approve or reject the nomination.

(8) Where the National Assembly approves the nominee, the Speaker shall, forward the name of the nominee to the President for appointment.

(9) The President shall, within seven days of the receipt of the name of the nominee approved by the National Assembly, by notice in the Gazette, appoint the person to be the Data Commissioner.

(10) Where the National Assembly rejects the nomination, the Speaker shall, within three days, communicate the decision of the National Assembly to the President to submit a fresh nomination.

(11) Where a nominee is rejected by the National Assembly under subsection (10), the President shall, within seven days, submit to the National Assembly a fresh nomination from amongst the persons shortlisted and forwarded by the selection panel under subsection (5).

(12) Where the National Assembly rejects the subsequent nominee submitted by the President for approval under subsection (11), the provisions of subsections (5) and (6) shall apply.

(13) In shortlisting, nominating or appointing a person as Data Commissioner, the selection panel, the National Assembly and the President shall observe the principle of gender equity, regional and ethnic balance and shall have due regard to the principle of equal opportunities for persons with disabilities.

#### **CLAUSE 8**

**THAT**, clause 8 of the Bill be amended in sub-clause (1)-

(a) by deleting the word “Office” appearing immediately before the word “shall” and substituting therefor the word “Agency”.

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

“(ja) issuing guidelines on the interpretation of certain provisions of this Act in line with the local and international best practices”;

#### **CLAUSE 9**

**THAT**, clause 9 of the Bill be amended in sub-clause (1) by deleting the word “Office” appearing in paragraph (g) and substituting therefor the word “Agency”.

#### **CLAUSE 14**

**THAT**, clause 14 of the Bill be amended by deleting the word “Office” appearing immediately before the word “shall” and substituting therefor the word “Agency”.

#### **CLAUSE 16**

**THAT**, clause 16 of the Bill be amended by deleting the word “Office” appearing immediately before the word “shall” and substituting therefor the word “Agency”.

#### **CLAUSE 17**

**THAT**, clause 17 of the Bill be amended by deleting the word “Office” appearing immediately before the word “shall” and substituting therefor the word “Agency”.

#### **CLAUSE 20**

**THAT**, the Bill be amended by deleting clause 20.

#### **CLAUSE 24**

**THAT**, clause 24 of the Bill be amended in sub-clause (6) —

(a) by inserting the words “on the website” immediately after the word “officer”

(b) by inserting the words “who shall ensure that the same information is available on the official website” immediately after the word “Commissioner”.

#### **CLAUSE 25**

**THAT**, clause 25 of the Bill be amended by deleting paragraph (g).

## **CLAUSE 26**

**THAT**, clause 26 of the Bill be amended —

- (a) in paragraph (d) by inserting the word “personal” immediately after the word “misleading”
- (b) in paragraph (e) by inserting the word “personal” immediately after the word “misleading”.

## **CLAUSE 30**

**THAT**, sub-clause (1) of clause 30 of the Bill be amended in paragraph (b) by inserting the word “natural” immediately after the word “another” appearing in sub-paragraph (iii).

## **CLAUSE 37**

**THAT**, clause 37 of the Bill be amended in sub-clause (1) by deleting the words “provide, use, obtain, procure” and substituting therefor the word “process”.

## **CLAUSE 43**

**THAT**, clause 43 of the Bill be amended in sub-clause (1) by deleting the words “a reasonably practical period” appearing in paragraph (b) and substituting therefor the words “seventy two hours from the date of the unauthorized access or acquisition”.

## **CLAUSE 67**

**THAT**, clause 67 of the Bill be amended—

- (a) by deleting the word “Office” appearing immediately after the words “assets of the” and substituting therefor the word “Agency”
- (b) in paragraph (a) by deleting the word “Office” and substituting therefor the word “Agency”
- (c) in paragraph (b) by deleting the word “Office” and substituting therefor the word “Agency”
- (d) in paragraph (c) by deleting the word “Office” and substituting therefor the word “Agency”

## **CLAUSE 68**

**THAT**, clause 68 of the Bill be amended—

- (a) in sub-clause (1) by deleting the word “Office” appearing immediately after the words “expenditure of the” and substituting therefor the word “Agency”
- (b) in sub-clause (2)—
  - (i) by deleting the word “Office” appearing immediately after the words “expenditure of the” and substituting therefor the word “Agency”;
  - (ii) by deleting the word “Office” appearing in paragraph (a) and substituting therefor the word “Agency”;
  - (iii) by deleting the word “Office” appearing in paragraph (b) and substituting therefor the word “Agency”;
  - (iv) by deleting the word “Office” appearing in paragraph (c) and substituting therefor the word “Agency”;



- (v) by deleting the word “Office” appearing in paragraph (d) and substituting therefor the word “Agency”.

**CLAUSE 69**

**THAT**, clause 69 of the Bill be amended by deleting the word “office” and substituting therefor the word “Agency”

**CLAUSE 70**

**THAT**, clause of the Bill be amended Kenya by section 70 be amended—

- (a) by deleting the word “Office” appearing immediately after the words “operations of the” and substituting therefor the word “Agency”
- (b) in sub-clause (3) by deleting the word “Office” appearing in paragraph (a) immediately after the words “activities of the” and substituting therefor the word “Agency”



*...../Notices\*(cont'd)*

**The House resolved on Wednesday, February 13, 2019 as follows:-**

- II. THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on any **Motion**, including a Special motion shall be limited in the following manner:- A maximum of three hours with not more than twenty (20) minutes for the Mover and ten (10) minutes for each other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each, and that ten (10) minutes before the expiry of the time, the Mover shall be called upon to reply; and that priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.
- III. THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in a debate on **Bills sponsored by a Committee, the Leader of the Majority Party or the Leader of the Minority Party** shall be limited as follows:- A maximum of forty five (45) minutes for the Mover, in moving and fifteen minutes (15) in replying, a maximum of thirty (30) minutes for the Chairperson of the relevant Committee (if the Bill is not sponsored by the relevant Committee), and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen Minutes (15) each (if the Bill is not sponsored by either of them); and that priority in speaking shall be accorded to the Leader of the Majority Party, the Leader of the Minority Party and the Chairperson of the relevant Departmental Committee, in that order.
- IV. THAT**, notwithstanding the provisions of Standing Order 97(4), each speech in debate on **Reports of Committees**, including a Report of a Joint Committee of the Houses of Parliament or any other Report submitted to the House for which limitation of time has not been specified, shall be limited as follows:- A maximum of sixty (60) minutes for the Mover in moving and thirty (30) minutes in replying, and a maximum of ten (10) minutes for any other Member speaking, except the Leader of the Majority Party and the Leader of the Minority Party, who shall be limited to a maximum of fifteen (15) minutes each; and that priority shall be accorded to the Leader of the Majority Party and the Leader of the Minority Party, in that order.

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...../Notice Paper

**NOTICE PAPER**

**Tentative business for**  
**Thursday, November 07, 2019**

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*(Published pursuant to Standing Order 38(1))*

It is notified that the House Business Committee, at their last meeting, approved the following **tentative** business to appear in the Order Paper for Thursday, November 07, 2019:-

**A. MOTION - RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF KENYA AND THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA ON DEFENCE CO-OPERATION**

(The Chairperson, Departmental Committee on Defence and Foreign Relations)

*(If not concluded on Wednesday, November 6, 2019 – Afternoon sitting)*

**B. MOTION - ANNULMENT OF THE RETIREMENT BENEFITS (OCCUPATIONAL RETIREMENT BENEFITS SCHEMES)(AMENDMENT) REGULATIONS, 2019 AND THE INSURANCE (MOTOR VEHICLES THIRD PARTY RISKS) (CERTIFICATE OF INSURANCE) (AMENDMENT) RULES, 2019**

(The Chairperson, Committee on Delegated Legislation)

*(If not concluded on Wednesday, November 6, 2019 – Afternoon sitting)*

**C. THE PARLIAMENTARY PENSIONS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 45 OF 2019)**

(The Leader of the Minority Party)

Second Reading

*(If not concluded on Wednesday, November 6, 2019 – Afternoon sitting)*

**D. THE PARLIAMENTARY PENSIONS (AMENDMENT) (No.3) BILL (NATIONAL ASSEMBLY BILL NO. 57 OF 2019)**

(The Chairperson, Parliamentary Pensions Management Committee)

Second Reading

*(If not concluded on Wednesday, November 6, 2019 – Afternoon sitting)*

**E. THE COMPETITION (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 49 OF 2019)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Wednesday, November 6, 2019 – Afternoon sitting)*

**F. THE INSURANCE (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2019)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Wednesday, November 6, 2019 – Afternoon sitting)*

**G. THE COUNTY GOVERNMENTS (REVENUE RAISING PROCESS) BILL (NATIONAL ASSEMBLY BILL NO. 24 OF 2018)**

(The Leader of the Majority Party)

Second Reading

*(If not concluded on Wednesday, November 6, 2019 – Afternoon sitting)*



...../Appendix

**APPENDIX**

**ORDER NO.7 - QUESTIONS**

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Pursuant to the provisions of Standing Order 42A (5) the following Members will ask **questions** for reply before the specified Departmental Committees:-

**Question No.****ORDINARY QUESTIONS**

473/2019

**The Member for Lamu East (Hon. Shariff A. Ali, MP) to ask the Cabinet Secretary for Transport, Infrastructure, Housing & Urban Development: -**

- (i) Could the Ministry consider dredging the *Mkanda Channel* in *Lamu* County for ease of use by marine vessels and boats that ply the *Lamu* East and *Lamu* Town routes?
- (ii) What measures is the Ministry putting in place to ensure that the ocean-plying routes in *Lamu* County are regularly maintained to safeguard all boats, sailors and their passengers from risks associated with changing tides?

*(To be replied before the Departmental Committee on Transport, Public Works and Housing)*

474/2019

**The Member for Baringo County (Hon. Gladwell Jesire, MP) to ask the Cabinet Secretary for the Water, Sanitation and Irrigation: -**

- (i) Could the Cabinet Secretary explain the progress of construction of the *Sakatia Water Pan in Koibaware Village, Saimo Soi Ward* of Baringo North Constituency whose construction by the National Government began on 12<sup>th</sup> April 2015?
- (ii) What measures are being put in place to ensure that the construction of the said project is completed without further delays, and how much money has been earmarked for the completion?

*(To be replied before the Departmental Committee on Environment and Natural Resources)*

475/2019

**The Member for Malava (Hon. Malulu Injendi, MP) to ask the Cabinet for Education: -**

- (i) When is the Cabinet Secretary appointing a substantive Vice Chancellor for Masinde Muliro University of Science and Technology following the expiry of the tenure of the previous Vice Chancellor more than a year ago?
- (ii) Could the Cabinet Secretary explain why most persons holding positions of Vice Chancellor, Deputy Vice Chancellor, and Registrars in public Universities are in an Acting capacity?

*(To be replied before the Departmental Committee on Education and Research)*

476/2019

**The Member for Wundanyi (Hon. Danson Mwashako, MP) to ask the Teachers Service Commission: -**

When is the Teachers Service Commission processing retirement and terminal benefits lodged by-

- (i) Mrs. Rose Kambe Mwashinga, a widow of the late Rophus Wana Mghendi of TSC No. 289808 who has been pursuing Mr. Mghendi's death gratuity since 2016?; and,
- (ii) Mr. Festus Mngámbwa of TSC No. 003584 who has been pursuing his pension payment since 1999?

*(For Written Reply by the Teachers Service Commission)*

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